RICE UNIVERSITY

The Emergence and Institutionalization of Regimes of Transparency and Anti-Corruption in Poland

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A THESIS SUBMITTED
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE

Doctor of Philosophy

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HOUSTON, TEXAS

FEBRUARY 2006
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ABSTRACT

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In the late 1990's, three interrelated spheres of activities and practices emerged in Poland which either had not existed previously or had only at that moment taken on a qualitatively new status as key players or capital in the political environment: anti-corruption NGO's, expertise, and policy; the Law about Access to Public Information; and investigative journalism. These three spheres appeared simultaneously with a greater public consciousness of a widespread corruption problem in Poland. The main question of this dissertation is: Why did these three interrelated spheres come about when they did and not earlier (or even later)? The dissertation answers this question by ethnographically describing the assemblage of anti-corruption practices in Poland and internationally: anti-corruption NGOs, Freedom of Information laws, and investigative journalism.

The problematic of corruption represents the key symbol of an ethos, a system of mood and motivation, emergent in Poland’s aftermath following its transition, whether incomplete or not, from communism to democracy and capitalism. This dissertation asks: why has corruption become a common obsession of concerted epistemological concern? Why the rather peculiar obsession with this lingering topic? Further, this dissertation queries why a skeptical reason, paranoid style and hyperbolic tropology is stimulated by corruption and how this subject invokes specters of Polish history.
First, this dissertation maps out the key organizations, actors, and discourses that comprise the international anti-corruption arena. In the second section, it follows a coalition of anti-corruption NGO’s who came together in the late 1990’s to introduce and eventually pass a Freedom of Information (FOI) law in Poland in 2001. The law embodies the analytic belief that more transparency will lessen corruption, as well as representing an emergent norm for democracy in the late 20th century. The third section ties together a number of seemingly disparate elements in an ethnographic description of investigative journalism in Poland. It demonstrates how journalists triangulate their elusive objects of knowledge while these objects simultaneously deny any such involvement. It asks: what are the conditions, styles, forms, and institutions by which they can assert their stories as true?
Acknowledgments

There are many people who helped me accomplish my dissertation work and I owe them all a great debt.

My advisors at Rice University Anthropology Department have served to inspire and provoke. George Marcus allowed me to channel my creativity and has shared my enthusiasm for this rather novel project. Chris Kelty has made me into a much more thorough scholar and person, as well as reminding me how to find laughter along the way toward this serious goal. Jim Faubion taught me how to think and made it exciting.

My other colleagues at Rice Anthropology have also been enormously helpful. I would especially like to thank my cohort: Tish Stringer, Ana Wandless, Cecilia Balli, and Nahal Naficy. There are really countless others, graduate students and professors, in both Anthropology and other departments, who have been instrumental in helping me think through many of the issues in the dissertation below.

I want to offer a very special thanks to Angela Rivas, my officemate and writing group partner (even when we were the only ones in the writing group!). Angela has been exceedingly patient and kind with my writing, offering innumerable ideas and inspiration.

Finally, I want to thank all my friends and family in Houston, Warsaw, Cincinnati, and elsewhere. My parents have lent much support whenever I needed it. And my brother Jon made his home my home when it was most essential to me.
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Chapter 1

Introduction

The billboard simply reads: Korupcja? It means: “corruption?” The ja, meaning I or me, is in red, set apart from the black type of korupc.

“Of course, it’s a question. The campaign wanted to make people think. The corruption could be connected with the audience, the person who sees the billboard: me? It was very simple. It’s only typology,” explains Pawel Prochenko, head of the non-profit social advertising organization Foundation for Social Communication in Warsaw.

Prochenko was hired by the Stefan Batory Foundation’s Anti-Corruption Program to design an advertising campaign to first raise awareness about corruption in Poland and then offer people a sign of hope in the Batory Foundation’s efforts to reduce the problem. He received specific instructions and a team of consultants that poured over several dozen proposals.

One rejected proposal was an official Ministry sign that publicly listed its bribery fee. “This proposal, it is stigmatizing [the Ministry]. That’s why we couldn’t choose this project,” explains Prochenko. This type of proposal, the consultants agreed, places blame outside of the individuals involved and points to a problem that nobody can pinpoint in time or space. When I asked Prochenko’s interpretation of the problem, he told me:

People see this and they say, yeah, I know that the corruption is the problem, we should change the government, that’s their solution. But our campaign and our idea was to, that we wanted to change people’s behavior. And we tell people that the problem is you...You can do two things. One way is don’t give bribes and don’t take bribes is the second way. But it’s very hard to tell people, don’t give bribes, you shouldn’t give bribes. Because if you want to make something in Poland, if you want to solve a problem, people know they have to give a
bribe... So we couldn’t tell people ‘you are bad,’ because nobody is bad. Everybody has their reasons. Here, Prochenko touches on just the first of many problems in addressing corruption: how to change social behavior.

Corruption? The question can be addressed in many different ways. The billboard asks two questions. First, are you aware of corruption? And second, are you part of the corruption? But in terms of my project, the question takes on many more dimensions.

Corruption? What is it? What kind of problem is it? Does corruption in Poland differ from corruption in the United States or any other country? Who counts corruption and how? Who are these groups – such as the Batory Foundation – that are trying to fight corruption and how do they plan on reducing the problem? And how did corruption become such a big issue in the first place?

Corruption? As an ethnographic inquiry?

Corruption? What is it all about?

The Dissertation and its Central Questions

In the late 1990’s, three interrelated spheres of activities and practices emerged in Poland which either had not existed previously or had only at that moment taken on a qualitatively new status as key players or capital in the political environment: anti-corruption NGO’s, expertise, and policy; the Law about Access to Public Information; and investigative journalism. These three spheres appeared simultaneously with a greater public consciousness of a widespread corruption problem in Poland, a problem that had existed for decades, if not centuries. The purpose of this dissertation is not to study
corruption – in the sense that it would offer another assessment or analysis of Poland’s corruption problem – nor to deconstruct corruption as a partial fiction, but rather begin with the assumption that corruption exists and has existed for a long time as a very real problem. Further assuming that an anti-corruption movement and investigative journalism could not exist without corruption, then why did these three interrelated spheres come about when they did and not earlier (or even later)?

The object of this dissertation is to describe the assemblage of anti-corruption practices in Poland, namely: anti-corruption NGOs, Freedom of Information law, and investigative journalism.

The problematic of corruption represents the key symbol of an ethos, a system of mood and motivation, emergent in Poland’s aftermath following its transition, whether incomplete or not, from communism to democracy and capitalism. This dissertation asks: why has corruption become a common obsession of concerted epistemological concern? Why the rather peculiar obsession with this lingering topic? Further, this dissertation queries why a skeptical reason, paranoid style and hyperbolic tropology is stimulated by corruption and how this subject invokes specters of Polish history.

Corruption is a recalcitrant and elusive object. It exists in secret, its participants actively attempt to maintain their activities in an undocumented manner. Corruption actively un-documents itself. How then do various organizations create knowledge about this elusive object? And for what ends?

The anti-corruption movement, consisting of academics, experts, and NGO’s, has actively created or contributed to knowledge about corruption on a mainly abstract and analytical level, particularly in the interests of affecting policy change, introducing and
implementing new legal structures, and developing ethical codes of professional conduct. This more intellectual movement against corruption has roots in the democratic resistance to communism and a general sense of disgust toward that system as well as the one that has superceded it (Chapter 2), but as one anti-corruption expert put the matter most succinctly, “in the beginning, it might have been about that [disgust]. But now it’s simply a matter of political and economic development” (Chapter 3).

Assuming that the most important reason knowledge about corruption is produced is to eradicate the problem, therefore this dissertation examines the way that knowledge is produced and then deployed.

The connections between knowledge production, policy, and implementation are often tenuous. Because knowledge about corruption is problematic, we can also assume that anti-corruption laws and policies – based on knowledge about corruption – are equally, if not exceedingly more problematic.

But knowledge about corruption need not be accurate in relation to an all-encompassing definition of corruption, so long as it can precisely measure some thing or some activity and that activity can then be reduced.

In particular, this dissertation maps out the key organizations, actors, and discourses that comprise the international anti-corruption arena. Section 1 deploys a history of economic development since World War II that looks at specific events, discourses, and political and economic arrangements that first allowed or possibly even promoted corruption in the developing world. Only in the course of the 1970’s and 1980’s do we see the emergence of the contemporary global anti-corruption movement. At the World Bank, for example, officials refused to recognize corruption as a central
problem to their goal of eradicating poverty and promoting economic welfare in the Third World until the mid-1990’s, when corruption was institutionally transformed from a political problem to an economic problem.

As a result of policy recommendations to fight corruption from both local and international voices, a coalition of anti-corruption NGO’s came together in the late 1990’s to introduce and eventually a pass a Freedom of Information (FOI) law in Poland in 2001. The law embodies the analytic belief that more transparency will bring about a lessening of corruption (Chapter 4). Additionally, FOI legislation represents an emergent norm for democratic countries at the end of the 20th century (Chapter 5). However, the law has run into problems in the area of implementation, as well as participation (Chapter 6).

Poland passed its Freedom of Information law in 2001, *Ustawa o Dostepie do Informacji Publicznej z 2001* (UDIP) (Law about Access to Public Information from 2001). This dissertation contextualizes FOI law from international and Polish perspectives, tracking its historical emergence and the means by which it has circulated and proliferated worldwide throughout the course of the late 20th and early 21st centuries.

FOI was not initially intended as an anti-corruption mechanism and in many countries, it still is not understood in that way. It is unclear whether FOI can fight corruption, as no studies have shown a conclusive linkage, while logical explanations of the law’s functionality contradict such an argument.

In Poland, UDIP was passed by anti-corruption advocates as one important element of a larger anti-corruption policy. But it remains unclear whether UDIP has helped to decrease corruption in Poland or not (Chapter 6).
FOI is an administrative apparatus with the ability to alter flows of information within the state. While it has become an internationally-recognized standard of democracy, its links to a sense of greater democracy are tenuous. It certainly could increase democracy, just as it could reduce corruption. But unless or until we specifically measure democracy in terms of information access or flows – as has been done in certain places since the middle of the 20th century – then the meaning of information access would remain ambiguous.

In this same vein, anti-corruption advocates and journalists often speak of democratic values in terms of the public interest or working in the public interest, as opposed to private interests. This would suggest that the impetus of anti-corruption is, apart from economic development, democratization. But for whom was the law passed? Many of the strongest proponents of the law suggested that journalists, especially investigative journalists who expose corruption, would benefit most from the law because they are the group who most require access to information.

While citizens may not actively utilize their right to know, journalists are engaged with this right. In speaking on behalf of and in the interests of regular citizens, many journalists have attempted to strategically appropriate the right to know of all citizens in their pursuit of information.

Investigative journalism, a highly specific form of independent reporting on high-level corruption, represents a key site of knowledge-production about corruption, as well as a site with increasing political impact (Chapter 7). This dissertation demonstrates how investigative journalists follow trails of documents and strategically collect evidence to most effectively assert and accuse public officials of corrupt acts. In a sense, they share
qualities of ethnographic observers in their thick descriptions of corrupt mechanisms or criminal environments for which most daily reporting has no space. However, these journalists are not “there,” between and among the corrupt acts. Rather, they must triangulate their elusive objects of knowledge while these objects simultaneously deny any such involvement (Chapter 9). What are the conditions, styles, forms, and institutions by/through which they can assert their stories as true? Further, what is their connection to the sphere of anti-corruption policy and their forms, styles, and institutions of analytic knowledge-production and policy formation?

As a form of reflectively examining the limits and capacities of anthropological research to objectively and/or accurately describe the object of this ethnography, the dissertation elaborates upon various moments of the fieldwork experience. Not only is corruption a recalcitrant and elusive object, but the transparent ethos of the anti-corruption assemblage also frequently represents a recalcitrant and elusive object for anthropological knowledge. A special type of professionalism – collegiality – which aligns public interests of anthropological research with that of anti-corruption knowledge productions, had to be asserted, rather than the traditional form of anthropological rapport or even the more contemporary model of complicity. Further, as elaborated upon in a series of ironic events, my ethnographic research itself often mirrored that of an investigator, a sort of para-ethnographic sympathy which shares certain limits of objective certainty, as well as standards of objective accuracy, with the investigative journalists.

**Ethnographic Form and Cultural Critique**
This dissertation is not a typical or traditional ethnography, in the sense that it does not represent a categorically defined *ethnos* or identity, such as the Polish people in the early 21st century or one of its sub-sets. Instead, the dissertation will cut across time and space to follow connections, generating concrete and sometimes unexpected linkages between the three spheres outlined above. This section will provide a sense of the form of and logic behind this dissertation. In a sense, I am anticipating a question about the dissertation: why did I write it in the form that I did and what kind of import do I believe it has? As such, this ethnography represents a form of cultural critique through temporal defamiliarization.

Let me begin with a story: a fieldwork story. It is not, however, the story with great insight about the time I went to a bar and a main informant and I knocked back a few too many before he dumped all the *real* information on me, the stuff that everybody had been keeping from me because I was not yet on the *inside*.

Instead, this story begins in the field, alone. It was a cold, gray February in Warsaw, lots of snow on the ground and days that ended a little after 3pm. I was sick. I had the flu. There were chills, lots of shivering and tense throughout my whole body. Worst of all, I had no energy.

During that two week span, I set up one interview. Venturing out into the cold and feeling quite tired, I headed to a café on the other side of town to meet an investigative journalist who I had been tracking down for the past 3 months. Finally, he agreed to meet me. I arrived early and drank tea. One hour later and it was time to leave.
It was clear that he stood me up. I would have to wait another 2 months before I finally spoke with this journalist and when I did, it was a very fruitful experience. But during this week when I was ill, I did not make much progress in my interviews.

I read a book, instead, a book about Gordon Matta-Clark that I had purchased at a contemporary art museum in Warsaw: *Object to Be Destroyed* by Pamela Lee.

Gordon Matta-Clark was an artist/architect who worked in the 1970’s, based in New York City. He is well known, in particular, for two works. In “Splitting,” from 1974, Matta-Clark took a suburban New Jersey house that was slated for demolition and sliced it in half with power tools, carefully tipping its frame back on its foundations to expose the fracture. In “Conical Intersect,” from 1975, Matta-Clark connected two seventeenth-century Parisian buildings with a spiraling conical cut that incised the structures. The buildings, adjacent to the Centre Pompidou then under construction, were set to be demolished to make way for the ultra-modern cultural center.

But something else happened there in my apartment, as I lay on my couch for two weeks with my flu, feeling not a little bit delirious, hopped up on medications. Reading this book and learning about Matta-Clark’s work helped me realize the larger structure of my research project, giving form to what was previously a set of almost random connections between the FOI law I had come to study, the anti-corruption policy people I had met who had passed this FOI law, and the investigative journalists who, many told me, would be the only people interested in using the FOI law, as they were the information access experts in Poland. Up to that point, the thread drawing these people together was Freedom of Information: a local manifestation of a global proliferation.
But what makes this ethnography come together is its form, the manner in which it performs as cultural critique through defamiliarization. The difference between my critique and the models laid out in *Anthropology as Cultural Critique* (Marcus and Fischer 1986) is the same type of difference between the work of Gordon Matta-Clark and the surrealists who played a role in inspiring the cultural critique described in *Anthropology as Cultural Critique*. As such, I will move anthropology as cultural critique towards an engagement with temporality and what Paul Rabinow (2003) refers to as the “Mode” of anthropological investigation. But unlike Rabinow’s reflections on the classical state of modernity through artists like Duchamp and Klee, I instead borrow from the temporal defamiliarizations of Matta-Clark.

Gordon Matta-Clark plays with form and investigates its shape; the impact it plays on our lives. His works emphasize the temporality and ephemeral nature of architecture, serving as a critique of institutionalized spaces and engaging with a longer conception of time than we are used to dealing with—the year, decade, century rather than the day, hour, minute, second.

Pamela Lee, in her book *Object to Be Destroyed*, draws two crucial distinctions between Matta-Clark and the work of his father, the famous surrealist painter Roberto Matta, which illustrates the innovate nature of Matta-Clark’s efforts.

First, Matta-Clark mediates between the sculptural and architectonic strictly in material realms, while Matta’s form is painterly and representational. Second, Matta’s paintings, like the Surrealists and their dive inside the subconscious dream world, romanticizes the space of interiority and makes connections to a universalized human condition. Matta-Clark, on the other hand, “reflected critically on the temporality of the
built environment, a materialist recoding of an ‘architecture of time’” (Lee 2000: 11).

The monumental, the solid, the overwhelming structures of everyday built existence are cut and laid bare in Matta-Clark’s art. More than just defamiliarizing or exposing the implicit or hidden structure of things, Matta-Clark’s cuttings reveal the arc of time. His temporality points not just to the passage of time, but a final destination as well: destruction. Rather than maintaining the structure’s integrity, monumentality, and sanctity, Matta-Clark disassembles it, both theoretically and literally. He tears the architecture apart.

That we may sit in a building and are therefore suspended in air is one thing. This act of defamiliarization is not out of line with Matta or the Surrealists. But that one day this building and everything in it will be re-categorized as garbage highlights the kind of fleeting temporality that the universal-minded Surrealists failed to touch on.

Similarly, my task in this dissertation has not been to deconstruct “corruption,” suggesting its falsity, exposing it as merely moral and political rhetoric, or even dissecting its referent. Rather, I am watching a structure erected, capturing its emergence. In the process, the dissertation slashes and cuts through its structure, disorienting the object of study. All of this with the presence of mind that one day, perhaps not far in the future, we will look back at the emergence and institutionalization of regimes of anti-corruption and its respondent trends towards greater transparency not as a bad idea, but as contemporary refuse: a stale idea, an obsolete institution. It will be something that needs to be demolished in order to make way for a new institution. By any other representation, the urgency of its emergence will likely be lost.
Most recent theories of globalization draw together a combination of phenomena to suggest analytic consistencies which guide the logic of political, economic, and social systems. These works are essentially Major.

The type of regime I describe in this dissertation is on a rather minor scale (see Deleuze and Guattari 1987). It is not, for example, a manifestation of a coherent neoliberal logic, though it could be said to be in line with neoliberalism. But such bigger goals did not materially exist in the field. The goals there were much closer: the passage of an FOI law or the investigation of a corrupt politician.

These are decidedly minor projects. An information access law will not change the world. But for many months, a group of anti-corruption experts in Poland acted as if it would. They expressed the urgency of the project. And by now, many of those involved have lost the sense that the FOI law could be important, much less ground-breaking.

I am suggesting that the many emergent forms that arise, supposedly as part of a larger historical trend and subsumed under these major theorizations of globalization, would be better described as minor forms. These minor forms emerge and then die within a highly complex context of other forms, each with their own concerns, ambitions, and politics.

Take, for example, the case of an environmental access to information law in Poland. It was only after 6 months in the field that I learned that a well-organized group of environmental access people existed and was actually much more coherent in their ambition and organization than the anti-corruption groups were in defining and demanding access to government information access. Yet, the two groups never spoke to
one another, never saw any need to. Both were demanding that the Polish government arrange a process to have information flow to the public more easily!

And even on the larger, international scale, a similar disconnection exists. FOI people rarely talk about the environment. Kim Fortun, for example, has conducted a project on the informationalism of the environment (2004) and yet, our paths might not have crossed if not for the fact that we both come from Rice Anthropology. The environmental access people have the Aarhus Treaty. The FOI people have their model laws.

This dissertation serves as a form of cultural critique in the way it intentionally defamiliarizes and denaturalizes its object of study, particularly corruption as an emergent object of knowledge. As such, it shares qualities with and builds upon the types of epistemological critique outlined in Anthropology as Cultural Critique (1986).

Marcus and Fischer use two now-classic examples of defamiliarization. Marshall Sahlin’s Culture and Practical Reason (1976) is a critique of utilitarian, materialist thought in the West and David Schneider’s American Kinship (1980) examines taken-for-granted social categories in the US. The versions of epistemological critique outlined in the book all deal with the way in which anthropological analysis could be applied to Western societies and in doing so, serve as a critique of seemingly natural behavior, thus exposing the powerful logic which, in fact, structures and guides those behaviors. A stronger version of this critique, such as those found in STS and critical legal studies, would then connect these cultural logics to social structures of economy and politics. What all of these examples share is their revelation of a systematic, yet constructed logic that exists behind the order of things which a critical thinker can find a way to expose.
The basic critical strategy is defamiliarization: “Disruption of common sense, doing the unexpected, placing familiar subjects in unfamiliar, or even shocking, contexts” (1986: 137). Marcus and Fischer point to surrealism as an inspiration for cultural criticism, juxtaposing ethnographic fragments from exotic cultures to revitalize perspective in one’s own culture. Surrealism in France, in fact, had direct connections to early French anthropology, particularly through the person of Georges Battaile.

James Clifford (1980) has suggested commonalities of attitude between surrealism and ethnography, including the understanding of cultural norms as artificial arrangements, the centrality of the “other” to modern consciousness, and the contested reality of culture. While important differences distinguish ethnography from surrealism, Marcus and Fischer point out that both “provide a liberating commentary on modern life, providing a vocabulary of cultural criticism and open[ing] up a view of culture as alterable and contestable.” The result, suggested Marcus and Fischer, of such surrealist dialogue would be both ethnographic representation that juxtaposes alternative cultural viewpoints, as well as the inclusion of multiple authorial voices, especially one’s subjects.

Roberto Matta’s alien landscapes, for example, typify the surrealist impulse to disorient reality and, in doing so, suggests a critique of reality. He points to the psychic contingencies of the unconscious, the non-rational and malleable nature of both subjects and space.

This dissertation could possibly fit under the category of defamiliarization by epistemological critique because it dissects the manner by which knowledge about corruption is created and institutionalized. But instead, I want to draw an important
distinction between surrealism and the work of Gordon Matta-Clark and liken it to the form of critique engendered by my dissertation. I would call this mode: defamiliarization by temporal critique.

“Splitting,” Matta-Clark’s famous work from 1974, is another critical statement that disorients in a surprisingly subtle manner. Its audience was left with two main impressions. For one, there is the sense that the artist has exposed something about the built structure which surrounds us. What feels so natural about the room he cuts apart—about any room for that matter, including the one we sit in today—has been disassembled. In doing violence to built structures, he has simultaneously cut a hole in our taken-for-granted assumptions about physical built reality. We are not in a natural environment, but a built one. We are not on the ground, but suspended in air. This serves as Matta-Clark’s epistemological critique, by defamiliarization.

This epistemological critique is located in space, showing that if the space inside of a room cannot be totally understood while located inside, that total space can neither be understood from the outside without first doing great violence to the original space, creating a gap which then inalterably modifies that space originally intended for analysis. This problem plays itself out in the frustrating attempts to take photographs of Matta-Clark’s cuttings. These photographs are as disorienting as the experience of the work must have been to those present.

While this alone is significant, Matta-Clark’s work also suggests another facet of critique in temporality. “Splitting” no longer exists because Matta-Clark purposely chose to purchase an abandoned home set for demolition. And throughout his career, he continued to choose such buildings—abandoned, derelict, condemned or
forgotten structures – as his medium for artwork. Choosing these objects allowed Matta-
Clark to engage with time in a critical manner, highlighting an assumed sense of
monumentality to things that humans construct.

Not only does Matta-Clark remind us that we are sitting, suspended in air. He
further reminds us that in the past, this space was occupied by the birds. And in the
future, this building will one day be torn down or destroyed.

Perhaps this will be one of the legacies of critique belonging to the post-9-11
generations: to see blank space where monumental structures once existed speaks to a
sense of risk, as well as possibility. But perhaps this sense of critique will be fleeting,
too. How soon after the erection of a new tower will we lose that palpable sense that
such seemingly timeless structures will once again fall?

Subjects like law and policy also deserve such attention and this is why I want to
draw commonalities between Matta-Clark’s minor critique and my own investigations
into the emergence and institutionalization of regimes of anti-corruption and transparency
in Poland. What struck me about the emergence of these structures was not that these
were simply popular ideas or the subject of much discussion. I realized I was dealing
with something significant when I started to look at the way that these ideas became
materialized in policy documents and legalized institutions. As a popular topic for
discussion, it would come as little surprise if the conversations suddenly end. But
structures and institutions are not just more lasting, they feel like they are lasting.
Official policies and laws are not written with their immediate completion, failure or
death in mind. And even among the anti-corruption policy circles in Warsaw who
essentially suggested that they would be out of work if their anti-corruption initiatives
took hold and were successful, there was instead a sense of permanence that belied the fleeting nature of anti-corruption policies. For me, the temporal was highlighted by my critical and skeptical ethnographic sensibilities.

In Gordon Matta-Clark’s work, an investigation of architecture’s relationship to time reminds us that the structures we assume to be permanent and stable are not exactly so, which further reminds us that our environment is open to change, no matter how set in stone it may appear. This lesson should not be lost on anthropology as cultural critique, and this dissertation aims to bring this idea to the fore, engendering an ethnographic mode of temporal critique.

Introducing the Field: Collegiality and Fieldwork Conduct

I conducted my fieldwork in Warsaw Poland from May of 2003 to May of 2004. I never worked for an NGO or a newspaper, nor did I spend a great deal of time peering over the shoulders of investigative journalists as they typed their stories or watching anti-corruption NGO employees compile their voluminous stacks of prized documents. The people I met with did not go out for drinks as a group on Tuesday night, nor did they hang out at each other’s house. If they knew one another, it was mainly through professional circumstances. To be certain, some of them had known each other for a long time and they had their friendships, but their professional standing in this group did not require or even suggest anything more than collegiality. My relationship to them was no different.
Through the lens of my own fieldwork experience, I would describe professionalism as my mode of fieldwork and collegiality as my fieldwork relationship. Collegiality differs from complicity (Marcus 1998) in its sense of voluntary distance agreed upon by both or all sides. One etymological source for collegiality is found in ecclesiastical policy where the collegial church is a purely voluntary association formed by mutual contract, a sharing of power. Another source is college, made up of a mass partnership, literally a body of colleagues. As opposed to being a complicit accomplice or having direct association with the affairs or interests of another, the collegial relationship is a common element in professional relationships that bring together people from separate realms or disciplines. Still, collegiality differs from adjacency because that term implies simply lying near or being somehow parallel. It remains ambiguous on the subject of volition, as well as interaction.

Collegial fieldwork relationships suggest something different than traditional methodology, centered on rapport, or complicity, as suggested by Marcus. It raises a question concerning depth and thickness: Did I get beyond the public relations face and inside the world of this anti-corruption assemblage in Poland? In a sense, however, I was searching for that face. That "face" was most often at the base, the motivating factor for action. After all, in this environment of increasing transparency, telling me "no comment" would be smarter than blatant misrepresentation. Could I really believe that any organization would allow me into some secret, inner world and then let me go forth and write a dissertation about it? Instead, it was the sites of public information access, however disjointed, impersonal, and lacking in possible familiarization, that were often the types of places I sought.
My fieldwork data was largely collected through interviews. Some were taped, more often not. Some were more formal than others. There was no fieldwork to be done on weekends and weeknights. There was a lot of scheduling problems, waiting rooms, and secretaries bringing coffee or tea. There were few invitations to private homes and even fewer drinks at the bar. There were no anti-corruption parties. It was not exactly a fun site and it is not a particularly pleasant subject. Sometimes, it made my stomach turn.

In many cases, I found myself identifying my role as similar to those investigative journalists that I interviewed. Without my willing attempts, I found that the majority of people I spoke with treated me as a journalist, if only for the reason that I contacted them in a manner similar to journalists, through phone calls requesting meeting appointments. And similar to a journalist’s interview, those people preferred that I not stay to hang out in their offices. They wanted to get back to work and had often devoted much more time and effort to our interview than the typically brief journalistic interview.

In other cases, I formed collegial relationships with anti-corruption scholars or journalists who treated me as a peer. For example, one of my key informants was a senior academic who both studied corruption and played an important role in the world of anti-corruption policy. Andrzej,¹ a professor at the Warsaw Academy of Sciences, a government expert, and member or ex-member of an unknown number of powerful NGOs, think tanks, and advocacy groups, was my first official fieldwork interview. He made the prospect of fieldwork look easy. After asking a couple background questions, I explained the purpose of my project, which at that time was to account for the history of

¹ A pseudonym. Although I offered all my informants the option to be anonymous or have a pseudonym, none of them requested this. Most of the dissertation nonetheless utilizes abbreviated versions of names – only first names usually – because my emphasis here is on practices and events, as opposed to relying on personal characteristics as motivating forces.
the passage of the Polish Freedom of Information Law from 2001. "That law was my idea," he told me. Fieldwork suddenly appeared blissfully simple, until Andrzej began to hint at two intervening factors. For one, he suggested the complexity of the history of the passage of the law. Secondly, he began to draw connections between the purpose of the law and anti-corruption initiatives. At that point, Andrzej's references remained obscure. He gave me the phone numbers of a lawyer who authored the successful bill and the president of the Journalist's society. He told me to tell them that Andrzej sent me, a crucial reference. And before he departed, he accepted my request for an affiliation at the Warsaw Academy of Sciences. Not only was this crucial for my temporary residence permit, but it would also formally establish a degree of collegiality with other scholars throughout Poland. Technically, Andrzej was my faculty sponsor and over the course of the year, he taught me a great deal about how the anti-corruption policy scene operates. He also helped confirm some passages of the history of the passage of the FOI law. At the same time, I became an important source of information to him in two ways. First, although he was at the core of the coalition of anti-corruption NGOs which eventually passed the FOI law – and there was another coalition of anti-corruption NGOs, as well as other political party interests in conflict – he was not fully aware of how the law got passed. Perhaps because of his proximity to the maelstrom or because members of the opposing coalition refused to talk openly with his coalition, he remained uninformed of the fuller story. The second reason he found the history I collected important was because he is a political sociologist who studies political elites. The passage of this law was a case study for him. Even more ironic, one of his essays described the "institutional nomad" in the post-communist world of political elites, individuals who moved freely
between institutions, but who maintained loyalties to other causes, organizations, or social networks. Essentially, he and his fellow anti-corruption advocates were institutional nomads themselves, constantly shifting organizations and temporarily filling institutional positions without ever attaching themselves to one place. Such nomadic behavior exacerbated the collection of this law’s history.

As my fieldwork year went on, I would go to the institute several times a week and run into Andrzej every two or three weeks. We did not discuss my project as a whole, but simply my progress on the history of this one law. He was not particularly interested in the implementation or success of the law, only its history. I would explain the history as it unfolded to me through my mostly formal interviews and he would listen intently, sometimes quietly affirming, other times vocally refuting these stories. Eventually, Andrzej would point me to people who were part of the opposing coalition, clearly curious about their perspective, but also clearly unable to speak with those people openly. He started calling me “the investigator.” I later learned that these were not Andrzej’s enemies, but they were occasional collaborators with Andrzej or other members of Andrzej’s coalition on certain occasions. After some time, it became apparent that getting at the “true” identity of Andrzej or any of the other actors in this history was irrelevant. All were shifting their identities at opportune moments, making them obscure, even to one another. Rather, the point of my collecting this history was to capture a brief moment in time when these individuals worked together, for what purpose, and how an opposing coalition almost thwarted their efforts. But there were no hard and fast boundaries – neither politically left or right, nor personally or personality-wise – that prevented them from working together. To be certain, they all wanted
personal achievements and accolades. But if the political stakes were heightened in the realm of transparency, it wasn’t a result of any coalition inside the Polish anti-corruption world. Rather, it was the general trend towards the increasing importance of anti-corruption as a social and political phenomenon.

**Literature Reviews: How to Situate This Dissertation**

This dissertation addresses at least three different audiences, including anthropology, science and technology studies, and public policy advocates or practitioners. As a result of its inter-disciplinary approach, cross-cultural perspective, and international, multi-sited approach, the dissertation touches upon subjects from an even wider scope of relevant fields, which cannot be described in detail here. The dissertation does not centrally focus, for example, toward a more complete understanding of Polish culture and society or Slavic Studies, but certainly could contribute to these fields.

Because of its historical background, this dissertation is necessarily located in the realm of postsocialist transition studies. Discussions of transition in Eastern Europe are ubiquitous both inside and outside anthropology (Kennedy 2002, Gal and Kligman 2000, Staniszkis 1991, Wedel 2001, Verdery 1996, Borneman 1997, Stokes 1993). Most anthropologists, however, have critiqued the concept of transition as deeply problematic (Burawoy and Verdery 1998) and imposed upon the people of the former Communist bloc. Aside from the problem of properly defining and classifying “transition,” these works essentially engage similar questions: How does what came before 1989 impact
subsequent events, practices, and structures? Should we understand Poland, for example, as a place where remnants of the old system explain the contemporary situation or solely as new responses to new conditions? Should we understand the transition as either remnants in opposition to the new or as a system of interpenetrating forces, combining the old and the new in novel manners? In addition, Verdery (1996) notes the identity crisis brought about by the transition: Are postsocialist countries capitalist, democratic, or simply not socialist? This dissertation accepts these multiple perspectives on transition and recognizes the deeply problematic nature of "transition," but nonetheless maps its uses and various meanings in context. In the case of anti-corruption policy, however, this phenomenon exists not as part of, but in reaction to the transition, particularly because privatization, marketization, and new legal, political, and economic distinctions between public and private are often blamed as direct causes of rampant corruption. At the same time, some scholars point to traditions of non-normative behavior that could be deemed a legacy of corruption in Eastern Europe (see Wedel 2001, Dunn 2004). As such, the dissertation supports the argument that transition is neither linear nor unilateral (Warren 2002).

This dissertation contributes to the emergent field of an anthropology of policy, seeking to understand the cultural and social dimensions of policy formation and implementation. The anthropology of public policy intends to examine policy issues and processes, providing a critical analysis of those processes from an anthropological perspective (Wedel et al. 2005). The potential benefits of an anthropological approach to policy are enormous, particularly in helping us understand how policy is formed, how policy gets onto national agendas, and how policy becomes legitimized and accepted.
Apart from a handful of works and research in-progress, anthropology has yet to offer a sustained or unified body of work examining policy. Anthropologists have been more interested to inform policy or advocate for causes in policy arenas. In the early 1970’s, when anthropologists such as Laura Nader (1974) and Eric Wolf (1974) implored anthropologists to “study up,” and “spell out the processes of power which created the present-day cultural systems and the linkages between them,” anthropologists understood this to mean that they should describe how subaltern subjects are adversely impacted by political institutions. Without a doubt, this is an important research topic, but an anthropology of policy would rather turn the ethnographic gaze toward the examination of institutional logics and the workings of power.

Anthropologists are now studying contemporary global processes and the way that global, transnational bodies interact with states and local groups, including national security policies (Lutz 2002, 2005, Feldman 2003, Lesley 2004, Bornstein 2001) donor politics and foreign aid (Wedel 2001), and human rights policies (Merry 2003). The work of George Marcus, who has studied both dynastic elites and forms of critique (Marcus 1992, Marcus and Fisher 1986), has guided my research into the workings of power and its culturally-inflected logic with specific emphasis on policy and elite decision-making (see Marcus and Powell 2003).

But while this subfield that focuses on policy is relatively young, some scholars have already made powerful statements that will require further exploration and debate. “A key feature of modern power,” according to Shore and Wright in their 1997 book *Anthropology of Public Policy*, is the “masking of the political under the cloak of neutrality” (Shore and Wright 1997: 8-9). In this vein, the anthropology of policy has
been dominated by discussions of subject formation and political dynamics, but has neglected the cultural side of policy. By culture, I refer to the ways that people make sense of the world in a group, a shared worldview that appears most obvious and natural. By examining the cultural understandings apart from the purely political motives of policymakers, this dissertation offers a better understanding of the limitations of these perspectives, as well as the force of tradition in combination with political interest. This form of cultural critique would have the potential to broaden our understanding of policy formation, allowing a more nuanced critical reflection on policy formation and implementation. While it is the case that policymakers can cast aside opposing arguments by deeming them “irrational” or “impractical,” it should also be stressed that these are not simply political maneuvers, but cultural strategies, as well.

As opposed to a rational, linear approach to studying policy history and development, anthropology of policy offers a way to understand the policy process as a series of chain reactions in constant flux, uncertainty, and redefinition (Wedel et al. 2005). The anthropology of policy combines elements of the cultural and the social; the cultural logic or styles of thinking that make policy ideas develop is combined with an analysis of the social structures and networks that make policy happen. Rather than describing policy as a Macchiavellian political game or assume that policy consists of the most rational ideas, an anthropology of policy would try to understand how influential ideas and groups interact. What forms of ideas are most successful and what are the groups whose policies are adopted and implemented? How do policies maintain their influence or gain it in the first place?
By classifying people, problems, and other objects, policies actively create new categories and make new connections between previously disparate events, thus creating normative orders. Anti-corruption policy, for example, transforms the crooked politician and the bribery-prone bureaucrat into part of the same problem, a social pathology that threatens to consume entire bureaucracies in places like Poland. Freedom of information similarly acts on government-held records to more precisely define documents as open to the public or secret. The actual term is a misnomer in its implementation: FOI does not set information free, but structures the order of information within a bureaucracy. How then might these categories represent or project a community’s understanding of the world and of their place within that world?

While pro-democratic policies, such as FOI, constitute one potential aspect of an anthropology of policy, this dissertation also contributes to a growing number of ethnographies that specifically examine democracy. In examining the global circulation and proliferation of abstract discourses such as “corruption,” “transparency,” “Freedom of Information,” and “democracy,” this dissertation engages with other anthropological works on circulating political discourses, particularly democracy, or what Julia Paley calls “the uses and abuses of ‘democracy’” (2002). These works examine the different ways that democracy is understood and interpreted by various groups (e.g. Ong 1999). In a more pointed sense, Calhoun (1994) looks at the strategic deployment of democracy in China, suggesting institutional and structural manifestations. In much more volatile fieldsites than contemporary Poland, ethnographers have looked at the way that “democracy” is appropriated and variously situated in relations of power (e.g. Coronil 1997). At its simplest level, anthropologists have queried the manner in which local
contexts have adapted or accepted circulating concepts and ideas (Collier and Ong 2005). In terms of corruption, this dissertation suggests that this concept is also strategically deployed by specific institutions and that its proliferation, like that of democracy and FOI, are institutionally motivated by a larger trend toward global rationalization and biopower, the government of populations (see Foucault 1978).

As such, this dissertation engages with other anthropological works that examine the ways that democracy gets measured and the motivations behind these measurements. Sampson (1996) has described the ways that the number of NGOs in Albania was virtually equated to greater democracy. Other anthropologists, like Coles’ ethnography of a democratic election in Bosnia-Herzegovina (2004), have focused on the technical production of elections. In addition to quantitative values, anthropologists have also considered the moral element of values, such as democratic, free market or neoliberal, values (Dunn 2004). This dissertation poses the question: do the social forms of FOI, information access, and journalism bring about more democratic values? Do they make Poland more democratic?

This raises a question of democratic rights and citizenship. But more pointedly, it supports and adds to existing anthropological literature on the inequalities of citizenship rights (Holston and Caldeira 1998, Caldeira 2000, Gal and Kligman 2000). This dissertation is a unique contribution to studies citizenship rights because of its special emphasis on the “right to know,” legally guaranteed in the Polish constitution. My research shows that this right is not largely exercised by normal Polish citizens (see Chapter 6). This dissertation takes note of and partly supports anthropological work that articulates Foucault’s concept of governmentality to a contemporary trend towards
neoliberalism that transfers responsibility for democratic rights or governance onto the
citizen themselves (Rose 1996, Paley 2001). But at the same time, anti-corruption NGOs
and critics of the government have played a public role in constructing some notion of the
public’s desire for information, the information public.

This dissertation is also a significant contribution to the growing number of multi-
sited ethnographies, informed by the theoretical work of George Marcus (1998, also
Marcus and Fischer 1986). Rather than explain the multi-sitedness of the project in
formal terms, it is more appropriate to understand multi-sited ethnography as a highly
flexible method of conceptualization, as opposed to a more formal theory of doing
anthropology. As such, this dissertation contributes to the models for multi-site
ethnography laid out by Marcus (1986) in the manner that it “follows the story.” The
original intention of my fieldwork in Poland was to study the proliferation of FOI law
into a new context. I wanted to study who passed the law and for what reasons, as well
as who used the law, how, and why. This was a multi-sited project from the beginning.
My preliminary field research was not in Poland, but in the United States where I did
interviews and observed sites with a community of information access experts who
utilized the American Freedom of Information Act. When I arrived in Poland, I
immediately recognized anti-corruption as an important phenomenon to understand
politics and bureaucracy, but I did not foresee that corruption would become central to
my research until I began to realize that everyone involved in the passage of the Polish
FOI law was part of the anti-corruption movement in some way. Additionally, almost
none of the Polish FOI supporters knew anything about FOI laws internationally before
they began to research such laws as part of their anti-corruption campaigns. From
studying corruption and information access, I was led to investigative journalism as both a site that fights corruption and one that utilizes channels of information access. Although I came to find that those journalists did not use the law, they were nonetheless inextricably intertwined with the central themes of my project. In following out this complex story, I realized I had begun to discover linkages that even most Polish people had not noticed: a constellation of forces that began to emerge simultaneously in the late 1990’s.

From among those links, my original conception of a multi-sited project about FOI expanded to consider corruption as a multi-sited phenomenon, international in scope, circulating, and proliferating over the course of the late 20th and early 21st centuries. Investigative journalism is also multi-sited, but less of an international phenomenon than the policy realms of anti-corruption and FOI. Investigative journalism lacks the coherency of those policy arenas on an analytic level. Its multi-sitedness has more to do with circulations of information, stories, and rumor, as opposed to the production of knowledge and circulation of analytic instruments for the eventual sake of policy implementation.

My project became a matter of following: storylines, concepts about corruption, specific stories, and objects of knowledge. It took unexpected directions informed by multi-sited conceptualizations of fieldwork and research. Multi-sited ethnography is not a theory, but a meta-method – a system of the thematic and conceptual design of a project. It cannot be plugged into a situation, but is better understood as a way of imagining a project and allowing the collected data to guide the fieldworker through different locations, both concrete and abstract. In my case, the key conceptual
perspective was to examine the objects of knowledge and how they were formed and conceived, molded and then deployed. It was important not to discard or too harshly critique the analyses of other social scientists I encountered in both Poland and elsewhere. While I may have disagreed with them, trying to understand their perspective was crucial to the multi-sited nature of the project. Those analyses and representations are more usefully understood as social facts (Rabinow 1986).

In addition to multi-sited ethnography, the design and meta-method of this dissertation can be situated within Science and Technology Studies (STS) as a modification upon actor-network theory (ANT). Beginning with the work of Bruno Latour (1986), STS scholars have expanded upon this methodology, which both follows out and generates network maps of scientific knowledge production, as well as the conflicts and contests that guide scientific and technological innovations. This dissertation innovates on ANT by offering a wider social, cultural and political contexts in which to situate knowledge production practices about corruption and bureaucratic openness, as well as offering a cross-cultural perspective on knowledge production rarely found in STS. It also moves beyond the production of knowledge, about corruption for example, to the networks and social forms that then transform that knowledge into public policy and policy implementation. In making a full circle of knowledge production practices, the dissertation also considers moments in which policy implementation itself becomes a contested object of knowledge.

The dissertation also contributes to STS studies of classifications, categories of knowledge as social, political, and cultural constructs (Bowker and Star 1999, Hacking 1995). By bridging these works to anthropological insights into public policy formation,
this dissertation represents a complex portrait of classifications in action, from formation to implementation and practice. In addition, it also offers a coherent and feasible method by which to study government secrecy, not in spite of secrecy but by addressing the mechanisms of government secrecy.

In addition, the dissertation also contributes to a growing number of STS studies of informationalism, the increasing bureaucratization, quantification and enumeration of all aspects of social life. Fortun (2004), for example, has examined the politics of the circulation of environmental information and the empowerment in potential recombination of that information. This work aims to understand the effects, both positive and negative, of the information society and its accompanying trend of collecting and making available massive amounts of information. This dissertation contributes to work on informationalism by providing insight into the flows of information, as well as providing accounts of strategies to obtain information access from a cross-cultural perspective.

In addition to informing academic scholarship in anthropology and STS, the dissertation also hopes to contribute, sometimes explicitly so, to public policy practitioners, particularly FOI advocates and anti-corruption experts. This community includes international FOI advocates (described in chapter 5), as well as the community of information access experts in the United States. While these communities often produce reports and analyses, they are not usually academic, but focused on advocacy (with certain exceptions, such as the work of Thomas Blanton (2003, 2002, 1995) and Steven Lamble (2003, 2002)).
Most simply, the dissertation offers a case study for practitioners who are interested in the international proliferation of information access policy: How have anti-corruption and FOI policies been adopted and modified in Poland? This case study is particularly important because it offers a cross-cultural perspective on internationally-minded access policies. It contributes to the question: How do particular political, social, and historical contexts impact policy formation, adoption, and implementation? As such, it strongly argues for the importance of these contexts to understanding information policy and why specific policies succeed or fail. The dissertation also suggests that particular contexts impact the global proliferation of these policies. At the same time, it isolates the key factors that define international policy circles. This dissertation can therefore be useful to FOI advocates, in helping them understand how and why particular environments emerge that are more or less apt to adopt information access regulations.

Chapter Summary Statements

Chapter 2 examines the social and cultural phenomenon in Poland of NGOs, expertise, discourse, and cultural logics that have made corruption influential, as well as the ways in which those same actors may limit its influence. Focusing on local Polish contexts, the chapter examines the transformation of academic and civil society reactions to corruption, tracing the discourse from a source of disgust and protest to an institutionalized policy concern for economic and political development.

Chapter 3 juxtaposes and intertwines the emergence and development of anti-corruption in two realms. The first part of the chapter traces the history of economic development, offering an outline of important institutions since WWII that first
permitted, then turned against, corruption. The second part of the chapter compares social scientific texts on corruption in economics and political science from the 1960’s with works in the later 1970’s and 1980’s. This comparative reading demonstrates important transformations in academic understandings of corruption as a phenomenon. These later understandings fall directly in line with institutional anti-corruption logic within the development community. Hence, the juxtaposition is intended to show an over-arching shift in thinking about the problem of corruption since WWII. While it offers possible causes for this transformation, it ultimately sets the context for understanding the parameters of a possible logic in the Polish anti-corruption environment.

Chapter 4 traces the history of the Polish FOI law. The information access law was entangled in a conflict between two coalitions of pro-transparency NGOs, one more focused on anti-corruption and the other on human rights. The first part of this chapter unfolds the paradox of two anti-corruption and pro-transparency NGO coalitions using secretive tactics in conflict with one another to conceptualize and lobby for their version of the FOI law. All sides essentially battle to speak in the interests of the public, the nation, civil society, and/or citizens. The chapter seeks to explain the shape of their voice and the types of strategies they deploy to speak more authoritatively for those interests. In the second half of chapter 4, I explore the FOI law as an administrative reform mechanism strongly supported by the leaders of Polish government, but intensely resisted by the bureaucracy. The bureaucratic apparatus in Poland, the traditions and structures of secrecy and control of information it has carried down from the PRL era, and the major institutional obstacles and aids to greater information access together offer an
institutional framework in which to understand the emergence of the FOI law, its conceptualization, its purpose, and its meaning. This larger framework is crucial to transcending local explanations of the law’s passage, most of which deployed psychological-level narratives of personal animosities and network infighting while neglecting social, cultural, and especially institutional perspectives.

Chapter 5 asks what is Freedom of Information: Is it an idea? A technique? A model? Most FOI advocates call it a misnomer, as it fails to make information flow freely and rarely is without a fee. In addition, each country has its own version of the law, so how much can a particular law differ and still be called FOI? In Poland, Parliament rejected the FOI title because it failed to accurately describe the statute, which had to be renamed the Law about Access to Public Information. How can we best describe international commonalities? And if it is a truly international phenomenon, then what kind of international phenomenon? How does it proliferate and why? The chapter traces the history of the emergence of FOI laws – philosophically in the Enlightenment, and concretely in the administrative and bureaucratic states of Sweden and the United States – before returning us to the models and structures of FOI law finally adopted by Poland. Throughout, the chapter stingily distinguishes between types of information flows within different types of systems: informal systems, public spheres, and bureaucratic-level systems of records. In doing so, the chapter touches upon, but does not fully or extensively explain, a genealogy of information as it impinges on the development of FOI laws internationally.

Chapter 6 examines the measures of success of UDIP. The chapter does not thoroughly analyze the implementation of UDIP, but rather presents different
interpretations of the law’s implementation and its failures within and beyond the bureaucracy. Aside from a periodic comparison with more developed FOI traditions throughout the world, the chapter highlights incipient arenas, as well as entrenched perceptions for generating knowledge about bureaucrats, oversight agencies, and a community of citizen requestors in Poland. With this in mind, it is still useful to understand the early criticisms and commendations of the law’s implementation because these various critiques can offer a coherent portrait of future visions for information access. Beyond that, this chapter turns to the various modes of measuring UDIP implementation, drawing comparisons to other national contexts and their equally challenging attempts to measure FOI effectiveness, with special emphasis on the effect of this research for legal reform, and practices of bureaucrats and requestors.

Between Chapter 6 and Chapter 7 is an Inter-section which attempts to bridge a gap between the anti-corruption policy elements of Section 1 (Chapters 2 and 3), the information flows highlighted in Section 2 (Chapters 4-6), and investigative journalism of Section 3 (Chapters 7-9). The Inter-section describes a well-known corruption scandal called “Rywin-gate” or the “Rywin affair” involving top level politicians in Poland and one of the largest and best known daily newspapers, Gazeta Wyborcza. The story reveals the complexity of revealing how power operates, as well as the many levels of revelation made possible through regimes of transparency: from parliamentary hearings to public court proceedings, through architecture and journalism itself. Older styles of Polish politics, born of the communist era and the moment directly proceeding the 1989 revolution, have become entangled with a newer style of politics, influenced by international trends in transparency, anti-corruption and good governance. The result is a
uniquely contemporary form of subjectivity characterized by, among other elements, suspicion and paranoia.

Chapter 7 presents a brief history of the emergence of investigative journalism in Poland since 1989. The first investigative stories came out in the mid-1990’s. Journalists agree that no investigations took place before 1989. In the course of the chapter, I trace the emergence of investigative journalism through important stories and figures that established the incipient traditions of investigative journalism in Poland.

Chapter 8 describes information access conflicts that surround Polish journalism through three profiles: a government spokesperson, a university journalism professor, and the deputy editor of a major newspaper. It begins with conflict and the embodiment of stress, a stress that directly results from conflicting ideological positions. The purpose of this chapter has less to do with understanding the state’s reaction to journalistic access practices than with the journalistic ethos and rationale for their information access practices. As such, journalism becomes the central and most elaborated focus of the chapter. This examination of ideology is informed by Clifford Geertz’s essays on ideological formation, as well as his articulation of ethos and worldview.

From ideological conflict, the chapter moves to more specific instances in which a skeptical and paranoid form of critical reason – harmonious with the journalistic ideology of revisionism – is deployed to triangulate the journalist’s object of investigative journalism: corruption. In many instances, the entire logic and process turns in upon itself: the production of journalism about corruption serves to reinforce the journalist’s original suspicions and paranoia of the state. My analysis of the practical process of
journalistic revisionism and meaning-making is informed by Harold Bloom's theories of literary influence and creation.

What defines the journalist form of reason as particular is the manner in which they make far-fetched explanations plausible, reasonable. Beginning with accepted or obvious stories, journalists must deploy their skeptical reason to break the alibis apart and call the apparent truth at hand into doubt. But beyond that, they must construct a new story and re-represent those prior appearances as misleading.

Chapter 7 offered a history of the emergence of investigative journalism in Poland and chapter 8 described the revisionist ideology and paranoid, skeptical form of reason shared among Polish journalists who approach corruption as an object of knowledge. Chapter 9 examines the dynamic relationship between those two chapters, the historical and the logical, in specific stories of investigative journalism that demonstrate how far-fetched explanations of corrupt acts are made concrete and believable.

Informed by the entire dissertation, but especially serving as a culmination of section 3, chapter 9 synthesizes these analytic provocations in specific instances of journalistic investigations into corruption, exemplifying how journalism produces authoritative knowledge about corruption.
Chapter 2

Corruption as Institutionalized Reform

Why has corruption become accepted, both in Poland and abroad, as an institutionally recognized and potentially solvable problem? This chapter examines the emergence of corruption's institutional recognition over the course of the 1990's in Poland. The chapter points to and is followed by an investigation of the same problem from an international perspective. Throughout, I have several basic questions I intend to answer: How is "corruption" as an object of knowledge produced? By whom? For whom? When? And to what ends?

In the early 1990's, Polish President Lech Walesa's office reluctantly allowed one of its advisors, a sociologist named Andrzej Kojder who had written about corruption (Kojder 1992) and before that social deviance (Kojder and Kwasniewski 1981), to invite a small group of pioneering corruption experts, mostly unnoticed by their academic and political peers, for a meeting on the problem of corruption in Poland. This may have constituted the first such meeting of scholarly minds focused on this topic inside the Polish government. It produced no effect and went largely ignored. But by 2002, the Polish government officially recognized corruption as a problem and the Council of Ministers passed the nation's first Anti-Corruption Strategy.

In 1993, the Berlin-based Transparency International, calling itself the first NGO solely devoted to battling corruption, demanded that the World Bank and other supranational economic development organizations recognize the problem of corruption and address the issue through policy. This NGO's demand represented the first campaign
calling for an internationally coordinated effort to remedy the problem throughout the world. Various national leaders derided TI and as late as 1995, the “C-word” was taboo at the World Bank. In 1996, Bank president James Wolfensohn gave a speech bringing light to the “cancer of corruption” and the following year created a comprehensive Bank strategy to tackle it.

These two abbreviated histories plainly bring to light a dramatic reversal of policy agendas and attention. Put simply, corruption was not a problem until some moment during the mid-1990’s, though of course the story contains more facets than this. After all, small groups of elite experts, policymakers, or politicians already recognized the problem, not to mention millions of “average citizens.” But the disgusted sentiments and plights of the average citizen-victim had little policy impact, nor did it provoke massive protest or social upheaval. The standard response, in Poland at least, was cynicism or pessimism or some admixture of both. Rather, the “revolution” arrived when an elite group convinced key figures in power either that corruption has a negative economic impact or, as the movement gained momentum, that recognizing corruption had become a political imperative. Anti-corruption in Poland and elsewhere has not been a grass roots campaign.

This chapter examines the social and cultural phenomenon of NGOs, expertise, discourse, and cultural logics that have made corruption influential, as well as the ways in which those same actors may limit its influence. It begins with some basic questions about the nature of corruption as a social pathology, its subject matter, and epistemological quandaries. Ian Hacking’s book on the evolution of multiple personality disorder (1995) has guided many of my questions posed here concerning the
rationalization, definition, and diagnoses of corruption as a social disorder. While Hacking examines the emergence of a medical disorder, I have borrowed his theoretical approach to that historical phenomenon and applied it to the historical emergence of corruption as a widely recognized social syndrome. After a brief outline of some key institutions and organizations involved, the chapter delves further into the complex entanglements of new organizational initiatives and old political networks that constitute the greatest challenge to effective anti-corruption efforts, which I call the politicization of corruption. Bach and Stark's works (2002, 2004) on the emergence of the NGO helps me describe the anti-corruption movement on both the international level and the local Polish level using an actor-network method (e.g. Latour 1987). While actor-network theory helps further organize elements of this chapter, especially later when I describe the processes by which corruption knowledge gets shaped, I have supplemented this theoretical orientation with reference to Foucault's work on the political struggles involved in the maintenance of authoritative discourses (e.g. Foucault 1975), as well as Bourdieus concept of "cultural field," the discursive, institutional, and social contexts that produce and authorize discourses and practices such as anti-corruption. I have supplemented ANT because Latour's method alone neglects the larger social, cultural, and political contexts that are key to understanding the production of knowledge about corruption and for policy. With this in mind, the chapter moves through the histories of corruption studies in Poland.

What Exactly Is Corruption?
No consensus exists amongst academic experts on any single definition. During the late 1990’s, when academics and development institutions began to organize increasing numbers of conferences and meetings on corruption, definitional debates occupied a significant segment of time and rarely reached consensus. One Polish sociologist told me that she abandoned her research on corruption altogether due to the concept's lack of specificity.

The World Bank supports the most common and influential definition: *the abuse of public power for private benefit*. The public office referred to may also include the activities of private firms working for or regulated by the government. While bribery constitutes the most commonly recognized form of corruption, corruption includes a number of other categories. For example, nepotism may involve the employment of an individual in return for other forms of non-monetary favors. Embezzlement may not involve any outside party. The key terms in the common definition are public and private, especially their boundaries of exclusiveness and inclusiveness.

While I fully agree with critics who argue that corruption's ambiguity constitutes a major problem, the knowledge-production mechanisms that inform policy on corruption and the techniques by which experts define corruption through their attempts to evaluate the problem are more important than my own personal definitional preference. As one corruption expert explains, “If corruption could be measured, it could probably be eliminated” (Tanzi 2002: 38). This means that the definition of corruption is not an end goal, but an instrument deployed in practice for the purpose of eliminating what is thus deemed “corrupt.”
But, if corruption requires definition so that it can then be measured and subsequently eliminated, does that mean that corruption experts have created a problem so as to have a disorder to cure? This type of circular logic inevitably leads us to that basic question: is it real? As Ian Hacking demonstrates in his book about multiple personality disorder (1995), this question requires clarification concerning the "it." After all, are we discussing corruption as a discourse or a practice or something else entirely? "A real what?" Hacking instead asks, borrowing the question from J.L. Austin. And similar to Hacking, who asks if multiple personality disorder is a real disorder, we have to inquire whether corruption is a real social pathology and from this point, what is meant by social and by pathology?

But before I am accused of taking this discursive analysis into the realm of radical deconstruction, I want to qualify my statements concerning the reality of corruption. Of course, criminal acts and wrongdoings involving public officials and private citizens, bribes and extortion, take place. During my fieldwork in Warsaw, I discussed first-hand accounts of corruption with a number of different individuals. But I never intended to understand the behavioral patterns that might connect these disparate accounts. And while those involved in giving bribes never understood their action as entirely unique, none had developed a theoretical or analytic vocabulary for corruption in the manner of anti-corruption NGOs, experts, academics, or policy-makers. *My focus here is not the corrupt acts, but the people, groups, and techniques which connect previously disjointed events through an analytic practice that constitutes something entirely new: corruption as a new analytic object of knowledge.*
Corruption is a social problem in the sense that its origins are not biological or "natural," however artificial a distinction that may be. Even if some corruption experts may point to human nature or the eternal qualities of corruption, born with civilization and power; still no one has suggested that we should find a cure for corruption through a large-scale medical remedy for an entire society such as pills, surgery, therapy, or maybe mixing something with the drinking water. The social side of the problem represents a diverse conglomerate of matters regarding human interaction and relationship, focusing mainly on the political and the economic, power and transactions.

Pathology does not refer to the medical science usage, but a social scientific one, again pointing to the essentially social nature of corruption. More properly, pathology refers to a non-normative event, a departure from the norm. Therefore, a larger sense of order must underlie the possibility for pathology. An order might consist of any number of normative elements, but corruption mainly concerns various forms of state laws, legislative and constitutional, to create this sense of order above that of a single individual. Furthermore, anti-corruption advocates insist that corruption represents both a degradation of democratic values, in the sense that democratically-elected officials should represent their public constituency and act accordingly, as well as distortion of market values, since a modern, rational market requires openly conducted transactions. A social pathology is a recurrent practice or habitual mechanism that breaks the laws or values of order, creating disorder.

At the very least, we may assume to understand the nature and type of the problem: if corruption deals with the activities of public power, then it includes the government and its functions. Therefore, corruption is an essentially political problem.
But in the recent history of its emergence of anti-corruption, institutions have transformed corruption from a political dilemma to an economic one. This transformation from a political to an economic problem has accompanied the increasing influence of corruption. The attempts to measure corruption occur not through or for the benefit of political dimensions, but economic ones such as the yearly costs of bribery for governments or investors. If we define corruption instrumentally as above, then we should understand this transformation as indicative of larger frames of reference, particularly those of economic development and global capital. For example, the World Bank has recently dubbed corruption the greatest obstacle to economic development, while an IMF expert has noted that corruption essentially amounts to a distortion of the market (Tanzi 2002). Certainly, the individual acts of corruption reflect more localized issues, such as the fear of declining morality or an all-consuming greed throughout the underdeveloped world. In Poland, for instance, political and cultural commentators in the newspapers and even regular citizens at my interviews complained of the failure of anyone in government to work in the public interest, representing an obsessive skepticism that personal gain supersedes public office. But even when commenting on this moral element, corruption scholars refuse to recognize this immorality as a result of capitalism, as critical Marxist scholars might. On the contrary, corruption, for them, prevents a regularly-functioning market from working properly. A Marxist interpretation might infer that a developing capitalist economic system, in its transformation of everything into a market and placement of everything up for sale, can only result in more corruption as public offices and public functions are purchased by the highest bidder. If no object is too sacred for sale in a capitalist system, public office is no exception.
While corruption may appear to be a political issue and some international institutions have successfully transformed it into an economic issue, in practice corruption has become a malleable entity, to a certain extent. Anti-corruption advocates are an extremely intelligent bunch who understand the complex interests of their funding sources, political supporters, and would-be funders, as well as the various audiences of their knowledge. At one point in my research, I felt that the more ideological purposes may serve as a mere alibi for the real reason behind fighting corruption, as if morality and democracy were simply alibis for capitalism, particularly in light of my Marxist interpretation outlined above. But a discussion with one of the leaders of an important Polish anti-corruption NGO changed my thinking about this:

Author: The EU wants to help generally, giving EU funds, [but] they might be reluctant if they see Poland as a place where corruption happens, that the money might not go where they want it to. Or if you’re an international investor, you’re not going to invest here, because it might not work as wanted. I don’t know if these are reasons to fight corruption or effects or something of both?

Anti-Corruption Advocate: It depends with whom we are talking. Now, when we start to talk with businesspeople, we usually use only this fact that corruption is destroying the market and that foreign investors, serious foreign investors won’t come to a corrupt country. And this opinion that we are very risky because of corruption, [it] is very bad for us, and if they want to develop, to build their long term stability in business, they have to work to do something with that. These are the words we’re using with the business people.

But with other groups you might use a different argument?

Yes.

It does seem there are several applicable arguments. If you want to talk about democracy or the market or morality.

Yes.
But even when the anti-corruption movement attempts to self-consciously maneuver itself through a number of different environments, it cannot escape the political environment. I raised this question of the specter of politics haunting anti-corruption advocacy with this same leader of the anti-corruption NGO quoted above:

_Transparency has a lot of political capital attached to it, so a lot of parties are interested in grasping for – trying to look like the transparent or clean party. I know that the goals of anticorruption groups – they see the need for monitoring to be nonpolitical, but this is difficult. If a journalist writes an investigation, politicians can retort that it is politically motivated. Even regarding NIK², I read a story in Polityka complaining that NIK is very biased and they are not objective. Is there, how did this problem emerge? Has it always been like this? Was there a time that you considered an objective source possible? Is it a major goal?

Until now, the corruption was always attached to politics. And it was always that corruption was used as a tool against your political enemy. And even if there were some people [saying or arguing] that there should be an unpolitical platform built to fight against corruption. Just a few weeks ago, Ms. Kolarska-Bobinska presented such an idea³. It is still very much oriented with politics. I have to say that I finished my political affiliation before I started to work on this program. And I really believe I am trying, trying to be objective; to criticize as much as possible people from right side, the left side and the center. But I understand that [my organization] is seen by some people as an institution with political affiliations. Even in practice, it's not a true. But there are some people that see us as liberal, because of [...] and some of the heads of our foundation, [...] So I'm doing my best to keep neutrality. And deeply in my mind, I really believe I am neutral. But how people see this, I'm not sure.

The tension between an apolitical transparent ethos of anti-corruption and the entrance of the NGO sector in Poland into politics during the 1990's represents an inherent problematic, largely not dealt with or consciously ignored. Politicization and politics generally is a central and recurrent problem throughout this field (and in a following chapter, I will show how this has served to hinder the progress of information access in

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² The Supreme Chamber of Control in Poland is an auditing agency that studies governmental practices, often with a critical eye. NIK is further described below.
³ Kolarska-Bobinska published an editorial in Gazeta Wyborcza, Poland's largest daily, outlining her arguments on this point (2004)
And by political, I refer to the realms of legislative politics, lobbying, control of political parties and the Parliament more generally. Corruption had to be extracted from politics by development organizations to legitimately place it under its purview as an economic and social issue. Anti-corruption organizations require apolitical objectivity as a source for legitimate claims to diagnose and rectify the corruption problem. And the criminal activities deemed corrupt exist on another border of the political, in the places where the state and the market collide most abruptly in the neoliberal order, such as privatization, state contract bidding, and state services. Westbrook (2004) argues for a complete re-assessment of the boundaries between politics and economics, claiming that the result of the institutions created by the World War II settlement is a “city of gold” that essentially unites the state and the market. If this is the case and Westbrook’s argument is right, then Poland’s reaction to entering this system essentially amounts to either disgust with this new system or a false hope that with better oversight and accountability or more developed institutions, the corruption they see presently can be overcome and the state can (once again) function purely in the public interest.

When Did Poland Begin Studying Corruption?

Before I engage with the present-day concerns alluded to above, we need to outline the history of the emergence of corruption studies in Poland and the network of organizations and knowledge-production that brought about these questions. While the history of corruption in Poland probably stretches back as far as the origins of the Polish crown in A.D. 965, the history of the modern-day study of corruption is dramatically shorter. This section tells the majority of the history through the mouthpiece of one of its
central and influential pioneers, the Polish sociologist and former Solidarity leader Jacek Kurczewski. However, Kurczewski’s narrative is not universally accepted, for reasons immediately relevant to the development of this history.

Corruption studies found its origins in the pro-democratic opposition to the totalitarian PRL regime. As anti-corruption NGOs emerged in the late 1990’s and Poland began to feel the presence of various international organizations like the EU, the World Bank and NATO during the course of the 1990’s, corruption was transformed from its origins in the opposition as a sense of aesthetic disgust with the communist system into an institutionalized and rationalized entity or power/knowledge supporting economic and political development.

I met Jacek Kurczewski through a series of academic connections. A professor of sociology at University of Warsaw and former member of parliament after 1989, he has also been a key figure in corruption studies in Poland. Jacek looks neither young, nor old, age-wise, or in terms of perspective. His white hair and beard, wizened eyes evoke his years, but he tells his story with a spriteness and levity that marks an almost childlike curiosity. He told me stories of his rebellious days in Solidarity, but never giving the impression of the kind of carefree or reckless rebellion that might mark an American fascination with counter-culture. Rather, his was a dedicated message, speaking for democracy, truth, and justice, seeking an end to a cruel totalitarian regime. As a respected sociologist during the 1980’s, Jacek co-authored Poland’s rewritten public gathering law, to which he added the loophole that a group of a dozen did not constitute a group. And he pointed out the sly rebelliousness of the censorship law, re-written in the early 1980’s, which allowed scholars like him to publish a small run of academic
manuscripts, spreading the ideas that would spark revolution through crafty methods. And in these capacities, Jacek became accustomed through the years to struggle. But he also shared stories from his time in Solidarity after 1989, when he played an important role in constructing Polish democracy. It's a success story marked by failures. While many Poles are pessimistic about the state of things today, Jacek embodies his historical perspective garnered from his years in Solidarity through a cautious optimism. He noted, for instance, that anti-corruption laws and the law on access to information might not have resulted in complete success, but they were a step forward.

In exchange for a lecture in which he asked to "propagate the ideas of [my] department" to his graduate student seminar, we had a long conversation about the study of corruption in Poland at a café in the middle of Warsaw. The Nowy Świat Café has been a gathering site for both intellectual and political elites in Warsaw for decades. Its neoclassical interiors and relatively gaudy decorum spoke to me of a communist-era luxury that dramatically isolated the superfluous elite from the functional environment of regular citizens within a city with few geographical or physical markers of distinction. It is the type of place that old friends or acquaintances of Jacek like to hang out and talk, but in a private setting. As we left the café, one of them stopped Jacek to say hello, but obviously did not know him personally enough to know better than to ask if I was Jacek's son. Following my lecture at the university, and over the course of a few hours, he told stories and explained some essential details concerning the development of the discipline. On several other occasions, I had opportunities to ask follow-up questions about this history at his office.

I had already recognized the relatively recent emergence of anti-corruption
initiatives, but had perceived it simplistically as a rise in popularity and influence. Jacek pointed out the key changes and legitimation moves through a chronology of the last 25 years.

In 1980, Kurczewski led a research seminar at the Polish Academy of Sciences (PAN) about the sociology of everyday life using all possible methodological techniques. Some research pointed to corruption in everyday life (i.e. bribery, clientelism, nepotism, etc.) as an important subject. Simultaneously in the early 1980’s, corruption-related issues made their way onto the agenda of Solidarity in the form of protest against abuse of power and unjustified privileges. Kurczewski and some of his colleagues in the research seminar were active members of the Solidarity movement. As Kurczewski less formally explained, Solidarity’s battle for economic and political freedom overshadowed, especially in the West, a third, forgotten cause: an aesthetic, moral disgust of the communist system and its lack of honesty. This third cause was the kernel of motivation resting behind the study of corruption for Kurczewski and other sociologists who rejected the communist party and its vile state. This pioneering research seminar was therefore motivated by resistance, at least on an implicit level.

In 1981, with the declaration of martial law, General Jaruzelski publicly declared battle against two forces. First, he sought to pacify “resistance” movements, but was careful not to officially recognize Solidarity. And secondly, he promised a campaign of honest government, a war on corrupt elements to “clean the ranks.” From all accounts, both campaigns proved failures. Corruption experts I discussed this with scoffed at the idea of Jaruzelski making such claims about corruption. Even if he did use the term
corruption⁴, the words simply struck empty notes. This type of empty rhetoric exemplifies the difference between earlier approaches to corruption and the coordinated anti-corruption efforts that exist today. At the time that the PRL made such declarations, their intentions were not to change governance structures, but to attempt to colonize the insurgent opposition movement.

The term “corruption,” in line with my earlier arguments, had not yet emerged as a discourse during the 1980's in Poland. While Kurczewski made a linkage between his definition of corruption today and the feeling of disgust shared by his colleagues in Solidarity, the structure of the discourse is hardly similar. The history of the term’s usage is important, but in the nominal sense of corruption as an organized network or system of organizations, knowledge production, rationalization, and political institutionalism, “corruption” remained in its infancy. In the academic literature in Poland at the time, authors addressed the topic of corruption in the 1980’s and there even exist several references from the 1970’s, but these works seem to stem from the closely connected topic of social deviance. They mostly rely on random accounts or strictly local practices and fail to bring together the assemblage of practices that later scholars subsumed under the general heading of corruption, such as bribery, nepotism, and clientelism.

The sense of disgust in reaction to a generally corrupt system of governance was shared amongst Solidarity members, but in querying Kurczewski on this point, he admitted that no scholarly work adequately captured this structure of feeling as well as the movies, novels, and poetry of that time. For him, the most significant creation to elicit the collective disgust was Tadeusz Konwicki’s 1979 novel *Mala Apokalipsa* [Small

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⁴ I failed to find concrete documentation of Jaruzelski’s “anti-corruption” campaign, but several corruption experts noted the rhetorical endeavor.
Apocalypse, translated into English as *A Minor Apocalypse*. Konwicki (1926 –) has written over twenty novels, the first in 1956, as well as writing and directing movies, the majority of which revolve around the more peculiar dimensions of Polish society. He is one of the best-known cultural figures from the communist era within Poland, but less known internationally for his film than Wajda or Kieslowski or for his writing as Milosz or Szymborska. In some ways his work, especially *A Minor Apocalypse*, shares qualities with the dreamy worlds conceived by the Polish science fiction writer Stanislaw Lem, but Konwicki’s writing is more firmly grounded in everyday Polish life, thus reinforcing the strangeness of his voyages into the absurd qualities of the PRL era.

*A Minor Apocalypse* traces a day in the life of a highly apathetic oppositionist poet called on by the loosely-organized opposition network to self-immolate himself in a grand media scene at the steps of the Party’s congress taking place that day. As the story develops, the main character must decide whether or not he will go through with the act requested of him. The novel is set in Warsaw and draws heavily on the local geography, the steps I learned well in my own fieldwork. But late 1970’s Warsaw differs dramatically from present-day Warsaw, not merely because of the destruction or erection of buildings and landmarks, or even the increased access to goods, but the very fabric of social and cultural life, the tactile emotional field that shades and multiplies realities in Konwicki’s novel. Time becomes a recurrent problem in the failure of access to the correct hour, date or year. As the main character struggles to figure out the day of his possible death, he meets persistent contradictions, symbolic of the system’s refusal to provide accurate information and its penchant for disinformation more generally. Konwicki describes a dream-like world where seemingly no truth exists, but reality
always appears to lurk in the shadows, the underground meeting places, or maybe even some subterranean realm.

Konwicki specifically evokes without explicitly describing the foundations of the communist state’s errors. In one section he makes reference to corruption, through bribery, in a somewhat positive light:

It was the great epidemic of bribes which saved this system. Bribes and baksheesh have humanized an inhuman society. From the highest Secretary to the lowliest night watchman, everyone is on the take and everyone is stealing. We sail on a boundless sea of sanctioned theft. Our ship will never break up on the rocks by the shore because we’ll never see the shore again. This system began its career with Lenin’s slogan: ‘Steal what’s been stolen’ (87).

But Konwicki neither fully praises nor condemns corruption here. With a keen eye to morality, he highlights its positive qualities, its humanizing and equalizing forces, while singling out bribery as a system of stealing from others, a despicable game. If bribery has humanized the system, it has done so at the cost of moral fiber.

The novel is set in the intersection of multiple struggles and discursive conflicts, the most obvious of which is the spirited resistance to the PRL in the face of disillusionment and an irresponsible, patriarchal state. There is persistent allusion to Polish history and the many rebellions and opposition movements, the seemingly insurmountable obstacle of power and the inner life of the struggle between optimistic rebelliousness and despairing acquiescence. In the face of a ridiculous, absurd, and distasteful system which offers no moral base for decision-making, where can the philosopher-narrator turn to? He considers and rejects the Catholic church, but not religion itself: “The priest can be a fake as long as the penance is real” (225). And the same rejection takes place in considering the West or the heroes of Polish history. No models remain: “The life-giving sources of the old morality have dried up and vanished
in the sands of oblivion. There’s no other source to draw from, no place to refresh oneself. There is no example, no inspiration” (188). It is only clear that a bored disgust has taken hold of the masses, fed up with the system, but without an idea or inspiration to do anything about it. The narrator’s decision becomes a vehicle for a reflection on morality and its conflicted position in Poland of the late 1970’s. Of course, it was more than obvious that resistance and opposition were the right things to do, it simply was not clear which actions and practices could effectively make a difference and at what cost. The narrator must make an ultimate decision between life and death, multiplied by the desire for love and passion, qualities of hope and things to live for in spite of the workings of any political system. Very personal concerns creep into his reasoning: Will he and his literary oeuvre live forever because of his suicide or will he continue to live and risk the possibility of fading away, forgotten? The continuing failures of resistance to make a dent in the system wrenched at the individual souls of those who knew right from wrong, turning their disgust inwards, effecting their perceptions of reality:

Oh, God, where are the faces of my countrymen of yesteryear? Where is all that diversity now? Faces lovely and rough, handsome and misshapen, pleasant and slightly askew. And those rough, ugly, crooked faces were interesting, attractive. And where is that variety of features, types, and complexions? Where is the charm and beauty of those alluring people who grew up on the shores of the romantic rivers of Central Europe?

Here, on every side, a stream of disagreeable faces, if they can be called faces. Mean, sloppy, branded with a hereditary and irreversible ugliness. Occasionally, the oval, melon-like head of a state or Party apparatchik would flash past among them. They can be distinguished by a certain alcoholic puffiness, their thin, ugly hair forming nasty locks on their sweaty skulls. They can be recognized by their small, quick, suspicious eyes, their plump, spongy cheeks, and the absence of a mouth, replaced by an aperture for issuing reports. Jesus God, when did some evil witch punish this society by turning it into a great herd of Neanderthals?

I remember when it happened. I remember that terrible period of transformation, pupation. It was at the end of the sixties or the beginning of the seventies. New strains came into being, begotten by Party Secretaries, managers,
policemen, censors, docents appointed to their posts, prison wardens, and
treacherous artists. Merciless, the genes passed the nastiness of the parents’
occupations, the herpes of their moral abominations, the carbuncles of their
venality on to the faces of their offspring. The disastrous lives of the fathers and
mothers had prematurely disfigured their children’s outward appearance. No one
sings the praises of the beauty of Polish women anymore, no one admires the
knightly nobility of Polish men. (102-3)

While the opposition recognized the essential problem of corruption, coupled with
a multitude of other abuses, they were in no position to respond in a manner that could
transform administrative practices. Regime change took first priority. Only after 1989
could the democratic opposition begin to consider programs to change administrative
culture and even then, this project took a backseat to more fundamental and urgent needs
such as institution-building, state security, and stability.

In 1989, Kurczewski attended a UN conference on the abuse of power that had a
major impact on his outlook towards openness and corruption. Specifically, this resulted
from his exposure to Scandinavian models of open governance. In 1990, after he was
elected to Parliament with Solidarity’s new political party, he advocated for the Solidarity
party to christen 1990 the year of clean and transparent power. His fellow party members
immediately rejected the idea. Kurczewski laughingly recalled this tale, wondering how
he could have been so prescient concerning future problems and ironically noting the lack
of interest in the problem at the time.

The study of corruption continued through the 1990’s with greater force than in
the 1980’s and was complemented with a growing number of scandals and affairs
published in newspapers. Public opinion research institutes began to offer more
comprehensive empirical data for sociological analysis during this time and scholars
could freely analyze and criticize the workings of government bureaucrats. But the
increasing quality and quantity of scholarship on corruption alone could not raise the discipline to a level of national consciousness.

Something dramatic happened, according to Kurczewski, during the late 1990’s that transformed the impetus for corruption studies, the “irrational” side of moral and aesthetic disgust, into a rationalized and systematic study that could inform policy on a global scale. Poland’s gradual entrance into a bevy of supra-national organizations accompanied an assembly of expectations and obligations from those organizations, including concerns over the level of corruption. The multitude included the European Union (following the mutual decision to pursue enlargement), the World Bank, OECD, Soros’ Open Society Institute, and even the American Embassy, all pressing for a reduction in corruption. These obligations gave the study of corruption a “pragmatic legitimation,” according to Kurczewski.

At the same time, the rationalization of the discourse, in its attempts to rid itself of its moral and aesthetic element of disgust, allowed its critics to easily disarm its arguments. How, for example, can you collect accurate data about secret relationships? And how can you gauge the ubiquity of the problem accurately? One result is a proliferation of numbers from polls and surveys, an almost mystical urge to count the corruption problem which sociologists and policy analysts believe could lead to a reduction. But Kurczewski felt that the expectations of the EU and the World Bank are often inconsistent, resulting in an under-analyzed and over-simplified description of this problem. Further, the recent decline in funding anti-corruption initiatives intensifies this inconsistency. Corruption, for Kurczewski, is a phenomenon without clear boundaries, based upon changing moral standards. Rectifying the problem cannot, therefore, be
found in new laws attempting to curb the behaviors of the corrupt, but instead needs to focus on good models of behavior: ethics. Unfortunately, Kurczewski felt the good models for politicians are all long dead. And the contemporary scholars of corruption have few ideas for new models.
Chapter 3

International Dimensions: Development and the Academic Study of Corruption

In 1995, as a new member of Transparency International, I attended TI’s annual general meeting in Milan, Italy. As an economist, I was tired of the various mainstream strands of economic research and was looking for more challenging approaches - those closer to measuring the dark side of human nature. TI had invited a well-known political economist from Yale University, Susan Rose-Ackerman, to the meeting in order to explore joint research initiatives. Speaking with Susan and members of TI national chapters was inspiring. There must be some way, I thought, of combining empirical research on corruption with the capacity of Transparency International.

I recall the exact day that the idea of the [Corruption Perception Index] CPI was born because it happened to be my 30th birthday: 27 March 1995. I was in my hotel room (a lonely place to celebrate one’s birthday) thinking about how to deepen research on corruption. It struck me that an index that compared levels of corruption across countries could be a feasible joint project. Not only would it help Transparency International raise awareness about the levels of corruption globally, but it would also provide the academic community with the raw data desperately needed to analyse the causes and consequences of corruption in a cross-section of countries. By involving academia (the work is now co-ordinated under my leadership at the University of Passau but I was then at the University of Göttingen) the academic quality and impartiality would be well signalled to outsiders. Transparency International, with its name and reputation, would stand for the legitimacy of the index and help in finding partners.

-Professor Johann Graf Lambsdorff

Why had the international anti-corruption community failed to address, formalize and quantify the problem of corruption until experts such as Prof. Lambsdorff generated the CPI in the mid-1990’s? What were the obstacles to this development from an international and world historical perspective? And what changed to allow for the emergence of instruments such as CPI? This chapter tracks this development over the
course of the 20th century, looking particularly at the international development arena and academia.

On July 15, 1995, Transparency International (TI), the Berlin-based anti-corruption NGO, dispatched a press release drawing attention to their first Corruption Perception Index (CPI), stating, “New Zealand Best, Indonesia Worst In World Poll of International Corruption.” After its inception in 1993, TI had already accomplished sizeable feats, but the release of the Corruption Index served as the opening salvo of the first coordinated and universal public campaign against corruption. TI’s index is a “poll of polls,” representing a composite of other perception indexes. This meta-structure reflects TI’s organizational objective to create a worldwide anti-corruption network through alliance building with NGOs, academic institutions, and governments.

The CPI is significant because it sits at a unique historical intersection, tying together the emergence of quantitative, “amoral” knowledge production about corruption from academia and the rise of an international anti-corruption force within the development community. Transparency International was the locus and a catalyst that facilitated this new relationship, the first international NGO solely devoted to fighting corruption.

Beginning in the 1990’s, international organizations like TI began to deploy strategies, expertise and knowledge about corruption. But when did such work begin and why?

This chapter juxtaposes and intertwines the emergence and development of anti-corruption in two realms. The first part of the chapter traces the history of economic development, offering an outline of important institutions since WWII that first
permitted, then turned their attention against, corruption. This is not an extensive history, of course, but configured around those policy issues most directly relevant to corruption.

The second part of the chapter compares social scientific texts on corruption in economics and political science from the 1960’s with works in the later 1970’s and 1980’s. This comparative reading allows us to witness important transformations in academic understandings of corruption as a phenomenon. These later understandings fall directly in line with the logic of institutional anti-corruption within the development community. Hence, the juxtaposition is intended to show an over-arching shift in thinking about the problem of corruption since WWII. While it offers possible causes for this transformation, it ultimately sets the context for understanding the parameters of a possible logic in the Polish anti-corruption environment.

**Transparency International vs. World Bank**

Peter Eigen was the World Bank’s director for East Africa in 1991 when he quit the Bank, “frustrated and disillusioned,” feeling “like a betrayed lover” (2004). During his tenure in Africa, Eigen often encountered systematic, recurrent problems of bribery, graft, and cronyism. Corruption was a taboo subject for Bank employees and when Eigen spoke out, he was told to remain quiet. So he left his post and created Transparency International, an anti-corruption NGO with chapters today in over eighty countries.

This story encapsulates the origin myth of Eigen’s organization, but I am reluctant to attribute other accolades to Eigen and TI in the vein of his many admirers who claim that Eigen personally brought corruption to public consciousness and the attention of the world’s policymakers. Eigen has influence, connections, and has organized a publicly
successful NGO, but he represents a much larger push for transparency and public accountability that emerged with great forcefulness during the 1990’s. The TI story figures as a key indicator of systemic changes in the articulation of government and financial markets during this time.

In 1993, TI helped Ecuador develop a new form of contract bidding for a highly lucrative petroleum contract, forcing all bidders to sign an “integrity pact” and forcing all negotiations to take place in an open arena. As the Ecuador experience led to publicity and basis for recognition, other countries began to contact TI for consultations. The NGO already began to assemble expert manuals on good governance, accountability, and forms of transparent procedure.

At the same time, TI continued to meet resistance and obstruction from the World Bank, which refused to support Eigen’s proposals for international anti-corruption measures and transparency initiatives. The Bank’s lawyers feared that by funding an NGO involved in exposing corruption scandals the funding agency could be held liable for potential lawsuits. But additionally, TI goals conflicted with Bank values. In its functions and decision-making capacities, the World Bank has traditionally worked without transparency. As the World Bank’s official historians explain: “from its inception the World Bank has put a premium on confidentiality. Though it has recently become more open with much of its information, the Bank has rarely invited study of the institution as an institution (as opposed to outside participation by consultants and others in its substantive analyses and assessments)” (1998: 1). While the Bank’s internal transparency might differ, at times, from its funding transparency or demands made upon its lenders, the World Bank never demanded any type of transparency.
Instead, Eigen found a receptive audience at the Organization for Economic Co-operation and Development (OECD), an economic association made up of thirty of the wealthiest countries and dedicated to free trade and free markets. The OECD willingly accepted Eigen’s anti-corruption ideas and passed an initiative both officially recognizing the problem and requesting member states to pass laws prohibiting their citizens to give bribes in foreign countries. Up to that point, the United States was the only country in the world to have passed such a statute, in 1977, and some Americans reported that they were at a disadvantage because of it. Other reports claim that the Americans simply had to break this law to win competitive advantage, especially in bidding Third World contracts.

Since TI began in 1993, the NGO has witnessed an influx of anti-corruption laws and campaigns throughout the world, though particularly amongst developing nations like Kenya, where Eigen once directed World Bank operations. Fully recognizing the enormity of the problem and the resistance to remedy, Eigen did not anticipate success or recognition anytime in the near future.

In a now celebrated speech at the 1996 IMF/World Bank Annual Meetings, the World Bank’s then new President James Wolfensohn called the international organization’s attention to what he called “the cancer of corruption.” The reference was significant both because of its severity, metaphorically referring to this social problem as a grave disease, but more simply because the reference could now be spoken publicly and subsequently addressed. Before Wolfensohn’s speech, essentially an invitation to policy change, Bank employees could do little in terms of seeking solutions to the problem of corruption. The 1996 speech represents a landmark because it began the process toward
translating a steadily increasing scientific literature on corruption into institutional activity.

A major change in developmental policy followed Wolfensohn’s speech in the mid-1990’s, essentially the revelation of corruption. Previously known but unsaid, and written about but never institutionalized, this emergent area of concern now serves the World Bank as a seemingly logical explanation for the failures of economic development throughout the underdeveloped world and the economies in transition. Anti-corruption advocates have formed alliances with and emerged within the already established realm of development. The problem of corruption, the Bank experts now tell us, is not new, but this should not prevent us from dealing with its effects. Better late than never, they insist. And these same experts now loudly exclaim the deleterious effects of corruption; one World Bank official claims that bribes account for S1 trillion dollars per year worldwide (Kaufman 2003).

International development policy did not encounter corruption until the 1960’s. Up to that point, perceptions of corruption and its harmfulness, as well as its acknowledgment developed differently in different places. The World Bank declared its presence only in 1996, but anti-corruption campaigns may stretch back into history for as long as corruption has existed. Some have likened current campaigns to earlier reform movements, such as the early 20th century attempts to rid American cities like New York and Chicago of their incestuous political machines (Scott 1969, Hofstadter 1955). And in the underdeveloped world, dictators have been known to declare intermittent wars on corruption when it suited their political needs to attack internal enemies or stir popular sentiment such as Marcos’ 1975 campaign in the Phillipines, Castro in Cuba in 1986, or
Vietnam in 1986. Debates persist even today in development circles regarding whether a
democracy or a dictatorship can better manage an effective anti-corruption campaign.
According to Klitgaard (1988), a number of developing countries developed anti-
corruption programs on their own initiative, some of which were quite successful, at least
in the short term, but few of these ideas circulated with the same flexibility as the later,
Western ideas. In the 1960’s, development experts analyzed the problem of corruption
contingent on the belief that even if the Third World countries could develop
economically and politically, little could be done about corruption because either the
situation was hopeless, the native culture was susceptible to corruption, the still-
developing society was stuck in a value structure limbo between traditional and modern
values (Huntington 1968), or maybe corruption actually helped “grease the wheels” of
development. The underdeveloped world’s capacity for democratic representation and
accountability was not yet a concern. These earlier anti-corruption campaigns were not
coordinated with one another to the extent that they are today, nor were they informed by
or subject to rigorous and comparative forms of knowledge-gathering. Policy was not
streamlined for or even recommended by any international organizations. If anything, the
erlier campaigns were simply connected by anecdotal comparison.

When corruption studies began in the West in the 1960’s, it was unclear whether
corruption was good or bad, acceptable or not. Scholars agreed it was both, but remained
reluctant to condemn corruption because of a strong thread of relativism towards
developing countries. Of course, the economic and political life of countries today
diagnosed as corrupt was not a state of chaos, a Hobbesian world of pure self-interest.
Rather, bureaucratic actors and institutions often normalized illicit activities such as
bribery, developing elaborate informal systems of support, community, and authority. Or, as in the case of much of Poland’s history of the last two centuries, occupied or subjugated people used practices, now considered explicitly corrupt, as a means of resourceful resistance. Gupta (1995) has written about contemporary discourses that surround corruption in India which, he argues, helps constitute local notions of the state. The acts of resistance involving informal systems are not a thing of the past and local discussions of corruption may help form identifications, but regardless of the traditions of informal economies and politics, we cannot idealize them, if not for the simple reason that the corruption problem singled out by development agencies, more times than not, involves wealthy and powerful individuals who steal from the state to increase their wealth and, in turn, siphon that money out of the country and into offshore bank accounts or transactions. If attitudes toward corruption changed from the 1960’s to the present, the transformation may demand attention to larger currents.

While Wolfensohn listened to Eigen and his expert’s complaints about corruption in private meetings and took some of TI’s ideas to the Bank, the historical conditions surrounding development policy and the directions of the world economy since the end of World War II better explain the persuasiveness of Eigen’s arguments, as opposed to his personal charisma.

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5 During the Nazi occupation of Poland, for example, XXXX (in Wedel 19XX) describes the system of \textit{handel} (trade) by which Poles managed to survive and thrive, even find resources for a city-wide revolt in Warsaw, despite the extremely limited resources granted them by their occupiers. Later, during the Solidarity era, another situation of lack developed and again was adequately responded to by an intricate system of informal networks (Wedel 19XX).
International Development, Cold War Conflict, and Corruption

The World Bank was created at Bretton Woods in 1944 to work on the economic reconstruction of postwar Europe. Soon thereafter, it turned to development of the Third World and the problem of worldwide poverty. Poland signed the International Bank for Reconstruction and Development (IBRD)\(^6\) Articles of Agreement in early 1946, but while the Soviet Union was present at Bretton Woods, it refused to sign on to the agreement. As the Soviets and their sphere of influence projected phenomenal growth rates amongst their economies following the War, economic competition served as another key battleground of the Cold War. The Soviets considered the Bretton Woods institutions as another branch of Western financial interests, subordinate to political intentions; simply another instrument for American imperialism. In 1946, despite the Soviet Union's rejection of the World Bank, Poland applied for a loan along with a number of other European countries.

In June of 1947, around the time that the World Bank's first mission was sent to Poland, the United States introduced the Marshall Plan to aid Europe in its financial recovery from the war in hopes of averting another disastrous economic situation that spawned WWII. But in July negotiations, Soviet Foreign Minister Molotov walked out, calling the Plan "economic imperialism" ("The Marshal Plan" 2002). Marshall himself felt that the Soviets actually wanted Europe to fail, that failure would lead to increasing dissent and eventually, socialist revolutions. From the beginning, an offer of aid was

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\(^6\) IBRD is one of the core groups jointly subsumed under the working name The World Bank
made to Poland and Poland initially was quite excited about the prospects (Pisani 1991, Maier 1991). But Molotov’s exit signaled the end of those negotiations.

In response to the American-led Marshall Plan, the Soviet Union formed the Council for Mutual Economic Cooperation (COMECON) in 1949, an economic organization consisting of Bulgaria, Czechoslovakia, Hungary, Poland, Romania, East Germany, Yugoslavia, Albania until 1961, Cuba from 1972, Mongolia from 1962, and Vietnam from 1978. COMECON agreed to open financial relations with the rest of Europe in 1987 and was eventually disbanded in 1991. COMECON’s purpose was not exactly equivalent to a development agency, but rather to coordinate and later integrate the members’ planned economies. Immediately following the war, the Soviet bloc country economies mostly looked inwards, focusing on five-year plans and dealing almost exclusively with Stalin’s U.S.S.R. Later, the more industrialized and trade-dependent countries of COMECON, such as Poland, used the organization for trading partnerships and technological coordination of railroads, electrical grids, and waterways. Full economic integration never occurred, mostly because of concerns over national sovereignty. Still, over the course of its history COMECON jointly funded a number of projects related to, for example, fuel, energy, and raw materials. But if COMECON demanded anti-corruption initiatives or accountability regarding these projects, no one in Poland that I talked to knew about it. Regardless, this section will not develop the history of the COMECON projects because international anti-corruption scholarship and initiatives emerged in the context of Western development and not Soviet development.

Poland was part of the World Bank only until 1950, around the time that the Bank turned from European reconstruction to development. It returned to the Bank in 1986 as
a borrower country, but was not considered "underdeveloped." Rather, the Bank classified Eastern and Central Europe as "economies in transition." The designation, for Poland, more so than struggling economies of the former Soviet bloc such as Romania or Bulgaria, was warranted because Poland had achieved a level of industrialization not seen in most of the Third World. At the same time, Poland is mixed in the sense that its urban areas approach First World standards while its countryside approaches Third World standards, hence the Soviet bloc was often referred to as the Second World until 1989. Nonetheless, a brief outline of the history of development is relevant here because it establishes the circumstances for a discussion of corruption subsumed by the discourse of development.

The Bretton Woods institutions intended to act on strictly economic grounds and for the economic good of its borrowers, but it would be difficult to argue that this goal was strictly adhered to during the Cold War era. The very work of the World Bank happened more often through persuasion on high levels of power, what former Bank president Eugene Black (1949-62) referred to kindly as the "diplomacy of development" and Albert Hirschman more critically as "reform-mongering." Getting this work done involved connections and allies, as well as "plotting with other donors" and at times, "when cold war politics called for it, playing 'hardball' through loan conditionalities" (Kapur et al. 1998: 4). Officials on both sides of this work often negotiated under great secrecy and perhaps this led to some paranoia concerning their activities. The World Bank is probably not as influential as many think or fear. At the same time, it appears abundantly clear that the Bank's mission strongly supported the interests of its controlling
countries, the most powerful being the United States. More than simply a lending institution, World Bank loans have been referred to as an “ideological Trojan horse” (Kapur et al. 1998: 14), transmitting Western ideas and “expertise” along with economic support.

From the end of World War II through the 1960’s, former European colonies throughout Asia and Africa moved on a path towards independence already tread upon by their colleagues in the Americas. In doing so, their newfound sovereignty would play a key role in the story of the economic development of the Third World by agencies such as the World Bank. Theoretically free to choose their own political and economic destinies, the newly dubbed “Third World” became the site of conflicts on levels of ideology and violence, much of it secret, that continually revisited the battle between America/Western capitalism against the Soviet Union/socialism.

For its first several decades of existence, the World Bank funded projects to support growth through state-owned enterprises. The model program would fulfill some of the great needs of developing nations including key elements of an economy, such as infrastructure, either too large or not profitable enough for foreign investors to fund, but without which outside investment would never flow into the country (Mason and Asher 1973, Yergin and Stanislaw 1998). A 1948 loan to Chile helped create a hydroelectric plant, a 1950 loan to Iraq went towards the construction of a Tigris River flood control system, Ethiopia was lent $5 million to rehabilitate and maintain its highway system in 1950, and China’s first loan in 1961 funded a harbor dredging project. Ideally, these programs would be led by a dedicated group within the country on a specific mission to

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7 But even on this point, probably due to the great secrecy surrounding the Bank, it is unclear what degree of influence the US has and continues to have.
do public good. Because they would be funded outside the national power structures and
the interests of a multi-national corporation, they could theoretically achieve their goal in
an apolitical manner, free of potentially corrupting influences. According to Yergin and
Stanislaw (2002), the ultimate model for the World Bank project derived from America’s
Tennessee Valley Authority:

*a public enterprise devoted to a great need. The TVA was efficient, with a
powerful sense of mission and sufficient scale to be effective, insulated from
politics and corruption, a generator and focuser of skills, and capable of the
longer view.*

These original projects utilized state-owned companies as the vehicle for development.
Since the Bank only lent to public agencies8 anyways, it apparently made sense to work
in this fashion.

Meanwhile, governments throughout the world dedicated themselves to national
economic planning. By setting price controls, regulating markets, and running state-
owned companies, developing countries shared similarities with countries of the Soviet
cBloc. While economic corrective policy and planning differs qualitatively from central
planning, socialist state planning shared fundamental commonalities with the structure of
the welfare state in Western Europe. After all, while COMECON may have liked to
think they could integrate themselves through planning and work independently of
regional or global markets, they still depended on ties to the markets and adjusted their
own internal prices accordingly to global market values of resources such as oil. In any
case, the World Bank always supported state-run companies in developing countries with
the intent of eventually strengthening markets. The intended goal was free market

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8 Until 1956, when the International Finance Corporation began, making loans to private-sector companies. However, IFC did little lending for many years.
capitalism, not socialism, but the then present-day reality was something in-between. To operate in this manner, developing countries required a larger bureaucratic system staffed with more people and controlled by an increasingly complex set of bureaucratic codes. Early corruption scholars realized that some of these bureaucratic systems led to impractical routines or Kafkaesque pointlessness. Therefore, they considered bribery and corruption as potentially effective techniques to “grease the wheels” of the economic bureaucracy machine or as a human-level response to make things work in the face of a faceless system.

Beginning in the late 1970’s and due to a number of complex causes, a debt crisis hampered the capacity for less developed, oil-importing countries, especially those of Eastern Europe and Latin America, to repay loans to development banks, including the World Bank, as well as donor countries and Western banks. In Latin America, after decades of adhering to dependency theory, originally established as a response to the worldwide depression of the 1930’s and concern for the power of Western capital centers to exploit the peripheral South, Latin American economies were failing, debts were skyrocketing, and countries approached dangerous trade deficits. In 1982, Mexico was the first Latin American country to default on its loans, requiring an initial $4 billion emergency aid bailout with more to come later and an extensive loan re-scheduling to stretch out over decades (Delamaide 1984 Yergin and Stanislaw 1998). Brazil, Argentina, Venezuela and others soon followed.

While Mexico’s default sounded the largest siren in 1982, Poland’s default preceded Mexico’s by sixteen months. On March 27, 1981, Poland’s chief borrowing officer gathered representatives from over five hundred lending banks for a meeting in
London where he essentially explained that Poland was bankrupt (Delamaide 1984). Their total debt at the time amounted to $24 billion. Soon after, Romania also defaulted on their loans. The entire Soviet bloc got pulled into the mess as the Soviet Union made eventually feeble attempts to prop up Poland, depleting its wealth and showing glimpses of its economic weaknesses. In all probability, the Soviets propped up Yugoslavia and Bulgaria, possibly also East Germany, but to what extent is unknown because of the secrecy surrounding Soviet economics. In Poland, as a result of the debt crisis and in the years building up to the default when the government imposed its own austerity measures to prevent default, a shortage economy resulted. Many commodities were scarce and the state established rationing. As a result of the shortage economy, black markets emerged to fill basic needs, stealing from the state was common, and bribery could help get you to the front of a long waiting line (Wedel 1991). Essentially, the shortages and failures of the state justified corruption for the welfare of one’s family and friends.

Western loans to Eastern Europe only began in earnest in the early 1970’s, following the onset of political détente, a period of relatively calmed political relations between the USSR and the USA, Eastern and Western Europe. But even while lending millions and eventually billions of dollars, lenders and bankers never asked for detailed information or statistics to ensure that Eastern Europe could pay them back. According to Delamaide (1984), it was easier for Poland to borrow hundreds of millions of dollars from a Western bank in the 1970’s, than it is for an average American to apply for a car loan. Few questions were asked and economic statistics were closely guarded state secrets.
As a result of the crisis, the World Bank began to implement “structural adjustment programs” and foreign assistance from Western countries required conditionality clauses that required underdeveloped borrowing countries to adopt economic and social policies, sometimes called neoliberal policy, to qualify for further loans. Other Western lenders, such as the IMF and private banks, adopted similar measures demanding fiscal policy conducive to Western interests, generally including increased accountability and information flows, though these flows were not necessarily directed to the public. Stipulations for lending also included cuts in government spending, elimination of some price controls, the liberalization of trade, deregulation, and privatization. The requirements themselves represented new policy ideas for the World Bank, having previously prescribed a more state-centered approach conducive to ideas such as dependency theory.

World Bank historians point to a specific document that represented a turn in policy in 1981. The Berg report examined economic development in Sub-Saharan Africa, trying to explain why development results there proved lackluster. As a principal finding, the analysts argued that domestic policy was to blame and that the World Bank should immediately intervene in this realm. But additionally, World Bank historians claim the report found that the governments of this region were “so hopelessly corrupt and inefficient that it argued in effect for privatization” (Kapur et al. 1997: 23). While previous doctrine also supported markets, the World Bank was not previously prepared to encourage state-run companies to go private. In addition to raising the issue of privatization, the report also broke a World Bank taboo by openly criticizing the activities of large borrower countries.
The Berg report did not explicitly raise the issue of corruption or warrant the creation of an anti-corruption program, but it marked a key precondition for the emergence and transformation of corruption as a central problem of development, namely as a signpost of policy history. The report specifically promoted privatization and other financial austerity measures, the conglomerate of which is sometimes called neoliberalism. By promoting privatization, development programs would thereafter move capital flows from development agencies through the state and then into the private sector which would do the work of the programs contracted out through state. It is uncertain that the trend towards privatization necessarily increases or decreases the likelihood of corruption, though corruption experts note the complicity between privatization and corruption in Poland and the rest of Eastern Europe as they began to privatize in the 1990's. Privatization shifted some boundaries of public and private. As a result, strictly public affairs, such as education, insurance, or infrastructure supply, became private endeavors. The state-controlled, policy-based “public interest” increasingly became a function of the market, accompanied by a faith that the market could work for the public good and behave more efficiently than public policy.

The increasing influence of neoliberal policy, especially in terms of privatization, also transformed corruption from a political problem to an economic one; this helps explain why corruption became a more influential discourse in the 1990’s than it was in the 1960’s. Corruption experts already recognized the economic implications of the problem (Leff 1964, Leys 1965), but the most emphasized effects of corruption were bureaucratic-based, essentially distortions of policy or implementation of law (McMullan 1961, Banfield 1975, Dobel 1978). With more focus on the private market, corruption
would now focus on the distortion of markets. More money was legitimately up for grabs to private firms and investors. Corruption could help these private entities gain unfair advantages in obtaining state contracts. Corruption in bidding for contracts was not a new phenomenon and bureaucratic corruption did not go away, but because development plotted a new course, market-related corruption became more noticeably disturbing, a genuine obstacle to progress. An IMF expert on corruption explains that one of the factors involved in raising more awareness about corruption relates to the market: “the greater reliance on the market for economic decisions and the increased need to be competitive have created an environment in which the pursuit of efficiency has acquired greater importance and distortions attributed to corruption attract more attention” (Tanzi 2002: 21). Further, Tanzi argues that there is not simply more awareness, but quantitatively more corruption now than ever before. This increase is directly related to the growth of international trade and privatization. Even while development agencies like the World Bank and IMF promote privatization because, as Tanzi states, “privatization of nonnatural monopolies is necessary to reduce [political] corruption because it eliminates an instrument often used” (24), the same agencies acknowledge that the process of privatization also creates situations potentially conducive to corruption. However, this acknowledgment that corruption may result from privatization was not apparent or perceived as a major threat in the 1980’s and early 1990’s when development agencies and experts strongly urged quick and sweeping privatization.

Shortly after the Berg report in 1981 marked a turn in development policy, the countries of Eastern and Central Europe, including Poland, rejoined the Bank as new borrower countries. After years of debt crisis that revealed a larger economic crisis
throughout the Soviet Bloc, Poland returned to the World Bank in 1986. The first Bank loan came in 1990, following the 1989 revolution. The Bank referred to their new borrowers as “transition economies” rather than underdeveloped, arguing that they merely needed restructuring rather than development. The countries themselves objected to the “underdeveloped” title and refused to be grouped with those countries. As a result of this request and a growing awareness that many other countries throughout the world had become “middle-income,” the World Bank redefined its mission as reducing poverty and “raising living standards,” actually a step back to their initial goal of restructuring Europe following World War II. But despite public redefinition, the new borrowers would still be subject to the same policy conditions as the underdeveloped: privatization and liberalization of markets.

During the transition period, Poland has taken its own route to capitalist markets, but has decisively moved in the direction of free markets proposed since the early 1980’s by the World Bank and other economic forces. While economists and experts, such as Jeffrey Sachs at Harvard (Wedel 2001, Yergin and Stanislaw 1998), promoted the idea of shock therapy and quick privatization, arguing that delaying privatization would bring a crisis of mass bankruptcy combined with new rounds of social upheaval, Poland set on a much slower pace of liberalization that served it well for most of the 1990’s. Since the late 1990’s however, economic prospects have turned downward, but not badly enough to preclude entry into the European Union in 2004. As of 2003, Poland’s per capita of US$4,570 puts it very close to the World Bank’s “graduation threshold” from borrower to donor. At the same time, Poland’s most recent Country Assistance Strategy from the World Bank declares that “Poland wishes to retain active Bank Group involvement as it
tackles these challenges [resuming and sustaining rapid growth, reducing poverty and unemployment, and building strong institutions for a resilient market economy] during the next 3-5 years” (2003: 16). Furthermore, it appears that while the World Bank will discontinue lending to Poland in the next decade, the EU will pick up on the transitional development program already begun.

In Poland, a veritable army of international economic experts, most of them from America, traveled to Warsaw in 1989 to tell the new democratic government how to run things (Wedel 2001). They advocated a quick break from the old economy through wholesale privatization and deregulation, what was called “shock therapy” by the likes of Harvard economist Jeffrey Sachs. And at the outset, it looked like Poland would follow this advice through Finance Minister Leszek Balcerowicz’s “Balcerowicz Plan.” But Balcerowicz, a St. John’s MBA, was not new to capitalism and his plan, while initially dispensing some shock therapy, soon thereafter returned to a more conservative and even-handed pace towards economic stabilization, reduction of the hyperinflation set off by shock therapy, the build-up of capitalist institutions, and the overall transformation of the Polish economy from communism to capitalism. In the short range, the new policies were met with disdain. Upset with economic results and a general lack of governing competence, Polish voters re-elected former communists, the Alliance of Left Democrats (SLD), in the 1993 election. But Balcerowicz’s changes had already begun to have positive effects and it looked like the Polish economy could really boom, despite the SLD’s attempts to slow down the pace of privatization. In 1997, the former Solidarity party regained control of the government and Balcerowicz returned to his post as Minister of Finance and restored the economy to its previous course. Results met with
initial success, but by the end of the century the economy had taken another downturn and the SLD regained power in 2001. During my time in Poland, unemployment hovered around twenty percent. And even despite an estimated 6% growth in GDP for 2004, most Poles felt pessimistic about the prospects of finding a job and making their general situation better. It appears that another dramatic shift in politics will take place in the 2005 elections.

Despite the waves of success and failure, privatization of state-controlled business continues, varying only by pace depending on the political orientation of the government. This is significant because corruption experts usually associate the privatization process as one of the areas most susceptible to corruption amongst the countries in transition. Wedel (2001) and Kaminski (1997) document how this works. Essentially, the former heads of the state-run companies, members of the nomenklatura during the communist PRL government, either form finance groups to purchase the companies they ran or ensure that someone in their social network has special access and favored status in purchasing the privatized companies at discount rates. Some sociological analysts, such as Staniszkis (1991), choose to describe the events of 1989 not as a revolution, in the sense of a democratic enlightenment, but as an opportunity, already set in motion in the years leading up to 1989, for the nomenklatura to retain their grip on power while transforming economic and political systems. It is unclear to what extent members of Solidarity foresaw this problem, but many corruption experts describe the post-Solidarity party’s second term in office from 1997 to 2001 as being as corrupt as the postcommunist’s term. As an example of their lack of moral probity, a Polish corruption
expert told me that the initial informal catchphrase of the post-Solidarity party’s second term was “to kurwa my” (now it’s our fucking turn).

In the last fifteen years in Poland, it appears that privatization, along with the other proposals for neoliberal policies and democratic reforms brought about new forms of corruption in Eastern and Central Europe. While many of my informants believed that only through privatization could Poland free itself from the grips of corruption, a problem that thrived in an overly bureaucratic state, they also recognized that corruption resulted from privatization.

Recognition of this resulting problem helped catapult corruption into the center of public policy consciousness in Poland by the end of the 1990’s. The problem remains a thoroughly complex one and no coherent and agreed upon plan of action has been adopted either by the Polish government or the NGO sector. The complexity, it seems, arises from the overlapping interests at stake: public and private, government and economy.

In their official literature on the progress of anti-corruption programs, the World Bank argues that while they did not explicitly address the problem of corruption until 1997, the decade of the 1980’s witnessed an important shift in Bank policy that emphasized policy reform in donor countries, specifically including good governance initiatives, while previous work focused mainly on infrastructure. This general policy shift allowed the Bank to confront economic plans within the domestic policy of borrower countries and attempt to exert pressure or make demands in those areas.
The Problem of an Inconsistent Neoliberal Policy

It does not make sense to claim that the emergence of corruption as an eminently recognized problem and influential discourse resulted from the rise of neoliberal policy discourse in the early 1980’s. Rather, the rise of the thematic of corruption in the 1990’s resulted from a conservative response to the failing aspects of neoliberalism. It is not a rejection of neoliberal policy in the vein of antiglobalization critique, but an attempt to reform and support the vision of neoliberalism, conservatism, and free markets. If neoliberal market values include fair, accountable, and open competition, then anti-corruption discourse still falls directly within the wider neoliberal trend because it supports these values. But the slow transformation and emergence of anti-corruption represents a non-obvious outcome, implying a lack of coherence within neoliberalism.

While anthropologists such as Cori Hayden (2003) and Cris Shore and Susan Wright (1997, 1999) have portrayed neoliberalism as a policy/culture constituting a set of ideologies and practices seeking to re-frame development in the mode of the market and privatization, they have often failed to describe it as either fragmentary or self-reflective and self-critical. Anti-corruption discourse also exemplifies the conflictual nature of neoliberal ideology with conservative morality, attempting to simultaneously appear amoral and necessarily drawn into morality. On one hand, transforming corruption into an economic problem and deploying rational actor models is an amoral movement. On the other hand, fighting illicit activity is supported by a sense of fairness and justice, the necessity of ethically adhering to rules and laws.
Despite the Bank’s entrance into domestic policy beginning in the early 1980’s, its guiding principles still precluded corruption intervention because they continued to categorize corruption as a political problem. Addressing corruption required an institutional transformation from a political problem into an economic/social one. In a 1999 speech at a global forum on fighting corruption, World Bank President James Wolfensohn explained:

when I came to the World Bank, I was given an admonition by our General Counsel that I should read the Articles of the Bretton Woods agreements. In there it says I am to deal with economic matters and that as an international civil servant, I should not, if I want to keep my job, talk about political matters. I was then told that there was one word I could not use, which was the “C” word, the “C” word being “corruption”. Corruption, you see, was identified with politics, and if I got into that, I would have a terrible time with my Board.

But Wolfensohn did get into that, deciding:

I would redefine the “C” word not as a political issue but as something social and economic. That got me in under the wire of the Article of the Bretton Woods institutions.

Following the redefinition of corruption, preceded by “50-odd years of not mentioning the word,” the topic became a central item on the agenda for the World Bank’s Development Committee, as well as the agenda of other development institutions, supranational organizations, and governments across the world.

A comprehensive World Bank anti-corruption strategy came together shortly after Wolfensohn’s 1996 speech, a speech the Bank claims “helped catalyze…a global response” (2000: ) against corruption. Reasoning that if corruption obstructed development thus leading to greater poverty, the Bank felt uniquely authorized to address the problem because of their commitment to vanquishing poverty. They were most concerned with the diversion of funds from intended public services, but also
acknowledged a pivotal battle in the area of perception, a key index deployed by
corruption experts due to the difficulty of quantifying this area of knowledge.
Perceptions of corruption negatively impacts developing markets in two important
manners. Loans or agreements between Bank and government perceived as corrupt both
undermine support for the development project as a whole, as well as deterring private
capital from entering potentially risky underdeveloped markets.

In a 2000 report assessing the progress of its programs against corruption, the
Bank consistently reiterates its commitment to realistic plans, long-term goals, and the
necessity of domestic leadership and respectful alliances between donor and borrower
government. At least on a rhetorical level, they have managed to address some of the
concerns of their harshest critics who argue that development is not working and even
that the project should end. The anti-corruption strategy represents a response to these
criticisms, but not a concession to the demand for cessation of the development project.
It makes no claims to ending corruption, either, but more realistically seeks to curb its
damaging effects through a series of “action plans,” reassessments of the plans, and new
plans every several years. Every year since the program’s inception, the Bank has
brought in more countries to its anti-corruption campaign. The number in 2004 stands at
around 120 countries. But the plan stresses that each country requires individualized
assistance and that strategies cannot overgeneralize. Rather, the programs share a
common end, but not a common means. The goals are good governance and public
sector management.

The general strategy of the Bank is generically referred to as “proactive” and
“holistic.” The first step requires high-level political support, followed by in-depth
empirical studies. Officials working at local offices, such as in Warsaw, are already quite aware of the existence of corruption in those states. Forging alliance with government officials must precede an analytic or empirical diagnosis. Following the diagnosis, donor and borrower can forge a Bank intervention plan which may include assistance from other World Bank partners, such as OECD, the UN Development program, regional multilateral development banks, and NGOs such as Transparency International. In Poland, ample evidence from academic sources, newspapers, and personal experience among the Bank’s office proved that corruption presented a major problem for governance and the allocation of public funds. The World Bank and Poland agreed to work towards reducing corruption, beginning with a 1999 report on corruption, described in more detail below, that served as an initial diagnosis of the problem and its potential remedies.

**Studying Corruption in Poland**

There are several key sites where the larger story of corruption within development play out in the academic production of knowledge about corruption in Poland. Data created by NGOs and research institutes in Poland constitute a key actor in the anti-corruption story. There exist several ways to identify and record corruption, utilizing different methodologies, and with varying degrees of legitimacy in relation to the scientific nature of data gathering. Poland’s largest survey research institutes have conducted public opinion polls throughout most of the 1990’s. In addition to the World Bank, other Polish scholars and NGOs have produced various reports which may analyze quantitative data from surveys and/or work from other qualitative observations.
Transparency International has created probably the most famous form of corruption-counting, explained in the introduction of this chapter. Their Corruption Perception Index is a conglomeration of several public perception surveys on corruption that create a number on a scale of one to ten rating the level of corruption in a given country and comparing those numbers throughout the world.\(^9\)

I distinguish these forms of data from knowledge and expertise about corruption in the sense that this data is collected, recombined, or analyzed by NGOs or other organizations while knowledge and expertise are the effects of time spent becoming familiar with the problem of corruption. The prior rests mostly upon quantitative data, the latter represents a qualitatively different way of looking at and understanding the problem of corruption. The best of the first incorporate the subtle comprehension of the second, but this is not always the case. Research most commonly consists of quantitative data analysis while a number of Polish experts spurned qualitative work as soft data, superfluous "unless you have the money to conduct it." Investigative journalism represents the most respected of the qualitative work (which I shall discuss at some length in the section on journalism), though corruption researchers see these investigations as providing case studies for the larger phenomenon rather than an accurate assessment of the problem's real scope. Like much of Polish sociology traditionally, corruption studies focus on traditional, empirical research.

Information and data can be created and published, especially in newspapers, for consumption by a reading public, either the general public audience of a daily newspaper or a specific public of academics. This work gets transmitted mostly through traditional

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\(^9\) The cumulative effect of the CPI is not unlike a sports ranking.
forms of mass media, paper print or television. If they publish online, it still represents a mostly uni-directional flow of information. On the other hand, tactical knowledge has been produced concerning strategies to fight corruption, prevent and reduce it. Corruption experts seemed to generate a great deal of practical knowledge through interaction and reflection on experiences with non-experts, anecdotal tales, personal experience, and newspaper description. Corruption experts participate in knowledge networks through reading and responding to the analysis of others in public forums such as the pages of newspaper editorials or scholarly journals. More often, because the community, based mostly in Warsaw, remains relatively small and finite, knowledge is generated through face-to-face meetings, conferences, and academic talks. Other forums include private assemblies of NGO boards, academic faculty, or even friendly corridor talk and gossip or social gatherings.

Only a small number of individuals create knowledge about corruption, including academics, NGOs, and government experts. Academics have written many books and essays on the problem of corruption, mostly in a straightforward manner, and often borrowing theories of corruption from the West. A few, such as Tarnowski (199), have produced work uniquely tailored to Polish corruption. Others, such as Kubiak (2002), have developed complex grammars of quantitative theorization to provide nuanced descriptions of the problems involved. The NGOs garner the most publicity with their reports and have the greatest impact in organizing strategies to battle the problem. Often, academics cross over into the NGO sector, either actively participating in the NGOs or becoming part of a think tank group. NGOs may request specific scholars conduct research or analyze data for them, such as the relationship between Kubiak and Batory
Foundation’s Anti-Corruption Program. Also, NGOs may employ or receive volunteer undergraduate or graduate students in sociology, familiar with the study of corruption. Within the government, various experts have either focused on or made reference to corruption. But only one agency, NIK, has made a significant contribution to corruption studies. NIK’s 2000 report combined many of their earlier audits on criminal abuse of public funds and reanalyzed these phenomena as corruption. Finally, journalists report on corruption, but I have excluded them from extensive discussion in this chapter because journalists do not outline and name the phenomenon of corruption, even when they do make allegations. Rather, they describe specific events which, even when described in a formulaic manner, involve something less than the academic-minded production of the power/knowledge known as “corruption.”

**Characterizing the Transformation of Academic Studies of Corruption**

Western social sciences began to study corruption in light of development in the 1960’s. Prior to that, social science had examined political graft and subsequent reform movements, but Scott (1968) described these works as accusatory while the analysis in the 1960’s attempted to assess the situations making corruption more likely. The works by Huntington (1968) and Scott (1969) in the 1960’s differ markedly from the later, policy- and action-oriented works of Rose-Ackerman (1978) and Klitgaard (1988). In particular, the early and later works disagree on the functionality of corruption, the origins or locus of corruption vis-à-vis modernization and development, and the utility of comparative work with the capability of diagnosing corruption and prescribing remedies. Klitgaard complains that the social scientific literature on corruption up to that point in 1988 had been unhealthily obsessed with debates of whether “corruption helps or hinders
‘development”' (28), adding that the “debate has distorted research on corruption.” The policy-oriented corruption studies, ushered in by Rose-Ackerman, took the negative impact of corruption as accepted and turned the focus towards prevention.

James Scott’s 1969 essay, “The Analysis of Corruption in Developing Nations,” is a skeptical examination of the possibility for comparative work and knowledge-collection on corruption. Scott implicitly operates from a definition of corruption that concerns elite influence, private influence, or illegal interest structures subverting official state functions. The essay flirts with relativism, but optimistically strives for empirical gauges of corruption nonetheless. Scott begins his essay by criticizing the a priori definition of the concept which creates biases in terms of legality and the notion of public. Law and legal norms are constantly changing and the public/private distinctions are relative categories, fully accepted even in Europe beginning in the 19th century. Scott cites examples in which wealthy elites have attempted to influence politics in different times and places, but notes that only some of these practices have been deemed illegal. Therefore, how can we distinguish between a private interest group and corruption? Scott claims that analyses of less developed countries have failed to draw the careful border between corrupt and non-corrupt private influence that exists in more developed countries, while admitting that “conditions in most developing nations are such as to restrict many legitimate avenues of influence and thereby divert it along illegitimate paths” (325). The less developed countries, Scott asserts, lack stable interest structures such as competitive elections. Therefore, corruption may serve the private interests of non-elite or minority groups who otherwise carry no weight in the underdeveloped interest structures. Doubling back on his original critique of comparative projects, Scott
nonetheless puts forth a general schema of groups acquiring influence in politics through corruption.

Samuel Huntington (1968) basically views corruption from the same vantage point, arguing that social mobilization (i.e. development and modernization), combined with nascent and weak political institutions, inevitably "breeds" corruption. Huntington's central goal is not to prevent or reduce corruption, but to promote political stability in developing countries, dependent on "the relation between the development of political institutions and the mobilization of new social forces into politics" (vii). Huntington isolates three causes of corruption during modernization: the transformation of basic social values, new sources for wealth-production, new ways for wealth to influence power, and an increasing number of government powers in terms of authorization and regulation. Likening corruption to violence, he calls corruption deviant behavior, but sees the problem as stemming from almost natural causes when he claims that:

The degree of corruption which modernization produces in a society is, of course, a function of the nature of the traditional society as well as of the nature of the modernizing process. The presence of several competing value systems or cultures in a traditional society will, in itself, encourage corruption in that society. Given a relatively homogeneous culture, however, the amount of corruption likely to develop during modernization would appear to be inversely related to the degree of social stratification in the traditional society...Corruption, consequently, should be less extensive in the modernization of feudal societies than it is in the modernization of centralized bureaucratic societies (64-65).

While Huntington does not completely favor corruption, he argues that corruption can serve a political system maintenance function, a better option than instability and revolution. Further, an overly rigid bureaucracy can benefit from corruption as a mechanism to grease the wheels and anti-corruption efforts might produce greater obstacles to economic development:
In terms of economic growth, the only thing worse than a society with a rigid, overcentralized, dishonest bureaucracy is one with a rigid, overcentralized, honest bureaucracy. A society which is relatively uncorrupt...may find a certain amount of corruption a welcome lubricant easing the path to modernization (69).

But in terms of politics, not economics, despite the possible functionality, Huntington waivers in admitting that corruption can weaken a government bureaucracy and adversely affect general political development, even while potentially strengthening political parties. Despite his inconsistencies, the overall sum of his work on corruption basically suggests that policy makers leave corruption alone. The reduction of corruption results from the organization and structuring of political participation because “corruption thrives on disorganization, the absence of stable relationships among groups and of recognized patterns of authority” (71). To put it as an equation, “corruption varies inversely with political organization” (71), thereby implying that as modernization runs its course, corruption will be made obsolete.

Rose-Ackerman (1978) and Klitgaard (1988) do not represent a dramatic departure from Huntington and Scott’s assessment of the scope of corruption, but certainly do not speak with the same goals in mind. Susan Rose-Ackerman develops a positive theory of corruption for government officials and policymakers interested in “the practical application of political ideals” (10). Klitgaard’s work bridges the gap between scholarship and policy more fully. Both introduce mathematical equations to better understand behavior, but Rose-Ackerman more fully describes those equations while offering fewer case studies. Klitgaard’s book is completely entrenched in the field: many examples are taken from Klitgaard’s interviews, correspondences, and relationships with officials in underdeveloped countries who have tackled corruption first-hand. All of these authors essentially discuss the same problem when they talk about corruption;
definitional failures pose no large problem. The most glaring difference rests in the level of analysis: for Huntington and Scott the level is development, for Rose-Ackerman and Klitgaard it is the individual case. While Klitgaard refers to development, Rose-Ackerman essentially makes few references to development or modernization. Instead, these latter authors caution against using “vague labels like democracy to specify the relationships between the major political participants” (Rose-Ackerman 1978: 11).

Stemming from their focus on the individual case level, the latter authors move away from generalizing functionalist tendencies concerning a secretive and hard-to-pin-down phenomenon and move toward very concrete, empirically-based policy recommendations.

Susan Rose-Ackerman’s *Corruption: A Study in Political Economy* (1978) was her first book on the subject, though several essays preceded it. Rose-Ackerman is a well-recognized and respected figure in the history of corruption studies. Her 1978 book is one of many seminal works, but mostly due to its early attention toward the micro- and policy-levels that would come to characterize corruption studies from the 1980’s and into the present. Even in Poland, Rose-Ackerman’s work is well known and widely cited; the Batory Foundation and the World Bank funded the Polish translation of one of her more recent books on corruption. The 1978 book attempts to inform policy, but from a more distant position in political economy. Her innovation rests in combining economic and political science viewpoints on corruption, firmly grounding her work in those disciplines’ traditions of rational actor theories. Here, rational actor theory is referred to as the “agency relationship,” used as a basic unit of analysis.
Corruption, for Rose-Ackerman, exists at the crossroads of political and economic life, in allocative decisions that all societies must face. The focus on allocation of resources allows Rose-Ackerman to locate a pattern of abuses that links together often misunderstood corruption scandals, usually understood as a disjointed set of moral bads. No society truly relies completely on the market or the state for allocation; all are mixed to a certain degree. Rose-Ackerman refuses to side with one mixture as better than another. Although strongly promoting a democratic state, she asserts that all societies must firmly assert an appropriate combination to which all citizens must adhere. Corruption exists where the boundaries are broken, when market forces and wealth undermine democratic politics or vice-versa: “Corruption not only reveals a basic tension between market mechanisms and voting processes but also forces the political economist to deal with allocative problems raised by the presence of large organizations in both the public and private sectors” (2). In this focus, the scope of the book considers all societies, not simply the underdeveloped world.

Rose-Ackerman spends little time dispensing with the functionalist arguments of earlier corruption scholars. She criticizes social scientists, including Scott and Huntington, who “emphasize the fact that corruption may be efficient or stress its role in holding shaky political systems together” (7). On this point, she clarifies her concept of corruption, focusing mainly on bribery, by explaining the intersection of morality and legality, noting:

the moral costs of breaking the law will affect the behavior of actors. The formal similarity between legal and illegal payments is important, however, in order to assess the desirability of converting “bribes” to “payments” by a change in the law. This possibility is often ignored by those social scientists who emphasize the “functional” characteristics of bribery. Yet, if a payment system is truly functional, it seems better to legalize it (7-8).
Because of corruption's moral taint, its participants engage in transactions secretly, creating greater inefficiency and unnecessarily wasting resources. Further, a state that allows corruption when it is "economically justifiable" will fail to have any moral force when it comes time to battle corruption that creates economic inefficiency. Therefore, "corruption is never more than a second-best solution" (8).

Through her analysis of individual-level economic activity, Rose-Ackerman arrives at the conclusion that transparency in the form of greater information flows, an informed and interested citizenry, is crucial to accountability which, in turn, insures more democracy and less corruption.

Robert Klitgaard's book *Controlling Corruption* (1988) builds on Rose-Ackerman's foundation for understanding principal-agent relationships, but Klitgaard still feels a need to fill a large void in corruption studies regarding policy analysis and a viable methodology for government agencies interested in reducing corruption. *Controlling Corruption* is a highly influential practical guidebook, another book well known, respected, and widely cited in Poland and elsewhere. It deploys numerous case studies and places readers within highly specific contexts: "We will put ourselves in the position of a newly named leader of a remarkably corrupt organization and watch how he assessed its problems and defined his objective" (13). But Klitgaard also flows easily from case study to abstraction and analysis in the realms of economics, political science, and managerial dynamics.

Klitgaard's main goal is to move the study of corruption beyond simply defining the problem, assessing its magnitude, or even defending the need to battle corruption. His theoretical innovation is to claim that he will leave aside questions of morality in
which most writing about corruption gets mired. But to get to his practical suggestions, Klitgaard felt compelled to engage with arguments that development policy should not bother addressing corruption in the first place. Responding to those doubters who argue that corruption is relative in Third World states, that it is potentially useful, or that, “like sin,” it is ubiquitous:

And yet if you are interested in what to do about corruption, the questions may strike you as tangential, even supercilious. It is as if you expressed an interest in reducing poverty and were told that “poverty” is a relative term, that poverty has its social functions and perhaps its social utility, and that the poor will always be with you (ix).

Klitgaard eventually maneuvers around these critics with convincingly arguments. He deals with illicit and illegal activities specific to each state, so as not to impose Western standards. He shows how those who find corruption useful examine only specific instances, as opposed to broader, entrenched corruption. And his pragmatic recommendations essentially disarm the cynical critics, by simply offering policymakers a sense of direction.

Klitgaard’s policy recommendations stem from a principal-agent-client model, not unlike Rose-Ackerman’s analysis, but complemented with contexts of organizational structures and individual attitudes. Following this microeconomic basis, Klitgaard develops a framework for policy analysis. In utilizing a rational actor model, Klitgaard purposely maneuvers around corruption scholars who locate corruption inside a shared identity, culture, or ideology of a group, nationalism, or society. In this manner, Klitgaard suggests that any subject has two choices, “to be corrupt or not to be corrupt” (69).
The principal-agent-client relationship creates a series of logical steps. The principal leads the organization while the agent works under the principal within the organization: “At the heart of the principal-agent problem are divergent incentives and asymmetric information; and these make the principal’s problem difficult” (72). The principal must decide how to set his agent’s pay without fully understanding at what salary the agent might be more prone to corruption. The principal could gather information about the agent’s activities, but at an optimal cost no greater than the potential cost of corruption itself. The principal may also collect information about the client, but again, at an optimal cost. Clients are most willing to engage in corruption when they can reap benefits, especially monopolistic forms of power, at the agent’s discretion. And, of course, both client and agent will be more willing to engage in corruption with less risk of getting caught.

Within such a model, the policymaker or the principal only has a handful of possible actions to suppress potential corruption: selection of agents, setting agent’s rewards and penalties, collecting information, restructuring the principle-agent-client relationship, and/or affecting attitudes about corruption to somehow raise the “moral costs” of being corrupt (73). Therefore, Klitgaard’s policy recommendations all stem from the principal’s possible actions.

Conclusion: A Change in Moral Agenda?

As late as 1988, when Robert Klitgaard wrote *Controlling Corruption*, it could be asserted that “the literature on international development is surprisingly silent about such problems” (6). Since the 1990’s, corruption has reached paramount importance.
Klitgaard attributed the lack of interest in and attention to the subject as a result of moral and ethical ambiguities. Writing about corruption would be interpreted as emphasizing the moral weakness or inferiority of developing nations. Labeling these countries "corrupt" is yet another form of imperialist thinking. Further, the label could be applied to these native cultures themselves, signaling their "backwardness" or inadequacy in comparison to Western culture. Klitgaard quotes Nobel-Prize-winning economist Gunnar Myrdal who, calling the phenomenon "diplomacy in research," writes: "The taboo on research on corruption is, indeed, one of the most flagrant examples of this general bias...[which] is basically to be explained in terms of a certain condescension on the part of Westerners" (9, originally from Myrdal 1970: 230).

This chapter argues that turning the tide towards the development of anti-corruption policy was much more than a matter of overcoming charges of ethnocentrism. Certainly, such moralizing discourses rest near the core of the problem, but Klitgaard completely underestimates the institutional arrangements necessary to setting international development agency agendas. This is rather ironic considering that Klitgaard wants to change those very agendas.

To be certain, the development of academic scholarship from Scott and Huntington to Rose-Ackerman and Klitgaard played an important role in how institutions conceptualize corruption and the potential to deter corruption. But also important is the history of development, Cold War conflict, and an increasing push for privatization which lead to highly visible new forms of corruption. Probably the most important transformation was not academic, but institutional: what James Wolfensohn called the re-definition of corruption from a political problem to an economic and social problem.
Certainly, this was a move away from the moral entanglements of corruption, but removing morality from corruption was not a cause, but an effect of larger economic and political processes. And this same transformation was felt in Poland, described in Chapter 2, as a resistance-minded anti-corruption sentiment, grounded in disgust with the communist system, becoming legitimized as a key element of political and economic development. From aversion to rational actor theorization, corruption burst onto the international development scene in the 1990's as a crucial obstacle to development, a taboo no longer.
Chapter 4

Information Access Law and its Institutional Contexts in Poland

How and why did the Polish Freedom of Information law, known as the Law about Access to Public Information (UDIP) get passed and why? What was the intention of the law? Who played the key roles in getting this law passed and what types of tactics did they deploy to that effect? In an environment of increasing awareness of corruption, but still a reluctance to institutional acceptance in the late 1990's, obstacles to information access still existed. This chapter examines two NGO coalitions that attempted to pass the law, as well as the way that an entrenched bureaucracy and its legacies of administrative secrecy played a key role in the formulation and eventual passage of this law in Poland.

I visited the offices of Transparency International Polska in November of 2003 to inquire about TI’s role in the passage and subsequent implementation of the Ustawa o Dostepie do Informacji Publicznej z 2001 (Law about Access to Public Information). The building sits on the bottom of a hilly street called Ordynacka, tucked around the corner from a central nerve center in downtown Warsaw. The street itself, but in particular the building in which TI locates itself, is famous, infamous to some, as the location of the Ordynacka political club/social group which counts Polish president Aleksander Kwasniewski and other well-known post-communist political figures as members. Julia P., president of TI Polska, is a middle-aged woman with a young face and a demeanor that edges on frenzied. As I began our interview by asking, in her own words, the work of TI, she bounded out of her seat and to her filing cabinets and lockers, throwing their doors open wide to reveal boxes of files. Files and records lay everywhere
in the main office, a relatively small room with two windows allowing in some dim light. Another room was the TI reading room archive, connected to main office by an extremely small and dim hallway shared with the Ordynacka group.

In strictly communicative terms, I learned very little from Julia P. outside of what I already knew concerning the passage of the information access law. She told the same story I had heard from others: that the political parties didn’t want to pass the law, but elections were coming soon and everybody wanted to look good. There was resistance, but it got passed anyway.

Less than 15 minutes into our scheduled interview, a Polish television crew interrupted our meeting to conduct its own interview with Julia P., recording her commentary on a recent corruption scandal. On resuming our interview, we again spoke for less than 15 minutes before a second television crew arrived at the TI offices to conduct a much lengthier interview with Julia P. At this point, Julia P. suggested I sit in the corner while this group from German television asked her opinions on Poland’s recent ranking in the Corruption Perception Index. The questions were standard ones: How can an accurate measurement of corruption be taken, especially based on perceptions alone? I sat, rather pathetically, trapped in the corner while the television crew’s assembled equipment filled the tiny office with lamps, microphones, and camera wires. While the entire scene was fascinating and informative, I also felt at a loss in explaining why Julia P. arranged a meeting with me on such a busy day. I later learned that this degree of media attention was actually quite normal. Following the German television interview, a third TV crew would interrupt us, as well as countless telephone calls.
Julia P. was prepared to carefully represent herself and her organization to all media outlets, including myself. This explained the limited use of our interview, but it revealed repetitive, fetishistic behavior, especially concerning information in the form of documents and records. Hence Julia P.’s throwing open her filing shelves for me on my arrival. And later, when the German television host and producer examined the office for a good frame, Julia P. pointed out a stack of files on a nearby chair which they used as a backdrop for the shoot. The TI assistants quickly gathered more stacks of files in a routine manner, as if the files had been deployed for such a purpose quite often. While the content of the records remained unclear, they clearly implied anti-corruption intent. Later, I would look back to a magazine profile on anti-corruption crusaders and sure enough, there was a photograph of Julia P. at the TI office with a stack of binders on her lap, many more in the background.

The purpose of recounting this episode is not to reveal the superficial side of anti-corruption, though this trend is somewhat disconcerting. Above all, it points to the high degree of media attention directed towards the anti-corruption scene, as well as the manner in which anti-corruption organizations attempt to control their image and have a strong public relations awareness, more generally. This chapter does not intend to explain all of these general phenomena, but rather traces the history of the Polish FOI law, the purpose of my visit to TI in the first place. As such, the information access law was entangled in this environment and became the source of conflict between two coalitions of pro-transparency NGOs, one more focused on anti-corruption and the other on human rights.
The irony of a transparency organization carefully manipulating its image is simply the first of many ironies. The first part of this chapter also unfolds the paradox of two anti-corruption and pro-transparency NGO coalitions using secretive tactics in conflict with one another to conceptualize and lobby for their version of the FOI law. Transparency initiatives in Poland, such as the information access law, are often the source of great contention. Within this arena, the groups involved have attempted to cultivate specific types of identity which both represent and garner more political capital and respect. All sides essentially battle to speak in the interests of the public, the nation, civil society, and/or citizens. This chapter seeks to explain the shape of their voice, the types of strategies they deploy to more authoritatively speak for those interests.

In the second section of this chapter, I turn to the administrative and institutional context alluded to in Julia P.’s self-framing television shot with her records. One important implication of Julia P.’s files rests in her acting as a bureaucratic crusader and administrative reformer. She is far from alone in this quest. In the second half of this chapter, I explore the FOI law as an administrative reform mechanism strongly supported by the leaders of Polish government, but intensely resisted by the bureaucracy. The bureaucratic apparatus in Poland, the traditions and structures of secrecy and control of information it has carried down from the PRL era, and the major institutional obstacles and aids to greater information access together offer an institutional framework to understand the emergence of the FOI law, its conceptualization, its purpose, and its meaning. This larger framework is crucial in order to transcend local explanations of the law’s passage, most of which deployed psychological-level narratives of personal
animosities and network infighting while neglecting social, cultural, and especially institutional perspectives.

**The Closed Battles for Greater Openness**

Poland passed the *Ustawa o Dostępie do Informacji Publicznej* (Law about Access to Public Information) in 2001. In 1997, the Adam Smith Research Center, a political think tank and lobbying organization, applied for and received a small grant from the American Embassy to launch research into a freedom of information law, thus marking the official beginnings of the coalition which would eventually get the information access law passed. This small grant constituted the only funding the coalition received. Together with Transparency International Polska and the Society for Polish Journalists (SDP), the Center formed a coalition that drafted a bill and brought it to then Prime Minister Jerzy Buzek’s office in the summer of 1999. Buzek lent his support to the bill and after moving through a somewhat lengthy parliamentary subcommission and commission where legislators hammered out the eventual details of the law, the President of Poland signed the law in October of 2001. This story appears quite straightforward.

The passage of the information access law was not big news in Poland. Most Polish citizens today remain quite unaware of the law and even political and legal experts who know of its existence know little or nothing about the organizations and individuals involved in its passage. In the course of my fieldwork, I found very few people willing to

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10 As the name implies, the Adam Smith Center supports a free market for Poland and is politically conservative, inspired loosely by Adam Smith. The Center was founded in 1989, just days following Solidarity’s election. In addition to Adam Smith’s influence, I noted a number of books by free market proponent Milton Friedman placed proudly and conspicuously at the Center.
speak about information access law simply because very few information access experts existed. Those who wanted to pass the law and the community of interested parties were one and the same.

In the course of my fieldwork, I attempted to gain access to those individuals and organizations most closely involved in imagining, structuring, and promoting information access, but, in particular, those involved in getting the Polish Freedom of Information (FOI) legislation passed. One of my central and most basic research questions simply asked who had conceived, written, and lobbied for the law and for what purposes? Additionally, how did people make sense of the law, through what narratives, and why did people think it was the right thing to do at this given time? I found, overwhelmingly, that the main purpose of the law was to battle corruption.

Firmly establishing the history of the law’s passage turned out to be a lengthy process, much more time-consuming than I anticipated. Aside from almost expected moments of serendipity eventually leading to a clearer portrait of the law’s history, I was forced to establish a competency for speaking and interacting with subjects, dealing and bartering information and rumors, building relationships of trust, and, perhaps most importantly, knowing when to keep quiet. The process was full of enigma and paradox, eventually leading me to an understanding of the way actors in my fieldsite operate.

The first and most immediately striking paradox I encountered involved my relations and interactions with the pro-transparency organizations who had promoted the information access law. If forced to generalize their behavior towards me and in relation to the law’s passage, I have to call it anything except transparent. There was a brief interview with the former leader of an NGO coalition promoting the information access
bill who refused to admit so much as an interest in information access. Another head of
the coalition dodged my persistent requests for an interview, which he initially accepted,
but then put off for over six months. One investigative reporter basically did the same,
except he actually stood me up for our first planned interview. There were respected
lawyers and journalists who flip-flopped facts from meeting to meeting or whose stories
would not corroborate with anyone else’s. My Polish research assistant was shocked and
quite worried for my research; she could barely fathom writing a dissertation with such
problematic information. Other transparency advocates simply expressed their
sentiments in simpler forms of diffidence or condescension. And I can only begin to
mention the countless individuals who either refused my requests or, much more
commonly, agreed to them, but urged me to call them back the following week or month.

While I lived in the field, I had the sinking feeling that this was personal, that for
whatever reasons – age, nationality, education, language – they did not like me, did not
want to help, or otherwise had no desire to speak with me. Not until I returned and with
the critical analytical distance offered while reviewing my fieldnotes and recalling the
many events of my fieldwork did I begin to recognize the patterns of interpersonal
behavior amongst these elite figures involved in transparency advocacy. Certainly,
differences in quantity and quality of transparency were particular to each individual
encounter, but the public identity of these organizations seemed to belie the actual
manner in which they most commonly operated.

I was quite fortunate to locate Professor K., a central figure in successful the
coalition. In fact, he was the first person I interviewed. Before embarking on my
fieldwork, I had made an extremely fortunate contact with Dr. Janine Wedel, who has
been conducting anthropological fieldwork in Warsaw on and off for the last 25 years. Dr. Wedel has been friends with Professor K. for all of those years and with her reference in hand, Professor K. warmly welcomed me to Warsaw and even extended an invitation to the Institute of Political Studies at the Polish Academy of Sciences. Ironically, Dr. Wedel was unaware that Professor K. was so deeply involved in the passage of the access law. She merely told me that he was knowledgable and well-connected, so he might helpfully assist me in finding those individuals responsible for the law’s passage. So, when I first met with Professor K., my first official fieldwork interview, I felt quite relieved and even blessed with such good grace to have so quickly located the person claiming to have initiated the Polish information access bill process. It began to feel that the anthropological gods were smiling down on me and perhaps, just maybe, I would be making quick work of this fieldwork thing.

However, in that first meeting, Professor K. instilled in me the smallest suspicion of a larger problem underlying the passage of the access law. He made light of the many “critics” of the coalition’s bill and urged me to investigate these critics more fully. But there was a certain mysteriousness about the meeting, a suggestion of something extremely non-transparent surrounding the history of this transparency initiative. Professor K. gave me contact information for two other leaders of the coalition, including the author of the bill, and I was instructed to tell them that Professor K. sent me. After these two interviews, I became convinced. The passage of the law was subject to political maneuverings of a highly non-transparent nature involving every major anti-corruption and pro-transparency organization in Warsaw. In the course of my accounting for this history, I learned that some of the divisions and tensions engendered by the law’s
passage existed before the law and carried over to the present day, embodied in the manner by which I was allowed to learn this history in stops and starts, through contradictory and competing accounts, and, at times, despite misinformed participants. At the same time, in learning about other movements to pass anti-corruption legislation, these boundaries between the two coalitions and their members are neither firm, nor permanent. Much to my surprise, by the end of my fieldwork I had learned that, in all probability, none of the participating individuals or organizations of which I learned about ever knew the story of the law’s passage as well as I did at the end of my fieldwork. Professor K. was happy with this outcome, not only because he remains active in enacting legislation related to anti-corruption, but also because he is a political sociologist interested in studying how political elites get things done: how they operate and facilitate change in the post-communist transition, with particular emphasis on problems of corruption and corrupt political influence networks.

The Other Coalition

The second coalition seeking to pass an information access law began in the middle of 1999 and was led by Andrzej G., then head of the Press Freedom Monitoring Center (CMWP), a small watchdog organization technically subsumed under the journalist’s society SDP, but mostly funded independently. Initially, SDP was part of the CMWP coalition, but after the Adam Smith coalition forged its partnership with the Prime Minister in 2000, SDP joined their coalition. Additionally, Andrzej G. recruited a well-known legal sociologist from the University of Warsaw, civil rights lawyer, and member of the Helsinki Foundation for Human Rights (HFHR) in Warsaw, Andrzej R.
Complementing this core group, the Stefan Batory Foundation’s Anti-Corruption Program offered technical support and the Foundation itself, part of the Soros Open Society Institute network, gave funds to the coalition. Andrzej G. and his coalition were particularly skillful at obtaining funds for their information access law project, especially from international donors such as the Westminster Foundation for Democracy and the World Bank’s Warsaw Office.

Both coalitions shared common goals, supporting democratic rights and the battle against corruption. Both had members knowledgeable in the fields of law and freedom of information. Both had experience in lobbying for and passing legislation. But they could not, actually refused, to work together to craft and realize FOI legislation for Poland. In a sense, this entire chapter attempts to offer an explanation for the reasons behind this failure.

Several legal ideological and structural issues divided the two coalitions. First, the CMWP coalition suggested that the bill include the creation of a government office, an ombudsman of sorts, to which information requestors denied access by the government would be allowed to appeal for review. The Adam Smith coalition felt that the new office was unnecessary, the state bureaucracy already bloated enough, and the courts able to adequately handle any appeals necessary. Second, the CMWP coalition complained that the final law is too complex for normal citizens to grasp and use. In particular, they disliked the court appeal process which, depending on the type of request and rationale behind its refusal, could proceed to one of two courts. For refusals due to privacy concerns, a civil court would handle the case. Refusals concerning state functions or national security would be handled by the administrative court. The CMWP
coalition felt that this division was unnecessarily complex and that classifying appeals was overly ambiguous. Further, they felt Polish courts were ineffective, slow, and, at times, incompetent. The Adam Smith coalition considered the law unnecessarily complex due to the difficulties in clearly delineating public information from secret information.

The CMWP coalition put forward its most definitive critical statement in a Rzeczpospolita editorial (9.21.2001) entitled “Dostęp bez dostępu” (Access without Access). While they firmly agree with the need for an information access law, they urgently argue that the bill the Sejm was then about to pass was ineffective. Foremost among their arguments, they claimed the bill was not a fundamental statement of openness and failed to infringe upon other administrative secrecy and privacy laws. They essentially ask, who will decide whether releasing information is in the public interest? “If the decision is given to the administrative officials, the chance that citizens will receive information which belongs to them is violently diminished” (2001: ). In the proposed bill, appeals to information request refusals would proceed to the courts, but the authors argued for the need to establish a special independent agency that would better fulfill this function. In the end, they argued, highlighting what they considered the political party flavor of the law, the overly-ambitious Freedom Union senator Henryk Wujec hurried to pass a flawed piece of legislation.

While the CMWP coalition brought political and legal arguments to the forefront, members of the Adam Smith coalition pointed to funding as the most prominent divisive factor. They highlighted their own funds, approximately 10 thousand zloty (around $2500 US) for four years of work, compared to those funds collected by the CMWP coalition, approximately 400 thousand zloty (around $100,000 US) for one year’s work.
This suggested that the other coalition did not want to share their lavish funding out of motivated greed.

Alternately, Adam Smith coalition members utilized their lack of funds as symbolic capital signifying their dedication to a larger cause and tradition throughout the history of Polish intelligentsia. Independently of one another, several people called their service to the FOI law *praca organiczna* or “organic labor.” The term derives from a Polish interpretation of Spencer’s organic theory (Jedlicki 1999). Throughout the partitions of the 19th century, organic labor was a form of subtle resistance to the partitioning powers who attempted to suppress Polish culture and nationalist sentiment. Rather than outright rebellion, organic labor was a pragmatic ethics of pedagogy, learning Polish traditions as a way to keep the nation alive. Specifically, it was a project undertaken by the intelligentsia; more educated Poles believed they must instill within the less educated masses a sense of Polish citizenship. Jedlicki describes this independent effort in his history of 19th century Polish approaches to Western Civilization:

> Organic work, by definition, had to manage without state support. Moreover, it had to put a check on the state’s destructive activity in relation to culture. Planned associations of intelligentsia and capitalists were to provide a material basis for this work and its activists. They were intended to promote a dynamic, modern civilization as a counterbalance to the routine of bureaucracy with its petrified conservatism. (Jedlicki 1999: 197)

The Polish version of Spencer’s examination of society as an integrated whole, subject to the laws of evolution, stipulated the intelligentsia’s role in society as a beacon of knowledge for the Polish people. In doing so, the intelligentsia would contribute to the evolutionary progress of Poland. Of course, the intelligentsia was a limited elite, since under the partitioning powers, they were relegated to the status of “educated proletariat,” often searching in vain for white collar work (Jedlicki 1999: 193). In a similar manner,
proponents of the information access law claimed to have sacrificed financial or personal benefits for the greater good of Poland. Alternately, they implicitly implied that the other coalition only sought to pass the law for financial gain and personal reputation.

In the end, little solid evidence concerning the funding of either side ever turned up in my research, so the accusations remained accusations for the most part. But while the Adam Smith coalition’s complaints of misappropriation of funds appeared almost overly dramatic, it turned out that they were not without any value. Some actually intimidated and several individuals explicitly claimed that the CMWP coalition improperly utilized their funding or squandered their funds “to maintain the establishment.” I found myself in a paradoxical situation in which one coalition, made up largely of anti-corruption experts, accused the other coalition, also consisting of anti-corruption experts, as well as press freedom advocates, of corrupt activities. My initial reaction was that I was simply surrounded by paranoia, a paranoid logic fueled by these individual’s competency with understanding how corruption functions. Honestly, I found it quite difficult to believe their stories and I had no proof of any misconduct. Further, if the members of the Adam Smith coalition had proof, they never showed me. Some did, however, spread the rumors on to me. Andrzej G., for example, had been fired from his position at the CMWP following his coalition’s failure and his dismissal was rumored to be related to charges of embezzlement. Following either his resignation or dismissal, the head of SDP told me that she was the victim of an internet scandal perpetrated by Andrzej G. in which he posted her name and telephone number on an internet site advertising prostitutes. This scandal was also under investigation by the prosecutor’s office. This piece of gossip appeared particularly idiosyncratic, as the head of SDP
offered it to me without my asking. It seemingly implied more than an act of revenge due to guilt, but a linkage between Andrzej G.’s moral character and his corrupt appropriation of NGO funds. In this, her characterization remained consistent with the pathological nature of corruption as understood by Polish corruption experts in which corruption is not a random event, but symptomatic of a much larger systemic problem.

Because I had the distinct feeling that my subjects from the Adam Smith coalition had shared these stories with me to influence the way in which I would recount the history of this law’s passage and also because, as I mentioned above, I had a sense that these subjects operated with a paranoid logic fueled by their perceptions of ubiquitous corruption, I kept these accounts and accusations at a safe distance from my analysis of the law’s passage. That is, until I met Andrzej G.

Fieldnote Excerpt: 12.4.2003

From one day to the next, fieldwork arrives like the weather. With some forecasting, a little bit of study, certain events come expectedly. But anomalies occur, whether because you forgot to watch the weather, lack of preparation, or misunderstandings. The metaphor goes wrong, however, when you suspect that other people have been talking behind-the-scenes. People know who they’re getting when I arrive, at least at times. This can be good, like today, or this can be bad, like yesterday.

Yesterday, I met Andrzej G., journalist for the magazine Polityka and former head of the Centrum Monitoringu Wolnosci Prasy (CMWP or Center for Monitoring Press Freedom). Of course, I remembered the stories that Krystyna M.(head of SDP) told me, the shocking tale of Andrzej G.’s adolescent malice, but I hadn’t yet read the story in the
paper to confirm it. I honestly started thinking the story wasn’t true and I was ready to
give Andrzej G. the benefit of the doubt, let him tell his side to the UDIP story. Besides,
his colleague Wroblewski (who I had interviewed the week prior) said I should contact
him.

The meeting was brief. I waited in the lobby, thinking he would come down to
meet me at noon. He rolled into the lobby at 10 after and although I was the only one
waiting, went to the reception desk to say that he had a meeting and was I there?
Andrzej G. is confined to a wheelchair, I don’t know why. But I believe it is permanent. I
immediately got the feeling that he didn’t like something about me, but he didn’t entirely
hate me, either. He was highly suspicious of me, and led me to a small table in the
corner of the lobby to talk without taking off his jacket or offering me all the coffee/tea
that every other Pole offers. I didn’t take my jacket off, either; his greeting made it clear
that this was to be an extremely brief meeting, obviously not an interview as I had asked
for. When I tried to explain my project, he quickly cut me off and said “It’s not my
interest.” He told me to talk to Andrzej R. and when I told him I already had, he seemed
surprised. Then he said I should talk to Ewa Letowska at the Constitutional Tribunal.

Would he give me a phone number that doesn’t work? It seemed like a nice gesture. I
tried to explain more about what I wanted to do, about talking with as many journalists
as possible. I felt it was clearly obvious I was requesting an interview, once again,
because I wanted to talk to journalists and he IS a journalist. He works for Polityka (a
national weekly news magazine) and has worked at other news outlets. This is not about
him being incompetent or having poor communication skills. He was obviously
stonewalling and I was not so much upset as in general disbelief. I told him that in my research I had come across his name since he was the former head of the CMWP.

"In what capacity did you contribute to Andrzej R.'s draft of the law?" I asked. I made it clear that I wanted to talk about arguments for and against the law and not about any scandals or rumors surrounding the law's passage. At least, I tried to frame my questions in that way. In response, he gave me another phone number, this time to Miroslaw Wrzykowski at the University of Warsaw Law department. Though I can't imagine bothering to call this professor nor can I see any reason to, I started wondering if I kept asking questions to which he replied to by evading or blocking the question, would he keep feeding me with telephone numbers and how long would this game last? I said that I understood if he didn't have time to talk about these issues at the moment. Once again, he repeated his ridiculous statement "It's not my interest."

I was thoroughly mystified and not a little bit disgusted, so I said "thank you" and he wished me luck on my project. But I can't imagine he meant it.

How many reasons does he really have to be interested or to have had an interest at one point in time?

1. When he was head of the CMWP, they were part of the coalition that drafted an UDIP proposal.

2. I have an interview from a newspaper from 2000 with him in which he talks about the importance of the law.

3. He co-authored at least one critique of the Adam Smith coalition's draft with Andrzej R. and published it in the daily newspaper Rzeczpospolita.

4. He is a journalist and he writes about law. I am asking questions about a law.
5. He is a journalist and all journalists have been interested, in some manner, in information flows.

6. I had heard from Barbara M-S. that he currently heads another press monitoring organization at the moment.

So, okay, those are at least 4 really solid reasons to believe that Andrzej G. is lying in terms of a lack of interest in information access. At the very least he could have said, yes, I know about these issues, but no, I don't want to discuss them. Does he take me for a fool? That's 99% certain. Does this prove the other coalition correct? Not completely, but there's more credibility there, yes. At least I am not the crazy one, I had a handful of good reasons to talk to him and a direct reference from his colleague Wroblewski. I predicted the rain, but I didn't guess that the wind would bring such a rotten stench.

Andrzej G.'s refusal relates concretely to the CMWP coalition's failure to pass information access legislation and Andrzej G.'s personal unwillingness to discuss failure. Of course, most people are less than apt to discuss failure. But in the course of my research, I uncovered an increasingly complex set of responses and counter-claims from the CMWP coalition concerning the Adam Smith coalition. In a similar manner to the successful coalition deploying the symbolic imagery of organic work to supplement their legal and logical arguments supporting their FOI project, as well as showing their financial independence, the CMWP coalition wanted to re-interpret the Adam Smith coalition as symbolically and financially complicit with government interests.
Although nobody from the CMWP coalition responded to the Adam Smith coalition's accusations of funding misappropriation, the other leader of the CMWP coalition, Andrzej R., offered a counter-claim in which he attempted to re-identify the Adam Smith coalition as government agents posing as an NGO coalition. According to Andrzej R.:

And there was also another group who was working rather closely with the Prime Minister. At the time, the Prime Minister was Buzek, who was a rather open-minded person. And he accepted the idea and I remember he invited me to a special meeting or seminar of people who were ready to work on that from the third sector, but also many high ranking public officials and members of the Parliament. He wanted me to be a member of this group, but I rejected this offer. I said that I respect his role and his support for this initiative, but I think it would be better for this legislation to be supported by the NGO sector and then proposed to parliament, rather than if it would be legislation prepared by the Chancellor and submitted by the Prime Minister to the Parliament. Because it is a law which should serve everybody and even psychologically, it is better when such a law is prepared by journalists, human rights groups, human rights defenders, than by public officials. And he told me he understood my concern.

Further, Andrzej R. claimed that the other coalition received funding from the Prime Minister's office following this meeting in which the Adam Smith coalition accepted responsibility for the law:

Although [they] argued that it was NGO-initiated, it was not. They were paid by the Prime Minister. And of course, the Prime Minister arranged and established this group, so it was formally a part of the governmental program. It is obvious that the government can choose the way to prepare legislation by officials within the cabinet or just to contract out this legislation. So this group was contracting this legislation for the government.

The CMWP coalition did not make a strong challenge, according to themselves, because they lacked the time necessary to have an open debate in either the public sphere or in Parliament. Time was running out for the term of Parliament and at the end of the term, all bills are tossed away. It was uncertain how many years Poland would have to wait for
such a law, so Andrzej R. conceded defeat, arguing that a poor law was better than no law and perhaps it could be amended in the near future.

At this point, both coalitions’ critiques of one another had degrees of merit. Andrzej R. is right to point to the complicity of the Adam Smith coalition with the Prime Minister. In one weekly magazine’s account of the legislation in process, they referred to an AWS project competing with the CMWP, though later noting that inspiration derived from the Adam Smith Research Center and SDP. Further, the main author of the bill had close ties to the government’s ruling coalition, serving as an expert consultant for the Freedom Union (Unia Wolnosci), one of the political parties that formed the majority of votes in Parliament. However, one of the Prime Minister’s former aides explained to me that while the Prime Minister was personally interested in the bill, he sought only to promote it and try to prevent other ministries within the government from thwarting it, but did not take an active part in developing the structure of the law. In any case, the Adam Smith coalition denied receiving any funds from the Prime Minister’s office. The aide also made it abundantly clear that the Adam Smith coalition created the law external to the government, only afterward did they approach the Prime Minister. While the Prime Minister’s Chancellery office encouraged the plan and basically took the coalition under its wing, it also saw the danger of bringing the project too close to the administrative bureaucracy, which had strongly resisted all of Prime Minister Buzek’s administrative reforms. Aides within the Chancellery contributed to the coalition’s work, as did the Commissioner of Human Rights (also called the Ombudsman), but it is unclear whether the government offered money to the Adam Smith coalition. As I will elaborate further in the following section, group identification inside or outside of the government,
near or far from power, is a key index of morality and public respect, particularly in the arena of media representation. By inscribing themselves in the tradition of organic work, the Adam Smith coalition already attempted to frame themselves as working and sacrificing in the public interest. Likewise, the CMWP coalition’s counter-claim frames their organization as working for civil society, untainted by powerful political or private interests.

**The Mothers of Success: Difficult Contexts & Political Capital**

Asking Professor K. to explain the reasons behind the fierce struggle between the coalitions, he responded with a proverb: “Success has many mothers, but failure is always an orphan.” That so many subjects wanted to call my attention to their involvement in the information access law and that a few wanted to either lay blame for any potential future problems on their opponents or disassociate themselves entirely from the idea only serves to fuel this argument that the law was a highly charged and contested. But local explanations, and even this proverb in some respects, largely failed to move beyond the psychological and interpersonal dimensions of the conflict.

Conceptualizing and successfully passing the law served as political capital, but this Machiavellian analysis is rather limited in making sense of the law. At stake is something ethical and prescriptive, the ability to promote or enforce a concept of how Poland should be. In addition, both coalitions and all of the actors within those coalitions sought to speak for interests and publics, while staking a claim as the group that gets things done in the realm of anti-corruption. They make claims to speak for the public interest through conceptual language and narratives that attempt to re-organize their own
coalition, as well as the opposing coalition or its constituent parts, into carefully structured groupings and arrangements. This re-organization either attempts to bring the group in alignment with the public interest or take the opposing group out of alignment with those interests.

Most immediately, the conflict appears to stem from a battle over political capital. But beyond the weight of FOI as a resume-builder, these actors also struggled to grasp control of and shape the interests of the Polish public, especially as it gets represented in the public sphere. By crafting their movements as sacrifice in the public interest, these coalitions attempted to merge their identity with a purely public interest, perhaps in the only manner they know.

Network building, formation, and relationships forged amongst the coalitions of organizations and individuals underlie the attainment of capital. For some, such as the irritated Andrzej G., the division seems lasting. He recently established a new press monitoring NGO, but is not currently allied with any of the other transparency NGOs. Andrzej R., on the other hand, has recently formed alliance with Stefanowicz, main author of the information access law, and SDP to begin work on press law amendments. So, divisions remain on a case-by-case basis.

Transparency has become a catchphrase of value and reputation within Poland. To associate one's self with transparency implies a certain moral high ground, as well as a form of defiance to the powers that be. As explained in the section on anti-corruption, many corruption groups simply define their politics as oppositional to the party in power, sustaining the seemingly endless Polish tradition of viewing power as my – oni (us versus them). This helps explain why some members of the Adam Smith Center coalition
referred to their project as organic work, carrying on the tradition of defiance of traditional forms of power, despite working with political parties constituting the government in power. In general, transparency initiatives are normally viewed as holding the powerful accountable to the citizens who elected them.

Establishing a reputation as a successful pro-transparency or pro-democracy organization allows greater access into international arenas of ever-dwindling non-profit funding in Eastern Europe. In the direct aftermath of 9-11, NGOs throughout Eastern Europe suddenly witnessed a sizeable decrease in funding possibilities as money moved east. Organizations like George Soros’ Open Society Institute, which had prided itself on its origins in Eastern Europe – part of Soros’ original personal quest to thwart communism in his homeland Hungary – now began cutting funds to parts of its NGO network, such as the Stefan Batory Foundation in Warsaw, to better serve NGOs in countries most affected by Islamic fundamentalism. Now, more than ever, it is important to show the remaining international funding agencies that an NGO is a responsible agent of change. According to one subject, the battle between these two coalitions represented an identity struggle over who gets anti-corruption done in Poland and who is best known for doing so.

Conceptual and symbolic narratives complement these political battles by conceptually organizing the motivations of each coalition and aligning their activities with the public interest, located inside the public sphere or public imaginary, more generally. For example, when members of the Adam Smith coalition referred to their project as an example of organic work or the CMWP coalition pointed out their refusal to work with the government’s sponsored FOI project, both were attempting, though in very
different ways, to emphasize the purity of their motivation, in alignment with a public interests, as opposed to personal gain or private profit. In the opposite case, when members of the Adam Smith coalition pointed out suspected corruption or the CMWP coalition called attention to the other group's potential complicity with the government, they were attempting to jar the other coalition's potential alignment with the public interest. Such examples show that the cultural and conceptual dimensions of the conflict are equally important as the legal, network, and personal dimensions of the story.

**Polish Administrative Apparatus and the Institutional Context for the Information Access Law**

Another crucial context for the passage of the Polish Information Access Law rests analytically between the micro-level political battles amongst opposing coalitions and a more macro-level analysis of historical development and proliferation of FOI internationally. Because FOI is primarily an administrative technique to generate new information flows to the public, it is important to examine the literal ins and outs of information through bureaucratic structures, tradition, and custom. In particular, the structures, traditions, and customs of secrecy, as well as the attitudes toward secrecy found in the bureaucracy, had a great impact on and brought about the largest resistance against either of the NGO coalitions' prescriptions for a more transparent Polish state. The administration of Prime Minister Jerzy Buzek from 1997 to 2001 engaged a large number of sweeping reforms, including the re-organization of information flows for the sake of greater administrative efficiency, the reduction of corruption, and a stronger sense of centralized accountability notwithstanding the somewhat decentralized bureaucracy.
The administration came to realize that transparency initiatives, such as the FOI law, served multiple functions, including the possibilities for greater self-reflexivity within the government. The Adam Smith Center coalition approached the Buzek administration with its FOI concept because they realized that the administration shared similar interests in reorganizing information, though without an FOI law specifically in mind. But the institutional and administrative contexts within the state provided another source of conflict for FOI interests.

In the socialist-era bureaucracy in Poland, neither the bureaucrats, bureaucratic structure, nor bureaucratic customs supported information access. They were highly secretive and kept information from all sources, even their direct superiors. The democratic revolution of 1989 transformed Poland’s political and economic systems from an authoritative socialist regime into a democratic free market, but the people and traditions of the former regime were not immediately replaced – or, in many places, never replaced – by new people and traditions. This important social and cultural dimension, including both the plausible arguments for continuity and the ubiquitous perception of and reasoning deploying continuity, has created important obstacles to democratic reform, including to the promotion of greater information access and information flows to the public.

Within socialist states, the bureaucracy represented what Wasilewski calls a “quasi-autonomous partner in a quasi-pluralistic political system...relatively independent of the party/state” (1990: 744). This means that the bureaucracy was neither simply the tool, or apparatus, of the party, nor was the party or state simply a tool of the bureaucracy. However, it was clearly one of the most powerful forces in Poland during
the PRL era. This bureaucratic structure was vertically centralized and lacked horizontal channels of information sharing or cooperation (Rice 1992, Newland 1996). It was also quite large and unwieldy, considered “inefficient” by Western administrative standards. In a rather paradoxical manner, it was obsessed with a command and control design, while also overly inclusive of partisan community interests in the work of countless local committees and deliberations (Newland 1996). The administration was operated from the top down and it orientated itself to citizens as a form of public power and not as public servant (Rice 1992). As a result, bureaucratic functions and rule-making lacked public oversight or accountability. As Gintowt-Jankowicz, former director of Poland’s National School of Public Administration explains:

one has to remember that the most important tasks normally performed in democratic states by public administration [were] performed by the administration of the Communist parties, commonly referred to as the apparatus. That apparatus was not subject to the normal principles of openness, due process and accountability through judicial control of the administration by independent courts. It is self-evident that the administration did not consist of a professional public service (Gintowt-Jankowicz 1993: 2, quoted in Newland 1996: 384)

These administrative historians offer us insight into the unique power of the Polish bureaucracy as a key figure on the political scene. Thousands of bureaucrats constituting the apparatus tended not to relinquish their powers following the 1989 revolution.

Among other functions, the PRL apparatus exercised control over information flows through the dispersal of propaganda and the regime of censorship. Because ideologues and strict propagandists did not staff semi-independent news outlets, censorship established itself as a complex and dynamic relationship between censor, editor, and author. On one hand, the censorship bureaucracy could exert its power through its control of materials such as paper on which to print or film to record (Curry
Editors often acted as middlemen, both conforming to and understanding the party’s ideological line when they needed to address authors, as well as advocating for the publishing of their author’s work to the censors. Especially because Polish journalists were paid by the article and by the word – censored articles not contributing to this salary – writers developed a discipline of self-censorship (Curry 1984: 45). As a result, critical thought ceased to explicitly exist on the printed page. In some places, journalists developed an unspoken code to indirectly communicate to their audience (Curry 1984: 9). Information access from the government to the public was clearly limited and usually distorted. Or, as Kolakowski explains, the only allowable government news was good news: “the bringing of desired news is rewarded while that of unfavourable information is punished” (1971: 39).

In addition to the control of information through mass media outlets, a more personal level of secrecy characterized the relationship of citizens and bureaucrats due to the latter’s culture of secrecy. Even today, Poles will tell you that if they need information, the last place they will inquire is with administrative officials. Weber (1978) has theorized secrecy as inherent, truly integral to the bureaucratic form of organization. Lefort (1986) reinforces this hypothesis, further arguing that in Soviet-style party bureaucracies, the main goal and function of bureaucracy is an ultra-conservative quest to maintain power through, among other forces, secrecy and the control of information. Since Lefort suggests that individual-level horizons of the bureaucrat align themselves with the bureaucracy’s larger goals, this implies an engrained practice and discipline of secrecy. However, this also introduces a paradox in which lower- and even

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11 Curry (1984), as well as many of my informants told stories about Polish people learning to read “inbetween the lines” to cull accurate information from within censored articles.
middle-level bureaucrats are aware of the secrecy surrounding the true nature and aims of the bureaucracy and are therefore unable to or suspicious of the bureaucracy's larger goals to which Lefort suggest they align themselves. Rather than the establishment of accurate flows of information, Kolakowski's statement concerning the desirability of good news applies to bureaucratic reporting in the communist apparatus. It suggests that even if transparency were possible, internal government information flows may have consisted largely of misinformation. However, due to a tremendous amount of opacity, it is unclear to what degree this was the case. On all levels, the bureaucracy appeared consumed by a culture of secrecy.

Both citizens and bureaucrats alike often had to counteract the rigid vertical command design of the bureaucracy through reciprocity (Newland 1996) or informal connections (Wedel 1992). Local networks of friends and family connected together resources or sources of information designed to remain separate and used their personal relationships or connections to facilitate positive actions. However, this established social structure constituted the same dynamic that could later be referred to as corruption, in which bureaucrats use their public service function for private interests. But during the PRL era, this "corrupt" activity was justified since the apparatus did not seem to work in and was not accountable to the public interest, but rather to the interests of state power. Nonetheless, the practices were firmly established within the bureaucracy during this period.

For the most part, there was no need for the apparatus to relinquish their powers after 1989 because the focus of the newly-elected Solidarity government was not to disband the bureaucracy, but to build new institutions of capitalism and democracy. To
be sure, some ministries, such as those that controlled prices or centralized economic planning, were discarded, but even those officials were then shipped to other bureaucratic positions, such as the Ministry of Finance, where they could serve as regulators of the economy. A point was made to replace top-level bureaucratic elites with democratic-minded reformers from the Solidarity party’s ranks, but most bureaucrats largely remained within the administration with the main exception of those lower-level civil servants who were laid off when the enormous bureaucracy shrank (Newland 1996).

After the Solidarity party lost power in the elections of 1993, the post-Communist Alliance of Left Democrats (SLD) led the new majority in Parliament and created a government more sympathetic to big bureaucracy and maintaining the continuity of their expertise into the democratic transition period. But in 1997, the pendulum swung back to the post-Solidarity parties and the Election Action Solidarity (AWS) party was the major winner. The AWS government was led by Jerzy Buzek as Prime Minister. Prime Minister Buzek proposed sweeping reforms throughout the administration, from health care to education. In all of these reforms, the new government faced struggles from within the administration itself, which resisted the changes.

As a general strategy, Buzek moved to bring the bureaucracy under control, re-orienting its power structure to give the Prime Minister’s Chancellery Office more command and to de-centralize administration. While these goals may appear paradoxical, in fact they both aimed to remove power away from the entrenched bureaucratic apparatus which, according to the Buzek government, placed obstacles in the way of more efficient and effective government operations.
If the watchword of the Buzek government was reform, then one of its main centers for reform was the Department for Program Analysis within the Chancellery. This department, only in existence during Buzek’s tenure, aimed to monitor, evaluate, and propose further systemic and administrative reforms. One of the proposals it worked closely with was the Adam Smith Research Center’s information access law. According to Waldemar Rataj, director of the Department from 2000 to 2001, the main obstacle the Prime Minister faced to planned reforms was resistance from within the administration itself:

However, Buzek’s government was very idealistic and wanted to conduct core reforms, including the form of administration, the form of the health care system, pension system reform, and the education system. But that was a big, serious mistake because Buzek tried to use the old apparatus to conduct the reform. They didn’t know this old apparatus would not be interested and those reforms were not going to be successful.

Rataj explained the apparatus to me as not just the structures or networks of long-term career bureaucrats, but their sphere of interests and influence, as well. On one hand, the apparatus could be useful, as an instrument of the state, but more often than not in contemporary Poland, they approach an older, more traditional, and more pessimistic concept of apparatus: the *apparatchik*. The battles they wage are not open conflicts between ministries and individuals, but “conflicts of ideas perceived on analytical and evaluative levels.” According to Rataj, information management reform is one of these battlegrounds. And he proposed that this conflict go much farther than the Law on Access to Public Information, but should also include “reengineering the whole system of management of information (not only public) at public offices” (2003: 124).

In an editorial for *Rzeczpospolita* titled “Freedom of Information [is] Fundamental,” Prime Minister Buzek clearly outlined his support for information access
and the reasons behind his policy. He stated, “We must confront practices by
government officials, institutions, and functionaries of public power that curb citizen
access to public information and controls this information. We must confront structures,
mechanisms, decisions, and procedures with little transparency. Controlling citizen
access to information, regardless of reason, is a harmful phenomenon and can lead to
further pathologies” (2000: ). The editorial explicitly lists only one pathology:
corruption. But the Prime Minister does not speak strictly of the information access law
and the process by which citizens can request information from the government. Rather,
he speaks to the spirit of the law, administrative reform through greater transparency and
accountability to citizens. At points, Buzek reflects on previous failures of information
access during the PRL era, as well as in the current democratic regime. As a result,
citizens have missed opportunities for success and have rejected state authority,
ultimately leading to the “deceleration of the tempo of economic and Polish civilization’s
progress” (2000: ). The essay remains acutely aware of the “chasm between
constitutional rights of citizens and everyday practices of institutions and agencies”
(2000: ), demanding proper implementation and a proactive approach to distributing
information before the law had even been passed and such problems could arise.

Buzek also noted that while his Chancellory worked on the access law, many
individuals and NGOs contributed. He specifically states that the concept originated at
the Adam Smith Center. Rataj confirmed that the information access bill was not the
government’s idea, nor was it anticipated by the government. The Adam Smith coalition
of NGO’s worked separately and independently from the government in generating the
idea and brought it to the Chancellery in 1999, at which time Prime Minister Buzek
called in experts from within his office, including Rataj, as well as outside experts, such as Andrzej R. and the CMWP coalition who eventually decided not to take part.

Although the Adam Smith coalition and the Chancellery became close allies and partners in the work, there still remained a degree of distance because the Prime Minister recognized the need to keep the proposed bill out of the hands of the administrative apparatus, which would surely attempt to thwart such threatening legislation. Instead, the Prime Minister lent his personal support "as a private individual, having, of course, all of the political instruments that a Prime Minister has at his disposal" (Rataj, personal communication). He assigned one of his aides to monitor the progress of the bill through subcommittees and the Council of Ministers and helped round up fifteen members of Parliament to introduce the bill into the Sejm. There are several different manners in which to introduce a bill. The government administration can introduce a bill. A group of fifteen members of Parliament or the President can introduce a bill. External, private individuals or organizations can introduce a bill if they first collect the signatures of 100,000 citizens, though this is highly rare. The Prime Minister can introduce a bill to the Parliament on behalf of the government, but must first negotiate the bill's content with the rest of the government administration. In the case of the Polish FOI law, Prime Minister Buzek unofficially took the bill to Parliamentary legislators so as to preclude the decision-making procedures of the administration, which, worked on confidentially, he felt would certainly clip the most innovative sections of the proposed bill. By moving the bill straight to Parliament, he ensured that any amendments or deletions would be public and journalists could report on such developments.
In progressing in such a manner, the Prime Minister revealed two perspectives on the need for an information access law. The first was held in common with the Adam Smith coalition. This is the ideological and theoretical level, the belief in citizens’ control over power and accountability in decision-making and allocation of public funds. In many respects, this is the level of understanding shared amongst all FOI advocates worldwide, to support the goals of democracy and openness. Prime Minister Buzek, as well as many other advocates, expressed these sentiments in the form of editorials in major Polish newspapers.

But the second objective of the Prime Minister, not necessarily masking the first, but certainly as important, is a more pragmatic, government administrative end. The information access law could produce a new level of control over the apparatus through public accountability. As Rataj explained in several instances, the Buzek government was largely unaware of the extent of the power of the bureaucratic apparatus, nor of the scope of corruption in which it was involved. It conducted its business largely under the veil of secrecy, even to the Prime Minister. The reformers hoped the access law, as an anti-corruption device, could reform administrative behavior, demanding practice adhere more closely to the rule of law and code.

By informing the public, the information access law could also conceivably inform others within the government itself about its activities, lending a greater degree of administrative oversight, especially to the Chancellory. Rataj stated, “only such a regulation could lend some control over what was happening in the administration. We knew that information, that was key, as obtained by private individuals, such as journalists. Many times, for example, they had better information than the government
did.” In a roundabout manner, releasing more information to the public could lead to greater self-reflexivity within the government itself.

In addition to greater accountability and control, the Prime Minister saw a personal interest in strengthening the prestige of his government. By 2001, when the law was passed, it was already quite obvious that due to a long string of scandals perpetrated from within the bureaucracy, oftentimes by bureaucrats not involved with AWS, there was little or no chance of Buzek’s or AWS’s re-election. Nonetheless, this prestige factor played a role in pressuring other members of Parliament to vote in favor of the bill: “What helped was the intensity of the effect corruption [in the press] was having. The pressure was so palpable that you could feel it in public discussions and deputies knew it would not be proper to not support this project.” Further pressure may have emanated from the values of Western or, more specifically, European culture and democracy. In his editorial, Buzek also points out the achievements of other European countries in the realm of information access, essentially calling access a standard to which Poland should adhere to if it wants respect within the European community.

Without the Prime Minister’s strong support, the bill would have almost certainly failed. Following its introduction, the government must offer its opinion of every initiative that comes to Parliament. When the information access law came to the ministers, every one of them strongly and urgently rejected the bill as “a threat to the state” or “the interests of the state,” to the extent that their critiques would have destroyed the entire proposal. The Chancellery took it upon themselves to engage the Ministers in a debate, tossing aside arguments they considered irrelevant to a democratic state and offering a rational compromise to those Ministers worried about national security or
protection of confidential data. The Prime Minister ensured that arguments amounting to the assertion of administrative secrecy for the sake of tradition would not be heard, thus allowing the bill to proceed to Parliament. Due to the mounting pressure of corruption in the press and the Prime Minister’s personal steering through the reluctant, but powerful bureaucracy, the information access bill became law, embodying the ideas originally set forth from within the Adam Smith coalition.

The Institutional Field of Obstacles and Support

Despite the success of the information access law, it was immediately obvious that greater openness would face obstacles for many of the same reasons outlined above, but also due to the structure and ethos of the bureaucracy, the already established structures of information flows, the increasingly influential force of privacy law, and a weak or sometimes absent form of oversight. All of these amount to institutional or administrative-related problems. Because the Chancellery and the Adam Smith coalition were fully aware of these obstacles when drafting the law, it would be impossible to separate these concerns from the forces impinging on or promoting the bill in the process of its passage.

According to many critics of the administration, a central problem rests in its failure to separate politics from professional bureaucracy and the establishment of a professional career-minded bureaucracy. A sizeable number of bureaucratic posts shift every four years, dependent on the outcome of elections. In a simple, yet powerful editorial statement from early 2004, Rzeczpospolita writes, “In practice however, the majority of politicians feel that positions in the administration are like election loot and
they appoint friends of their party” (Sobczak 2004: A2). As a result of a politicized bureaucracy, critics such as Prof. K. charged that decisions to withhold information from the public are politically motivated.

Rataj further develops the portrait of an unprofessional Polish bureaucratic ethos as secrecy-prone and power-hungry, a perspective that many other anti-corruption experts and journalists shared. Rataj uses this portrait to draw out a subtle distinction between the disclosure of information and an administrative information policy. Whereas the former operates in the fashion of FOI, in which the administration passes along records and hard facts as they are requested by citizens, “the latter includes presenting the government’s intentions, interpreting its motives and pointing to the objectives which the public authorities follow in the course of a particular activity” (Rataj 2003: 126). While there is nothing wrong with an administrative information policy, the blurring of the two represents a corruption of the original intent of information access law, intended to offer the public an unmitigated and objective perspective on government activity. This distinction may only be found in a highly professional and objective bureaucratic environment. Second, the Polish bureaucracy is ill-prepared to deal with an increasingly sophisticated community of information requestors from the media, the private sector, and even other branches of the government, such as the Ombudsman. Too often in the recent past, bureaucrats have lorded over the information they manage, as if requestors had to earn a privilege to gain access to it. This attitude is hardly conducive to the disinterested objective of information flows dependent solely upon law and policy, as proposed by Rataj and others. In a sentiment echoed by countless journalists I spoke with, Rataj writes, “Misappropriation of information is still an ingrained component of
the public service's anachronistic ethos. Many within the public administration still think that the more information they keep to themselves, the more important they are" (2003: 130).

In some instances, bureaucrats base withholding on legitimate and legal avenues such as national security or privacy. Privacy is a very common reason which may seem justified, but has more often been abused. In socialist Poland, intrusion into and circulation within the apparatus of information about private lives was common. This was a complicated arrangement, since much private and informal activity occurred under the radar or in fear of government monitoring through informal exchanges of information in *środowisko* (social circles). Nonetheless, secret police forces accomplished a great deal of surveillance and intruded on privacy to the point that after 1989, the newly democratic regime made a point of securing privacy for all citizens as a key symbol of new order. Constitutional amendments guaranteed a degree of privacy from the state and legislators further bolstered the right to privacy with a law on the protection of personal data in 1997. The 1997 law established an office to protect the right to privacy, a sort of privacy ombudsman who has diligently pursued administrative and judicial secrecy concerning any information possessing potentially private data. Despite protests from information access proponents, many of whom had supported the earlier privacy initiatives, bureaucrats began to abuse privacy law to protect more information than they felt existed under the purview of privacy protection. In essence, the extensive privacy measures were used to channel information flows in directions dictated by the bureaucracy.
While a Commissioner of Human Rights, or Ombudsman, office exists in Poland, designed to protect human rights such as the Constitutionally-established right to know, that office can do little to prevent excessive secrecy. The Ombudsman will certainly support FOI in Poland and aid its cause, but the effects will be necessarily limited. The office intervenes on behalf of citizens who are victims of injustice and brings these cases to the attention of Parliament and the courts, but this function can barely be considered administrative oversight. The Commissioner cannot create binding new codes of administrative conduct, so appealing to information access refusals would be lengthy and protracted. In the case of human rights intervention into information access cases, a pattern emerges of the ultimate weakness of these rights in the face of administrative power. While the right to privacy is an exception, it may only be so because it has its own administrative office and it serves the interests of the bureaucratic ethos of secrecy. But the Ombudsman faces a greater amount of resistance in such cases and must often rely on the publicity that media attention can garner.

**Conclusion: Human Rights and Reform, Inside and Outside**

While both NGO coalitions referenced human rights as a moral and ideological background for the information access law, the CMWP coalition placed itself more firmly in the environment of human rights advocacy, while the Adam Smith coalition lent more weight to administrative reform and anti-corruption. The CMWP coalition had connections to international organizations promoting human rights; the other coalition was more involved in the national Polish political arena. This distinction between the two coalitions is subtle, flexible, and based on a continuum, but nonetheless significant.
As an extension and proof of this distinction, however, the CMWP coalition’s draft bill strongly urged the establishment of a new administrative oversight office, independent of the bureaucracy, but essentially working from within the government to defend the citizen’s right to know and mediate information access refusals. CMWP received consultant advice on this matter from an international human rights NGO, London-based Article 19, which specifically addresses FOI and freedom of expression causes. Further, they used international models of FOI ombudsman offices derived specifically from Canada and Ireland. The Adam Smith coalition, on the other hand, strongly criticized this idea exactly because it would involve the establishment of a new administrative office. Administration was the problem, as they saw it, and they intended the access law as further reform against bureaucracy, not as a means to create even more and elaborate administrative processes. For these reasons, they proposed the eventually successful plan to send all appeals to the courts. While both sides recognized the problems with court appeal, namely that Polish courts are ineffective, slow, and sometimes susceptible to corrupt influence, the Adam Smith coalition was so strongly opposed to more bureaucracy that they chose court appeal as the lesser of two evils.

Another key difference between the two coalition rests in their willingness or refusal to work from within the government, the Adam Smith coalition eventually working closely with the Chancellery while the CMWP coalition completely refusing such an alliance. And within the government, the Prime Minister made the explicit decision that the government should not work on the law, but instead that he would contribute to the development of and lobbying for the bill as a private citizen. In a sense, the Prime Minister, despite his insider status, still attempted to create a measure of
distance from the apparatus. As Rataj explained, “We knew this project had to retain its
civil character and that was a result not only of a certain moral or ideological attitude, but
from a political point of view as well…the administration already felt that the law would
be against their interests, so it would be like asking the wolves to accompany a flock of
sheep.” Outside the government, “civil” here refers to a degree of independence and
open-minded reform, while inside the government is understood as complicit, traditional,
and stubborn. Hence, the CMWP coalition rejected any sense of compromise and the
Prime Minister, according to Andrzej R., fully understood and accepted the coalition’s
desire for complete independence. The result is a seeming paradox: the only manner in
which to get administrative change accomplished is from within, the insider connections
of individuals like the Prime Minister, but the only manner in which to reflect on better
administrative reforms is from an outsider perspective. Yet, reforms such as the
information access law are accomplished anyway.
Chapter 5:

Broader Context and the International Proliferation of FOI

What is Freedom of Information? Is it an idea? A technique? A model? Most FOI advocates call it a misnomer, as it fails to make information flow freely and rarely is without a fee. In addition, each country has its own version of the law, so how much can a particular law differ and still be called FOI? In Poland, Parliament rejected the title because it failed to accurately describe the statute, which had to be renamed the Law about Access to Public Information. How can we best describe the international commonalities? And if it is a truly international phenomenon, then what kind of international phenomenon? How does it proliferate and why?

Helen Darbishire is writing an email from Chile. The former head of the Open Society’s FOI/Freedom of Expression Initiative, Darbishire is helping a group called Pro Acceso research and conceptualize a national FOI law for Chile. From Santiago, she writes an email to the FOI advocates listserv, a private email list with an international scope:

Dear All
Colleagues from Pro Acceso here in Chile need urgent help with comparative information to support arguments for the draft law to establish an FOI commission.
Here are the questions ... your answers asap would be much appreciated as we are meeting with presidential candidates later this week and are trying to pull together some data!
1. Does your FOI law establish appeals mechanisms other than the courts? If so, what are they?
2. If you have a commissioner or ombudsperson? If so, is it a general human rights ombudsperson or a dedicated FOI Commissioner?
3. If you have commission / commissioner / ombudsperson, which of the following powers/responsibilities do they have: review of refusals to provide information, mandate to negotiate with public authorities to resolve refusals to
release information, power to order release of information, standing to take public bodies to courts if they don’t release information
4. Also, does your commission / commissioner / ombudsperson have mandate to do any of the following: train public officials on the FOI law? establish regulations and guidelines on implementation of the law? raise public awareness of the law? collect information on how public bodies are implementing the law and report to parliament?
5. If you have commission / commissioner / ombudsperson who appoints them? the president? the prime minister? the parliament (or congress or senate)? the King or Queen?
Many thanks and greetings from Santiago de Chile
Helen

About a half hour later, the list had received a response from Diana-Olivia Calinescu,
Acting Executive Director of the Romanian Helsinki Committee. She writes:

Here is the situation in Romania:
1. The only other possible appeal than the courts is the administrative complaint, addressed to the head of the public body which denied information. It is possible to file only prior to a court complaint.
2. We have a general human rights ombudsperson, no specific tasks as regards FOI.
3. None of those.
5. The ombudsperson is appointed by the Parliament.

By the end of the next day, at least a dozen FOI advocates from various countries around the world had contributed answers to the same five questions. These emails are compelling for what they explain about the international FOI scene, the current proliferation of FOI laws worldwide, and the manner in which ideas about FOI get transmitted internationally. Why does Helen Darbishire not have such comparative data readily accessible? And why are all of her questions directed towards legal frameworks of the law, with only one sub-question directed toward the public’s use of FOI? What is the purpose of the data inquiry and why does this Chilean group want to influence presidential candidates? And what about places like Romania? What does that country’s
poor oversight capabilities teach Chile and how could Romania benefit from the international community?

The FOI advocates list functions as a forum to discuss and theorize Freedom of Information in universal, international, and analytic manners. Over the course of many months following the list’s discussion, it has become clear to me that no country’s FOI law serves as a privileged model for international FOI advocates. Instead, advocates constantly search for best practices and particular situations that operate best across different contexts. The simultaneously universal and specific foci of discussions, tracking FOI’s proliferation while sensitive to particular locales, define the emergence of this global phenomenon throughout the course of the end of the 20th century.

Could a theoretical apparatus, such as Latour’s “immutable mobile” – a technology having “the properties of being mobile but also immutable, presentable, readable and combinable with one another” (Latour, 1990: 26) – or Collier and Ong’s “global assemblage” – “sites for the formation and reformation of what we will call, following Paul Rabinow, anthropological problems...domains in which the forms and values of individual and collective existence are problematized or at stake, in the sense that they are subject to technological, political, and ethical reflection and intervention” (2005: 4) – help clarify this international proliferation? This chapter traces the history of the emergence of FOI laws, philosophically in the Enlightenment, and concretely in the administrative and bureaucratic states of Sweden and the United States, before returning to the models and structures of FOI law finally adopted by Poland. Throughout, the chapter carefully distinguishes between different types of information flows within different types of systems: informal systems, public spheres, and bureaucratic-level
systems of records. In doing so, the chapter touches upon, but does not fully or
extensively explain, a genealogy of information as it impinges on the development of FOI
laws internationally.

The Swedish Case, the Enlightenment, and Realpolitik

According to FOI advocates worldwide, the FOI model originated in Sweden in
the 18th century. Scandinavia continues to represent the ideal for transparent government
today. The President of Transparency International Polska, for example, in explaining
the importance of the information access law to democratic traditions, pointed out, “It is
valuable still to remember that the oldest act of law concerning access to information
reaches back to the second half of the 18th century. It sounds improbable, but it is true. It
was the Swedish law, which today has the rank of constitutional power” (author’s
translation, 2002: 11). Even within the bureaucracy, a spokesperson at the Ministry of
Internal Affairs pointed to Scandinavian bureaucracy as a model for how he wished
Polish bureaucracy could function.

But the Swedish example, though widely cited as an origin story, rarely gets
discussed in a manner that reveals the subtleties of its history or genealogy. For the most
part, broad generalizations or weak connections tie the Swedish law to Enlightenment
ideals. This has created a contemporary mythology, making it unclear whether 18th
century Sweden represents an enclave of very forward-thinking social reformers or a
nostalgic topos that has reframed a past environment. In certain places, some of the more
scholarly FOI advocates have explored the historical origins of FOI in Sweden. For
example, in the Freedom of Information Review, a small journal published six times a
year with an editorial board of renowned international FOI figures, journalism law professor Steven Lamble recounts the Swedish origins of FOI through the biography of Anders Chydenius (1997: 2-8). In 1765, when Finland and Sweden still constituted a single constitutional monarchy, the Finnish clergyman was elected to the Swedish Parliament. Chydenius had studied a wide range of courses at the University of Uppsala in Sweden, graduating with a master of arts in 1756. He furthered his scholarly pursuits in coordination with his legislative work and in 1765 authored *The National Profit*, promoting absolute free trade throughout Sweden. While Chydenius’s work was not translated into English at the time and therefore probably had no influence on Adam Smith, his parallel ideas on free trade and markets actually preceded *The Wealth of Nations* by 11 years. Upon joining the Swedish Parliament, Chydenius proposed sweeping democratic reforms, including the end of censorship and the establishment of rights such as freedom of the press and freedom of information. While Chydenius was influenced in these ideas by his contemporary Enlightenment philosophers, he was also, according to Lamble, influenced by the Chinese Tang Dynasty (7th-9th century A.D.), particularly its establishment of an “Imperial Censorate.” This Imperial Censorate was made up of scholars who recorded and noted all government operations and were allowed to freely criticize the Emperor. According to a pamphlet Chydenius wrote in 1766 entitled “Report on Freedom of the Press in China,” emperors were expected to “admit their own imperfection as a proof for their love of the truth and in fear of ignorance and darkness” (quoted in Lamble 1997: 3). While Lamble’s argument for a 7th century influence is debatable, though innovative, most FOI advocates at least agree that the
motivating logic for Sweden stemmed from Enlightenment discourses promoting democracy.

Yet, no Enlightenment philosopher ever explicitly discussed the concepts surrounding freedom of information, particularly in terms of FOI as an administrative technique. They certainly spoke about press freedoms, freedom of speech, and the rights of citizens to hold elected officials accountable. Thomas Blanton offers us a handful of such sentiments in a 1995 talk, quoting, for example, Jeremy Bentham: “Secrecy, being an instrument of conspiracy, ought never to be a system of regular government” (Blanton). He further outlines the ideas behind FOI as a product of rationalism and liberalism in the Enlightenment, “liberal thinkers, utilitarian thinkers, rationalist thinkers.” For most 20th century FOI advocates, FOI appears as a natural outgrowth of Enlightenment thought on democracy. For example, in America, arguments promoting an information access law touched upon the same discursive and metaphorical tropes deployed by Enlightenment thinkers to promote democracy. Specifically, they spoke of the process of revealing truth to the public as a movement from darkness into the light and of greater openness as a form of progress of civilization.

But while Enlightenment philosophers deployed metaphors of lightness versus darkness to appeal to a conception of truth, they further postulate ignorance or tyranny as the opposite of truth and democracy. This is different than claiming that truth is diametrically opposed to excessive *administrative* secrecy. Rather, it could serve as an argument for general accountability and working for the public interest, but offers no equation for how accountability and the public interest might function as an administrative technique, especially not in reference to information access.
Lamble neither provides a linguistic genealogy of the term “Freedom of Information” as it stems from the Swedish context, nor any sense that the original Swedish law was similar to or different from contemporary forms of governmental transparency. Rather, Lamble’s argument, widely supported throughout the international FOI community, links Chydenius, and Sweden generally, to contemporary FOI law in spirit alone. But the concrete linkages are unclear and uncertain. The largest obstacle to articulating FOI to Chydenius, the Tang Dynasty, or Enlightenment discourse is the nature and definition of “information” within administrative organs of the state in the 18th century (or 8th century China) as compared to the late 20th century when FOI laws seriously began to proliferate worldwide.

As opposed to Lamble’s ideological and philosophical reading of Chydenius’ role in crafting the Swedish FOI, Blanton describes the passage of the Swedish law in terms of political infighting and realpolitik. Reflected on the origin of Swedish FOI, Blanton states:

The first freedom of information law in the world actually pre-dates, came before, both the French and the American Revolutions, so so much for all that philosophical history I just gave you… Sweden, in 1766, passed a Freedom of the Press Act, which legalized the publication of government documents, and provided for public access to government documents. 1766. The reason was not Jean-Jacques Rousseau. The reason was realpolitik. Sweden enjoyed an extended period of parliamentary rule between about 1718 and 1772. And the new majority party in 1766 wanted to see the documents which the previous government had kept secret. Two hundred years later the United States passed its Freedom of Information Act for very similar reasons.

Lamble argues the opposite, that the Swedish FOI was inspired by Enlightenment ideas, not of Rousseau or any other famous philosopher, but by the Finnish clergyman Anders Chydenius. Blanton explicitly rejects such a hypothesis and claims that the only motivation behind the original Swedish law was partisan politics.
If we allow that FOI bears traces of the influence of the ideas and philosophy of the time period, a connection appears evident between Swedish FOI and the tradition of the Enlightenment. But Blanton reflects on the slippery connections between ideas about accountability and FOI law, stating:

In my research for this presentation, I came across what was, for me, a very surprising statement from a very highly placed Japanese source on the subject of open government and the need for open government, and I'll discuss that in a moment. And the reason I was surprised by that statement is that, up until now, I have always understood the idea of freedom of information to be a product of the rationalism and liberalism of the enlightenment, and particularly the ideological trend from the French Revolution on the rights of man, and the American Revolution on the checks and balances against government power... The quote was, "Open deliberation shall be carried out, and all affairs of state shall be disposed of in conformity to public opinion." This was the first of the five imperial oaths uttered by the new Japanese emperor, on 14th March, 1868, at the beginning of the Meiji Restoration. Now, is this Meiji freedom of information?

So, the more focused question is whether any conceptual/philosophical reference to accountability constitutes "Freedom of Information," or is FOI the product of more specific historical conditions? From this perspective, Lamble's argument for a connection between the Tang Dynasty and contemporary FOI appears patently absurd.

Certainly, both the abstract and particular are crucial to understanding any historical development, but do similarities of ideas from different places and times constitute a concrete connection? After all, the Swedish law did not inspire the American law.

Lamble argues in another essay that "US legislation was originally based on Swedish statutes" (2003: 51), but presents no solid evidence of this basis, other than a footnoted reference to Rowat (1979). Rowat, however, offers little more than a note that Sweden preceded the American law, but does not offer an argument for Swedish origins. In my discussions with FOIA experts, this linkage was refuted. Further, I have found no such evidence in my research. If Blanton is correct and both the Swedish and American laws
are the result of realpolitik, then this would imply that FOI laws are highly specific to a political climate. This is fine, but it still fails explain the proliferation of FOI throughout the world in the late 20th c. and not in another era of history.

Rather than examining this history as a decision between realpolitik or a philosophical inspiration, we should understand the situatedness of FOI law as an administrative technique, thus problematizing the nature of “information” within Freedom of Information. Beniger (19XX) offers a useful history of the transformation of information, as well as the emergence and proliferation of bureaucratic government administration in the 19th century. While bureaucracy had already emerged in specific locales throughout history, its development in the 18th and 19th century was unique in its scope and coherency among Western nations. In the United States, government administration expanded enormously during the 19th and early 20th centuries as a result of disparate causes, from economic growth to the New Deal’s government programs to battle unemployment. Increasingly, bureaucracy was impacting citizens’ everyday lives in unprecedented ways resulting in a growing administrative structure and an increasingly relevant collection of informative records. Government-held information not only concerned higher-level governmental functions, such as diplomacy, but also private citizen information (Cross 1953). As a result of expanding bureaucracy, an administrative management and reform movement in the 1930’s and 1940’s in the United States led to new forms of bureaucratic structures and information flows, later bringing about a new technique called FOIA in 1966.
FOIA History in the US

The history of the United States FOIA incorporates and synthesizes multiple levels of analysis from its origins in the philosophy and morality of the Enlightenment to the realpolitik battles of Democrats against Republicans. FOIA is an administrative technique and mode of reform. Its early conceptualization deploys a historically specific epistemological subject, the cyborg or information-processor. It offers a broader portrait of the environment of FOI’s emergence in the late 20th century, influenced by and produced within a Cold War security order. Further, the history of FOIA exemplifies a transformation of FOI law from a highly moralized discourse into an institutionalized instrument, a transformation which mirrors the development of anti-corruption policy as documented earlier.

Former Executive Director of the Associated Press Kent Cooper played an important role in advocating for greater information access in the United States, helping bring about the passage of the Freedom of Information Act. Cooper also coined the phrase “the right to know” in an address at Temple Emanu-El in New York City in 1945. His 1956 book, also called The Right to Know, begins with a chapter titled “Up from darkness,” followed by the chapter “into the light,” where Cooper describes the “long road to civilized enlightenment” (4) culminating in a social environment of transparency, pluralism, and the liberation of knowledge. Cooper tells an epic tale of enlightenment out of the dark ages that contains sweeping generalizations about the stages of human existence. For many thousands of years, the majority of humans supposedly lived a life with nothing to hope for, no material reward, simply “grubbing” for a livelihood. In need of a palliative to comfort, religion was invented: “Religion thus played its great role
in man’s mental evolution, for it taught him to think, and as he thought he wondered if there was not a very great deal that he ought to have the Right to Know” (5). As writing was established and news could be posted in populous centers, a patriotic homogeneity developed in places such as ancient Rome. The renaissance brought an urge to communicate the teachings and experiences from scholars throughout the centuries. Cooper singles out the printing press as the revolutionary invention that, among other things, brought about the struggles for “the right to print” and freedom of the press. Cooper also explains where the impulse to know originates: “An intensely human trait which we call curiosity carries with it the urge to know” (9). In countries where a single ideology predominates, pluralism will result as a natural outcome of this universal quality of mankind: “But what all such governments will learn sooner or later is that, the more they try to educate their people exclusively to accept the one ideology, the more curious the people become and the sooner they will strike down restraints that limit their knowledge” (9). Arguing for a constitutional amendment guaranteeing a public right to know, Cooper still maintains that in the United States and other “free press” countries, “the long road from savage darkness to freedom and civilized enlightenment had been traveled!” (13). Here, Cooper elucidates the cultural origins and foundation for the right to know, a discourse firmly located in Enlightenment modernity as opposed to traditional, savage, or “dark” societies.

Because these tropes of openness and information access contra secrecy and darkness articulate to modernity and enlightenment, we can understand information access laws as a uniquely contemporary happening. This does not necessarily verify or support Cooper’s dichotomy between modern societies, in the light, and pre- or non-
modern societies, in the dark, but leads towards understanding a discourse that has emerged in the contemporary world. As FOI was not an integral part of the Enlightenment’s democratic philosophies, we can better pinpoint its origins and proliferation as a uniquely contemporary event. The Constitution of the United States, for example, failed to include specific reference to FOI or a right to know. Since that time, the United States has not amended its Constitution to include this right and no movement currently advocates for an amendment because a number of government openness statutes exist, including FOIA. The existence of a specific “right to know” remains under debate although many advocates describe the right as an extension of various sections of the Bill of Rights, especially the First Amendment. Although these legal theoretical debates may appear eternal, or at the very least 18th century Enlightenment-specific, FOI and “right to know” movements in America did not explicitly begin until shortly after the end of World War II.

In the 1950’s, the American Society of Newspaper Editors (ASNE) formed a Freedom of Information Committee to battle government secrecy. ASNE legal counsel Harold Cross prepared a report for ASNE confirming that basic government information was being denied to the press and, by extension, to the American people. He concluded that government disclosure was unsystematic and often biased against disclosure to newspapers. James Russell Wiggins, chairman of the FOI Committee, forged a strategic relationship with Representative John E. Moss (D-Calif.), eventually leading to a legislative attempt to garner a more open government policy of information disclosure (much of this historical sketch is derived from Foerstel 1999 and Archibald 1993).
The US government had released information to the press and to the public with great caution during World War II. After the war ended, the government continued many of its wartime information restriction practices. In the early 1950’s, President Eisenhower created the Office of Strategic Information (OSI) within the Department of Defense to work with the business community in ensuring that unclassified strategic data would not be leaked to foreign nations. OSI’s information withholding category, “strategic information,” combined with previous classified information categories and the OSI’s exploitation of personal relations with newspaper editors, resulting in an unprecedented degree of government secrecy. In March 1955, Secretary of Defense Charles E. Wilson directed that in order for information to be made public, it must both meet security requirements and embody a “constructive contribution” to the DoD’s efforts. ASNE responded with derision. Wilson’s assistant R. Karl Honaman replied to the FOI committee’s complaint against Wilson by stating that press requests were a waste of time and that newspapers should voluntarily refrain from writing stories that could aid the Russians. The lines of this conflict outlined by Honaman pitted FOI against American strategic interests and national security.

The battle between the journalists and the DoD bureaucracy may have directly led to the Special Subcommittee on Government Information, referred to simply as the Moss subcommittee for its chair, California Democratic Representative John E. Moss. In May 1955, Wallace Parks, staff attorney for the House Government Operations Committee, called attention to the recent conflict between the press and DoD to Committees Chairman William Dawson. Parks proposed a House committee on information, naming Moss as possible chairman. Moss suggested Parks approach House Majority Leader John
McCormack, Democrat from Massachusetts, for support. McCormack, who had been looking for a way to challenge Eisenhower and was also upset over the administration’s lack of disclosure to Congress, fully supported the committee. In June 1955, the subcommittee began its deliberations on whether government agencies denied access to important information to the media and the American public. Journalists provided testimony and the arguments of Cross (1953) garnered support for a Constitutional right to access to government information from the subcommittee. Moss also gathered instances of government secrecy and demanded explanations from accused agencies to justify withholding information. Rather than following McCarthy-style witch hunt tactics, Moss purposely deployed a more careful and cautious approach. He created a four-page questionnaire on withholding and sent it to all agencies with the purpose of gaining a better understanding of their common practices. The result was a composite picture of blatant and arbitrary government secrecy. Needless to say, journalists were delighted at Representative Moss’s findings. Further, the subcommittee made government secrecy a major political issue, allowing Democrats to criticize the Eisenhower administration. The 1956 Democratic Party platform included the freedom of information. Although the “paper curtain” had been revealed, the Moss Subcommittee asked for little more than greater voluntary disclosure from federal agencies. The press, on the other hand, began arguing for immediate legislation requiring the government to be more systematic and open on the issue of access to information. As a result, Congress amended older laws used by the government to justify withholding information, but failed to create a new law to guarantee a systematic release of information.
The Moss Committee explicitly understood "information" in terms of bureaucratic records and established administrative procedures. At that time, government agencies utilized two laws to justify withholding this type of information from the public. The Administrative Procedure Act of 1946, established to organize agency information systems, required disclosure of federal records except in cases involving required secrecy or internal management. However, the Act failed to detail disclosure requirements, thus allowing agencies to justify excessive withholding. An even more obscure and creative justification for secrecy was the Housekeeping Act, a 1789 statute from the George Washington administration regulating agency coordination. The failure of legislation to properly address the post-WWII information situation demonstrates a transformation in the politics and implications of information in that milieu.

Administrative restructuring in the 1940's set up the bureaucratic contexts of standardization and accountability that set the stage for FOIA. In present-day America, federal administration is under the joint custody of Congress and the President. However, this situation was not always the case. As Rosenbloom (2001) explains, a trio of administrative acts passed by Congress in 1946 effectively re-appropriated control over federal administration by Congress. These laws include the Legislative Reorganization Act, the Employment Act, and the Administrative Procedures Act (APA). Rosenbloom succinctly states: "The result was an institutionalized vision of 'legislative-centered' federal administration in which Congress treats the agencies as its extensions for legislative functions, supervises them, and intervenes in their decision-making through casework and other forms of constituency service" (2001: 773). The 1946 Congress was responding to its (over-) delegation of authority during the New Deal and
WWII, in combination with the development of an enormously powerful federal administration. Some legislators seriously discussed the necessity of Congress’ existence because of the federal administration’s power. The American democratic ideal of checks-and-balances was, in some sense, at stake. Rosenbloom breaks the administrative reform into three components. One, the redefinition of agencies as extensions of Congress due to their legislative functions. Two, the need for agency oversight by Congress. And three, the ability of Congress to intercede in agency decision-making and interject district-specific and constituency-specific interests. Most important for FOIA was the first component because if agencies were considered an extension of Congressional legislative power, then they must be held to the same accountability as Congress. Further, they would be required to standardize their rule-making procedures across the entire bureaucracy. The APA, specifically, was intended to increase transparency amongst federal agencies. In 1966, it was amended with FOIA, applicable only to federal agencies in the executive branch.

From an administrative perspective, FOI was not possible until flows of information became standardized. This standardization was a reaction to an increasingly large, complex, and unwieldy federal bureaucracy structure. According to Beniger (19XX), the size and specialization of governmental bureaucracy that emerged during the 19th century was unprecedented in scope and organizational capacity. Further, its emergence specifically led to the creation of the modern day Information Society and Economy, due to a “crisis of control” resulting from complexity and specialization of function. The emergence of an increasingly complex bureaucracy played a key role in creating standardized information forms and flows, resulting in, if not simply making
possible, smoother information flows.

In the aftermath of World War II, the press was protesting a lack of information and the difficulties of gathering accurate information as a result of an information order articulated through Cold War security. The problems were multi-faceted. American security adopted a policy of containment to both stall the spread of communism as ideology and to protect capitalist countries from communist ideology. In different locations throughout the world, this Cold War battle took on different forms. Since ideological battle occurs through convincing hearts and minds, as opposed to physical force, information, especially in the form of journalism or history, became an important site for strategic interest. In response to potential threats of espionage rings infiltrating the American government and passing sensitive defense and nuclear arms information to the Soviet Union, Moynihan (1998) has described the emergence of intertwining forces of secrecy and bureaucracy in the Cold War era. While he harshly criticizes McCarthyism and the Red Scare, Moynihan also acknowledges that there existed real cause for concern, less from ideological infiltration into the United States government than the flow of sensitive information to American enemies. However, because the intelligence bureaucracy overreacted to many of the threats posed by the Soviet Union, Moynihan finds that the general public did not and continues not to know about many stories which he firmly believes would have never had any adverse affect on American national security. Information access was strongly disrupted both by the fervor of the Red Scare and a general incompetence of the intelligence bureaucracy.

Additionally, the development of the nuclear bomb during WWII led to new forms of information security. Threats were no longer limited to battle fronts, but also
included a wider scope of sites and topics. Hence, researchers, bureaucrats, and defense agencies produced more information concerning nuclear warfare and more information was classified as secret under the category of national security. According to Blanton, "the new field of nuclear physics produced the first modern official secrecy system at the beginning of World War II" (2003: 39). Following the end of the war, Blanton goes on to attribute the rise of the "national security state" (see Relyea 1989) to three sources, "the initially voluntary restrictions created by the Manhattan Project scientists on nuclear weapons information as early as 1940, the total mobilization of U.S. society during World War II, and the institutionalization of these procedures in peacetime by the Cold War apparatus, especially the National Security Act of 1947" (2003: 39).

Blanton specifically argues that such a national security state, which would have adverse effects on access to government information, simply did not exist before World War II. Even the ubiquity of classification was not present. For example, he explained that in 1930, "America's entire cryptologic body of secrets – personnel, equipment and records – fit comfortably in a vault twenty-five feet square." Following WWII, the number of classified records would skyrocket into millions per year.

When Herbert Brucker coined the phrase "freedom of information" in the 1940's, he did not refer to the administrative technique which later adopted this moniker, but to a more general concept of objective and unbiased information in a free and open society. His 1949 book of the same title reported on the condition of openness in the United States and its potential threats, as well as drawing unflattering comparisons to the Soviet system of censorship and propaganda. In arguing for freedom of information, Brucker did not simply suggest reform, but explicitly stated that because a democratic system required a
well-informed citizenry, the fate of the free world actually depended on free flows of information. He laid aside the contradictory conflict between this principle of democracy and the need for security by largely overlooking security interests, stating, “We must somehow get into our heads a reasonably accurate facsimile, at least, of the real world. The survival of democracy is predicated on our doing so” (1949: 6).

In outlining his theory of freedom of information which would later serve as a theoretical backbone of the FOI movement, Brucker utilizes an epistemological model of subjectivity which Haraway and Edwards would later refer to as “cyborg discourse.” Cyborgs, according to Edwards, have “minds and selves reconstituted as information processors” (1996: 3), and cyborg discourse includes forms of knowledge which emerged during the post-WWII, Cold War environment and utilize the model of the cyborg as a model for subjectivity. According to Edwards, this represented a new development in the way that human behavior and practice is understood, is best exemplified in the new cognitive sciences and the unifying theories of cybernetics. Brucker touches upon similar metaphors to describe the bedrock from which his analysis stems, positing:

two fundamental truths: first, that a fact that cannot reach a man’s mind from the outside world simply does not exist, as far as he is concerned; and second, that what a man has in his head as a fact is a fact, as far as he is concerned, whether or not it exists in the world outside. On these two truths, all that follows in this book is based. (Brucker 1949: 4)

Brucker describes epistemology as if man were a machine with a memory storage device inside of his mind, thus quantifying knowledge as information. Inside of the mind exists a simulation or model of reality which may or may not coincide with reality. This epistemology differs from a qualitative-oriented epistemology which might rather stress subjective transformation through education or information access. Instead, Brucker
suggests that different epistemological perspectives stem from unequal flows of or access to information, that all men are equally apt to understand reality as it really is, so long as freedom of information exists and is equal for all. No longer does a democratic citizen require proper cultivation, but simply access to full and accurate information so as to inform voting decisions and rational public opinion. The cyborg subject plays an important role in explaining how FOI could become such a forcefully obvious requirement in post-WWII democracy.

In 1961, President Kennedy asked the press to voluntarily censor themselves because “in time of ‘clear and present danger,’ the courts have held that even the privileged rights of the First Amendment must yield to the public’s need for national security” (Kennedy quoted in Foerstel 1999: 37). Journalists were outraged. Some outright rejected Kennedy’s request for news control. Reporters agreed that the Kennedy administration represented a low point in history for the freedom of information and freedom of the press. A news management policy clearly existed within the administration, a policy that, in subtle and indirect ways, had been quite successful in spoon-feeding the American public official news. Merely changing existing statutes, as the Moss Subcommittee accomplished in the 1950’s, would not suffice.

After several years of observing the effects of these amended statutes, it became clear to Moss and other FOI advocates that information access required further bolstering. In 1966, Moss led the way in legislating FOIA, but not without resistance from, among others, President Johnson. Opponents argued that FOIA not only threatened national security, but that it represented mistrust. According to Attorney General Ramsey Clark: “‘they thought it implied that they weren’t trusted and they feared that the FOIA
would force them to work in a gold fish bowl, observed by the public” (quoted in Foerstel 1999: 44). Others within the bureaucracy supported FOIA because they felt secrecy was a greater threat to national security than openness. In 1966, the legislature passed the US Freedom of Information Act and on July 4th President Johnson, despite his own objections, signed the bill into law. While further amendments strengthened the act over time, the FOI movement gained a moment of official recognition that still serves as a model for other FOI laws worldwide.

The original 1966 law failed to deliver more than a symbolic sentiment of government transparency because of three main weaknesses. First, it did not demand a timeline for compliance with requests. An agency could sit on a request indefinitely. Second, the law did not stipulate penalties for violation. No enforcement agency oversaw agency transgressions. Third, the law failed to draw limits on requestor fees. The State Department, for example, once charged a requestor 10 dollars per page to photocopy a pamphlet. Without strict limits on time, transgression, and fees, the strength of the 1966 FOIA was extremely limited for a requestor. The transformation of the law from symbolic transparency to an effective access instrument required a different type of political action than that which first created FOIA. Claus Offe’s distinction between old and new paradigms of political action informs the history of this transformation. While the original law relied on the leverage of John Moss and the public legislative committee, the amendments of 1974 and 1976 were motivated by Ralph Nader’s activism and public objections to government secrecy in light of the recent Watergate scandal. ASNE maneuvered private connections to initiate the Moss Subcommittee. Nader organized 100 student aids and arranged visits to federal agencies resulting in a comprehensive
analysis of agency FOIA compliance. This type of public political action by private citizens resonates with Offe’s characterization of the New Social Movements. Offe claims that the new paradigm of politics no longer rests on the simple dichotomy of Left and Right, nor does political action rely solely on the activities of the political parties, Democrat or Republican in the US. Nader’s form of activism and FOIA advocacy, like Offe’s NSM’s, represents a politics of neither Left nor Right, Democrat or Republican, but an issue of individual liberation and the values of autonomy and independence. A 1972 House Government Subcommittee on Foreign Relations and Government Information, the successor to the Moss Subcommittee, further reinforced Nader’s cause by concluding that the federal government failed to successfully implement FOIA. The major impetus for the strengthening of FOIA came not from public, but private interests. As Nader himself explains:

We were the main outside factor on Capitol Hill on this issue [the amendments]. The media liked the idea, but they weren’t really lobbying on it...We tried to take advantage of the Watergate reform atmosphere, which had put words like secrecy, coverup, hush money, etc. in the headlines. We pointed out to Congress that the culture of secrecy in the executive branch would taint the legislative branch as well by allowing abuses to fester, at which time Congress would be blamed...There were a lot of congressional allies, most of whom are gone now, and there were people from the consumer protection and environmental movements along with worker safety allies. (quoted in Foerstel 1999: 48-49)

Due to pressure from this coalition of NSM’s, FOIA was strengthened through amendments guaranteeing lower fees, in camera judicial review of contested documents, judicial sanctions against “arbitrary and capricious” withholding, partial segregation of exempted portions of documents, narrowed definitions of classified and law enforcement information, a greater number of agencies pertaining to the act, and specific

\[12\] Also known as “redact,” the infamous black marker form of censorship
periods of response time for requests, appeals, and lawsuits. These amendments characterize the attributes of the FOIA process today and serve as a model for FOI laws worldwide.

From Cooper’s moral indictment of secrecy, FOIA advocacy changed into Nader’s institutionalized reform movement. Nader was the last step towards ensuring an effective, routinized, and streamlined FOIA for citizens and bureaucrats alike. Accompanying this process, FOIA discourse has been overtaken by lawyers and legal logic, constantly refining the finer points of the law and establishing precedents cataloged in places such as the Department of Justice’s *FOIA Handbook*. The *Handbook*, now updated on an almost yearly basis, informs FOIA request decisions for bureaucrats and requestors. While some of these conceptual shifts in information access in America have informed other nations, the American story itself encapsulates the key transformations allowing for the proliferation of FOI worldwide. Central to the transformation is not a sudden democratic enlightenment (Blanton 2002), but dropping attention towards the purpose or use of a request – which, almost paradoxically, has made FOI useful for many different purposes – the reinforcement of citizen’s need and right to obtain information, and a re-orientation of the relationship between the state, its citizens, and state-held information.

**FOI Proliferation**

According to FOI advocate Thomas Blanton (2002), head of the National Security Archive NGO in Washington D.C., the global proliferation of FOI began in earnest due to global changes taking place during the 1990’s, what he calls the “decade of openness.”
Openness is the larger trend in which FOI exists and thrives. Specifically, Blanton makes note of the end of communism, the unprecedented declassifications of the Clinton administration in America, the emergence of truth commissions in places like South Africa and Eastern Europe, the use of the internet to bypass censorship and state-controlled media, and, of course, the enactment of FOI-type legislation by 26 different countries. Others have also observed that with the end of the Cold War, the subsequent dismantling of the Cold War security order had positive impacts on greater openness. Initially, the trend towards openness appeared to hit a road bump when the events of 9-11 brought about a worldwide war on terrorism, but aside from the US, most countries of the world have not created significant new obstacles to greater access. Blanton (2003) notes that the US embraced greater secrecy beginning in the late 1990’s. Government reports on secrecy oversight show that the number of classified documents has consistently risen since those years.

Increasingly, Blanton notes that because FOI laws do not stipulate the purpose of a request, FOI advocates are locating new uses for access laws. Blanton himself argues for several novel ideas in his essay: “Openness advocates are successfully challenging entrenched state and bureaucratic power by arguing that the public’s right to know is not just a moral imperative; it is also an indispensable tool for thwarting corruption, waste, and poor governance” (2002: 52). Hence, Blanton claims that FOI has transformed from a moral value into an instrument, a “tool” for citizens or groups of citizens to obtain goals. However, he makes this claim from an abstract and, at times, irrelevant position. In Poland, for example, anti-corruption provided the main impetus for the FOI law, but
anti-corruption is closely intertwined with moral issues. Nonetheless, the proliferation of potential uses for FOI is an important development, moral or not.

In more generalizable terms, Blanton recognizes “globalization” as the driving force behind the proliferation of FOI: “Today, as a consequence of globalization, the very concept of freedom of information is expanding from the purely moral stance of an indictment of secrecy to include a more value-neutral meaning – as another form of market regulation, of more efficient administration of government, and as a contributor to economic growth and the development of information industries” (2002: 53). Unfortunately, due to the vagaries of “globalization,” it is unclear how, why, or in what form this concept supports FOI. For certain, FOI has become one among many forms of regulating governments and international corporations, promoting or demanding full disclosure. Supranational institutions of globalization, such as the World Trade Organization (WTO), the European Union or the North Atlantic Treaty Organization (NATO), promote or at times demand greater access between and within member states. Blanton calls openness an emergent norm for democracy, a contemporary expectation for the definition of democratic governance.

**FOI Universal**

As Blanton, head of one of arguably the most influential FOIA advocacy group in the United States, readily admits, the international FOI movement is relatively disorganized. Several organizations with a degree of international appeal exist. The National Security Archive has sent its experts to other countries and has participated in international conferences related to access and free speech. The Open Society Institute’s
Legal Program runs a FOI program. The British NGO Article 19 has an international FOI program which offers aid to countries with incipient FOI laws and actually provided expert opinions to the CMWP’s draft of the Polish information access law. In addition to the handful of organizations devoted to international FOI proliferation, several websites serve as an information clearinghouse and a way for the community to read FOI news from throughout the world. Email listservs exist for individuals to post questions, queries, or state some specific problems, but the discussion is hardly brisk. In early 2005, government information officers from around the world met with FOI advocate groups in Cancun, Mexico to convene a third annual international conference on transparency and accountability. By all accounts, the conference was a success, though it is unclear what the effect of such a meeting may be. The resulting “Declaration of Cancun” consists of a reaffirmation of many of the basic tenets of FOI and transparency already elaborated upon over the past several decades. The true innovation of the conference appears to be the increasingly interconnected nature of FOI advocates inside and outside of the government, certainly marking a trend towards an increasingly coherent international FOI community.

As far as the international FOI scene works, there is no single site in which it exists. Blanton points out that, for the most part, local transparency initiatives, organized and energized by proactive individuals and small organizations, are generally more effective than national FOI statutes (2002: 4). Perhaps FOI is simply not the type of issue which cedes well to internationally-organized advocate communities. In these places and most other FOI locales worldwide, there are no marches or protests calling for greater information access. FOI is not a large-scale, population-level social movement, but a
highly specialized, expert issue which mainly concerns academic, professional, and governmental elites.

The most cohesive factor aligning FOI advocates worldwide is a common vocabulary of legal processes and legal logic. Blanton outlines five fundamentals of effective FOI statutes worldwide (2002: 56-57). These fundamentals elucidate universalizing patterns of political reorientation sought and shared by all openness advocates through common legal language:

"First, such statutes should begin with the presumption of openness" (2002: 56).
"Second, any exceptions to the presumption of openness should be as narrow as possible and written in statute, not subject to bureaucratic variation and the change of administrations" (2002: 56).
"Third, any exceptions to release should be based on identifiable harm to specific state interests, although many statutes just recite general categories like 'national security' or 'foreign relations'" (2002: 56).
"Fourth, even where there is identifiable harm, the harm must outweigh the public interests served by releasing the information" (2002: 56).
"Fifth, a court, an information commissioner, an ombudsman, or other authority that is independent of the original bureaucracy holding the information should resolve any dispute over access" (2002: 57).

These fundamentals share common concerns with the relationship of the state to its citizens in terms of information, the consistency of bureaucratic decision-making, and the accountability of the state to its citizens. But although they work in the interests of the public, they are legal concepts.

In general, the legal expert community of international FOI experts and organizations offers more weight and attention to these and other legal fundamentals as opposed to examining the social and cultural environments within and beyond the bureaucracy. If they refer to these environments, they do so simplistically, criticizing a "culture of secrecy" or promoting a "culture of openness." The dynamics of these cultures remain unclear. Blanton acknowledges this overemphasis and suggests that free media and civil
society may actually be more important than the force of more logical legal arguments, but adds that traditions of dissent and resistance may hurt the proliferation of the FOI movement because it could lead to tension in the relationship between the access community and the bureaucrats they must work with. One FOIA lawyer in America with whom I spoke about my project was excited by the prospect of such work, adding that most FOIA scholarship was quite dry and not particularly useful. However, it is not difficult for requestors in America to tap into a wealth of practical knowledge concerning the way the FOIA process really works or functions most effectively. In Poland and other countries with a new access law, such competency is not as easy to come by and may rely more so on one’s status or relationship network. Still, there exists, in Poland, a strong sense that “culture” plays a role in information access.

This artificial division between legal and cultural logic obscures two things. First, that the FOI community’s legal logic is, in fact, a cultural logic. And second, that this division actually promotes the circulation and proliferation of FOI worldwide. By moving from moral argument into a legal argument and model for how and why democratic states can establish a properly accessible open system, this discursive logic translates easily to policy elites worldwide. While the wider issue may appeal to more radical or popular reform groups throughout the world, the legal language of FOI fundamentals represents a much more advanced stage in the development of openness, a stage which actively engages the central tenets of democracy, rather than acting as vocal opposition to established tradition. Additionally, emphasis on legal logic makes FOI easily translatable. If FOI advocates expect all democracies to have a right to know,
which they consider a universal right, then no particular cultural context should prevent the proliferation of FOI laws.

This process of transforming moral discourses of resistance or reform into acceptably “logical” discourses such as economics or law may precede any effective movement or circulation of policy initiatives throughout the world. This helps explain the specific groups who brought FOI initiatives to Poland, both were connected to international logic communities, though not necessarily the international FOI community.

The Uses and Motivations of FOI, in Poland For Example

In many countries throughout the world, especially those with FOI laws prior to 1990, corruption did not instigate the adoption of FOI laws. Rather, these states recognized FOI as an integral element of a democratic system, though this newly recognized element did not generate law by itself. The fundamental nature of openness within democracy represents a relatively new shared logic that demands we question basic assumptions and central tenets of freedom of information. First, from the history of the origins of the Information Society, we know that as late as the mid-19th century, information was not problematized in either political, social science, or scientific discourses. According to Beniger, this “illustrates how recent and nonobvious are concepts like information, programming, decision, and control” (1986: 45). This is not an argument for the “social construction of information,” but an examination of the changing dynamics of information, particularly within the organizational contexts of emergent bureaucracy and global capital. When we talk about Freedom of Information, what exactly do we mean by “Information”? Second, if FOI is central to democracy,
then why were such initiatives excluded from the constitutions or legislative acts of the vast majority of democratic states established in the 18th and 19th centuries, with the sole exception of Sweden? The answer for this second question has much more to do with the answer to the first question than it does with any meaningful transformations in democratic theory. However, the history of democratic states in the 20th century is also quite relevant, especially as it relates to the Cold War.

The Accepted Logic of Anti-Corruption

Henryk Wujec was a senator when the Sejm passed the Law on Access to Public Information in 2001 and he served as the chairman of the special Sejm commission to develop the law. He was a key figure in this process, I was fortunate to have had an opportunity to meet with him and discuss his role, as well as the wider ramifications of information access for Poland. The law, he felt, was an especially sweet success in relation to his many years struggling for the democratic resistance movement during the 1970’s and 1980’s. Henryk Wujec is nothing short of a legend for his leadership during that time.

Several weeks after our meeting, I again encountered Wujec. I had been invited by a friend to a meeting on civil society in the EU at the European Economic Forum. There, in the basement of the Warsaw School of Economics, I had a few appetizers in the reception room and stopped to talk with a number of different people. Upon seeing me, Wujec walked over to my conversation and immediately picked up our earlier interview on its most contentious point, a point that had either irritated his sensibilities or intrigued his curiosity.
"The Law on Access to Information, how can you not say it is for fighting corruption? This is obvious."

I had actually raised the question as a devil’s advocate, skeptically questioning what I had begun to feel was an accepted logic. "Well no, I think it’s possible, but it’s not certain to do that. Freedom of Information everywhere else is not at all about fighting corruption."

"Well what about in America? Your law was a response to the corruption of Watergate."

"Actually the US Freedom of Information Act is from ’66. Watergate happened in ’73. But they did strengthen the bill at that time."

Wujec was reluctant to agree with my historical point, "It makes no difference, it is for corruption. It is obvious."

The logic shared by anti-corruption advocates is straightforward. An information access law brings about greater transparency in the activities of public officials, thus helping reduce the possibilities that illegal acts can occur. Because anti-corruption experts assess corruption as a problem of opportunities versus payoff, a more transparent environment makes corrupt activities more risky, thus decreasing the overall rate of such behavior. In theory, this sounds promising and it may be the case that information access legislation, in conjunction with other transparency measures, may result in a more transparent bureaucratic environment and subsequently, less corruption. However, no studies demonstrate this and very few anecdotal examples support this finding, either. It may be more likely that FOI can help by making a potentially corruptible bureaucrat think twice about taking a bribe or making an illicit deal, in which case the bureaucrat
would probably remain silent about their second guessing. On the other hand, there remains the possibility that corrupt bureaucrats will simply find another way to get around a system which will always have some degree of secrecy. If corrupt activity occurs in an unofficial manner within an official environment, the bureaucrat will not generate any information concerning the illicit transaction. Without documentation, what type of request could a citizen make to discover the bureaucratic corruption? One might demand that corrupt officials create information about corrupt activities within their department, but such self-incrimination could only appear absurd.

Despite, or rather in complete neglect of such logical arguments, Poland’s anti-corruption organizations all sought to pass information access legislation as a positive addition to the growing strategy of anti-corruption initiatives. Andrzej Sadowski, vice president of the Adam Smith Research Center, spoke with me at length concerning his coalition’s research on corruption and its arrival at a strong connection between fighting corruption and greater transparency. “There’s one conclusion,” he said. “Corruption is an effect of depriving citizens and civil society of access to public information.” While the anti-corruption experts admitted that no single law alone would bring an end to corruption, they all shared the optimism that the information access law represented an important step in the right direction.

**FOI Receptiveness in Poland**

All of the Polish NGOs wishing to enact FOI legislation shared similar attributes which could have allowed either coalition to successfully adopt concepts from an international arena of policy or advocacy issues into national legislation. First, they were
all involved in the sphere of policy, law, and lobbying. Second, they all either produced, promoted, or responded to the same forms of privileged knowledge, quantitative or legalistic. And third, the organizations were constituted of elites recognized as experts, rather than grass roots advocates or popular movements. These were not radical or revolutionary organizations, but more pragmatic, even conservative, reform-minded groups.

The successful NGO coalition consisted of the Adam Smith Research Center, Transparency International Polska, and the Society of Polish Journalists (SDP). The Adam Smith Center is an economic and legal think tank, comprised of lawyers and scholars, whose main interest appears to be lobbying and research geared at bolstering new laws or with concern for their implementation. The Center was the site of preliminary meetings and research of the information access law coalition. It published several working papers on information access, as well as a translation of the American law with legal commentaries by experts at the Center and others affiliated with it. TI Polska, as discussed above, is the local branch of the international organization, though the ties between center and local offices are not stringent. TI Polska must locate funds largely on its own initiative. The head of TI is a corruption expert, several lawyers are on staff, and even the administrative staff is full of academics and students interested in entering civil society fields. SDP does not fit neatly into this categorization, but it turns out that the organization has a fair degree of influence in lobbying for their interests in the government. They organize public discussion forums on issues such as information access or other journalism-related problems, commonly inviting some of the most
powerful figures in government to debate these issues. Neither SDP, nor any other of the coalition’s organizations are grass-roots type social movements.

The other coalition consisted of the Center for Monitoring Press Freedom (CMWP), the Stefan Batory Foundation, the Institute for Public Affairs (ISP), and members of the Helsinki Foundation for Human Rights (HFHR). CMWP concentrates on both problem-solving issues for journalists and actively promoting press freedom. If, for example, a journalist is denied access to information, CMWP attempts to intervene on their behalf, often through legal avenues by hiring out consultant lawyers. CMWP mainly deals with law, but is also tied with international press freedom organizations. The Batory Foundation is the local chapter of the Soros Foundation’s Open Society Institute and receives much of its funding from OSI. The Batory Foundation consists of several programs, including the Anti-Corruption Program, which contributed to the coalition. The Foundation, more generally, is recognized in Poland and internationally as home to many of the biggest names from the Polish resistance, such as Adam Michnik, one of the members of the original board. This allows the Foundation a great deal of influence in international circles of civil society and while some of its programs deal directly with the public through education, training, or small grants, it is mainly a location for lawyers, lobbyists, and academics. ISP is also a research and lobbying group. It strongly emphasizes the production of quantitative data for economic purposes and the analysis of increasingly complex public opinion polls in the interest of informing policy decisions. Andrzej R., the main author of the coalition’s information access law draft, is a founding member of the HFHR chapter in Poland and has spent most of the years between 1989 and the present working on various human rights issues, policing,
and press freedom. While the entire organization did not place its support behind the coalition, we can still fairly characterize it as a group of lawyers, academics, and activists who seek to help either individuals or causes related to issues as varied as immigration to police abuse.

“Information” in Poland

In 1971, Polish dissident in-exile Leszek Kolakowski wrote an essay entitled “Theses on Hope and Hopelessness,” attempting to distinguish between those causes which pro-democracy Poles might hope to reform in the communist state and those Kolakowski deemed hopeless. After a brutal crackdown on outspoken dissidents in the late 1960’s, the resistance movement had mostly become disillusioned with any prospect of reforming the state, so Kolakowski and other intellectual leaders felt it was time to define the parameters of possible reform. In the earliest explicit reference in Poland that I could find to this concept, freedom of information fell into the latter category of hopelessness, “Freedom of information – the indispensable condition for the efficient operation both of the economy and of education and culture – is naturally unthinkable without the ruin of the whole system of government, which, in conditions of the free exchange of information, would inevitably collapse in a short period” (1971: 38-39).

During my fieldwork, I asked Jan Stefanowicz, author of the Law on Access to Public Information, about Kolakowski’s essay, but further, why such legislation waited 11 years following the revolution before it passed. In response, he became slightly agitated with my question, telling me simply that no prospect for information access existed before 1989. In fact, as a lawyer for a cooperative housing project in the 1980’s,
Stefanowicz had pressed for more access and less secrecy in the workings of the cooperative’s governing boards. The ideal of openness was not lost on him or any other members of the resistance, even if the exact form of access differed from the process of requesting information and then awaiting a response. After 1989, he explained, an information access law was not a main priority of the new government. First, they needed to establish new and effective democratic institutions, create conditions for market capitalism, and end many of the restrictive authoritarian practices which had tormented citizens during the communist era. Information access, while important, represented a secondary concern.

That information was not of central concern to Stefanowicz and others while they formulated the designs for Polish democracy reveals something about the changing nature of information and corruption in both Poland and the wider world. Even in 1989, when the opportunity arose for a more democratic balance of information flows, who could have anticipated the importance of such an issue or the need to make it central to democratic designs? While business and government began to commingle in dynamic new manners, recognized in the later 1990’s as often pathologically corrupt, the early years of Polish democracy considered corruption as either acceptable or an almost necessary evil of transition. Hence, if corruption served as the most immediate and natural logical impetus for greater information access in the late 1990’s, then prior to this recognition, the lack of advocacy for greater transparency is not surprising. In addition, other institutions that may have promoted awareness for the need for information were not yet in place. Information technologies were not common or popular in the former Soviet bloc, as they lagged behind most of Europe. Today, most of Poland continues to
lag behind its western European neighbors in the development of networking technology infrastructure, computer ownership, and internet usage. Further, markets were still quite new with the exception of black markets which possessed their own form of information channels. The Polish stock market was a minor institution and limited to a small number of investors.

Janine Wedel’s ethnographic insights offer us an intimate portrait of how information flows operated during the Communist era in Poland. In her ethnography *The Private Poland* (1986) and an edited volume she collected, *The Unplanned Society* (1992), she offers us valuable glimpses into the mechanisms of information exchange, their purpose, and their subtleties. According to Pawlik (in Wedel 1992: 78-94), information exchange most commonly took place among coherent, but unofficial groups called *srodowisko* (literally, environment, though it derives from *srodek* meaning circle) of approximately 20-30 people tied together by either family or social proximity. Upon meeting, what Pawlik calls “switchboard opportunities” (1992: 82-86), members would share what information they had with each other on a wide range of topics from personal to national news, health, trade/business opportunities, or people and families in need of help. Certain homes or families held more weight in the *srodowisko* and these were called “open houses” (1992: 83), where visitors were most common. Apart from these informal mechanisms, Poland was largely without reliable forms of mass communication due to the censorship regime and a general lack of access. While few people believed what journalists printed, the resistance had a difficult time creating their version of the news, much less distributing it. Even still, information flows through word-of-mouth and an endless stream of middlemen, while highly inefficient, still possessed some semblance
of order and structure. Business transactions, for example, never happened by chance because it was highly unwise to deal with unknown people. It was always necessary to make business arrangements through the srodowisko, even if it required moving through several middlemen and into other srodowisko.

In this context, information took on a special flavor and meaning. And at the very least we can recognize important differences between “information” in the context of the PRL state in Poland and “information” as subsumed under FOI law. Information shared amongst the srodowisko served as a way for families to meet some basic needs or even, at times, as a matter of survival. During times of severe food rationing, srodowisko worked together to protect their own. And Kazimierz Wyka writes of a similar occurrence in Warsaw during the Nazi occupation (in Wedel 1992: 23-61). Interestingly, these exchanges often included information on corrupt transactions, justified by need and by the state’s failure to uphold a basic social contract. In fact, information flows could be said to represent a form of resistance itself, especially when the information was more accurate news from the West. While the communist state purported to supply all of its citizens with their basic needs, including informational needs, individual acts of resistance served personal desire, whether that meant a desire for a pair of blue jeans or a desire for knowledge. That so many Polish citizens were so well-informed about their situation itself represented an absurdity of the communist system, a fulfillment of personal desires which seemingly overwhelmed the state’s perceived need to control information and citizen’s need to know.

Information in FOI law, on the other hand, represents the assertion of a right to know in a democratic state. In most countries with FOI bills, “information” does not
include an informative response to a curious citizen’s question, but a request for state records. It essentially amounts to a form of accountability whereby a state allows its citizens to request information in the form of bureaucratically-generated documents accurately reporting the state’s activities. As an end goal, citizens can hold their democratically-elected government accountable by fully understanding their state’s activities and making an informed decision in the voting booth or public opinion poll. Information here does not represent either resistance or a means to fulfill basic needs of subsistence, but perhaps reform, personal rights, or even the status quo of a democratic system. Further, the bureaucratic record-sense of information means that FOI laws are an extension of the bureaucratic system of records.

**FOI Moves to Eastern Europe**

Of course, Freedom of information law did not originate in Poland. In the 19th century, Sweden became the first democratic state to offer their citizens legal access to government information and open up lines of communication from the state to the public. The 1966, United States FOIA was the first law in the world to arrange a process whereby individuals could, from a distance, request copies of documents created by a government. In the 1970’s and 1980’s, many Western countries adopted FOIA laws. But not until the 1990’s did the worldwide FOI movement gain momentum. Latin American, Eastern European and Asian countries joined their Western counterparts in passing legislation as a growing number of nations felt that FOI laws and right-to-know articles represented natural indices of democracy. Today, more than fifty countries have passed similar FOI laws or right to know amendments and over a dozen more countries have
such laws pending. Specifically concerning former communist countries, why have FOI laws proliferated so widely and why now?

The simplest explanation for Poland's new FOI law appears to be that following the 1989 democratic revolution and several years of reorganizing old institutions and building new ones, this newly democratic state was prepared to address and rectify its overly secretive past. In this vein, Hungary became the first Eastern European nation to pass FOI legislation, in 1993, with the main intent of opening its past archives to public scrutiny. However, the purview of the Polish information access law does not include the communist-era archives. Poland passed legislation to open those archives at an earlier date, creating the Institute of National Remembrance (IPN) for this purpose. The Polish access law focused mainly on post-1989 information, although it addressed, at least in spirit, the tradition of bureaucratic secrecy from the PRL era.

Furthermore, 1989 is a problematic landmark because FOI laws and sentiments are not limited to democratic states. Since 2000, Pakistan and states within China have also passed FOI laws, despite their ambiguous relationship to democracy. FOI experts see these laws as token acts of democracy, the kind of token that Soviet bloc countries sometimes legislated\(^{13}\). Even in practice, the PRL government was not entirely secretive. Throughout its history, the PRL’s censorship policies fluctuated from tight-fisted to somewhat lenient or open to underground circulation possibilities. It was never a free press however (Curry 1984).

Censorship ended in 1989 and soon thereafter, press and media laws were amended or repealed to allow new sources and break up the state media monopoly. But

\(^{13}\) Although no Soviet country ever passed a FOI law.
many laws and traditions of secrecy remain to this day, as even democratic regimes require secrecy. New laws have reasserted the right of the state to declare information confidential in an almost arbitrary manner. On its entrance to NATO, Poland was required to pass a new secrecy law ensuring order and security to its information. And in 1998, Poland passed a law protecting privacy which the administration has interpreted broadly, expanding secrecy into a large number of arenas from court documents to phone books. The Law on Access to Public Information in 2001 represented the first active attempt to swing information access towards openness, rather than simply breaking down the old secretive barriers of censorship and personal intrusion.

The access law had a legal precedent in the democratic Constitution of 1997, article 61, section (1) which states: “A citizen shall have the right to obtain information on the activities of organs of public authority as well as persons discharging public functions.” However, this article failed to create an administrative procedure by which citizens could request information from the government. The Constitutional article derived from similar sentiments in declarations such as the 1948 UN Declaration on Human Rights (Article 19) and the European Convention on the Protection of Human Rights and Fundamental Freedoms (Article 10). Further, all of the other transitional democracies from Eastern Europe included some form of a citizen right to know in their constitutions as a key index of their new order. As former Supreme Court justice and constitutional commentator Wojtek Sokolewicz explained to me, “Poland was following the model of other contemporary constitutions throughout Europe.” But the legal and constitutional experts involved in writing article 61 in 1997 did not play a role in passing an FOI law, nor did they see it as an urgent necessity.
Similar to the right-to-know article, the Polish FOI law clearly followed a model set forth by other countries throughout the world. The groups who conceptualized the Polish law did not utilize one model, but a conglomeration of different FOI laws. They conducted research, though each coalition failed to share their international FOI research with the other coalition and separate scholars worked with neither.

Conclusion: A New Object of Democracy

The purpose of this chapter is not to point out the specific national influences that impacted the Polish FOI, but rather to demonstrate the broader international context that allowed or made possible the circulation of FOI law to Poland.

Bruno Latour, in his investigation of the circulation and production of technological and scientific knowledge, describes objects he calls “immutable mobiles,” particularly conducive to circulation. While they retain their form and easily pass through various social environments, they often result in profound transformations. Examples mainly include quantitative forms of knowledge such as statistical regimes or organizational categories.

Freedom of Information laws are not immutable mobiles. They can be understood as a mobile technology. But they do not form a relationship between inscription practices and cognition. Further, they lack a well-formed model requiring any necessary adoption as they circulate worldwide. Simply, FOI laws do not define or discipline our way of seeing things or our subject positions.

But FOI laws are predicated on the creation of immutable mobiles. In particular, the development of bureaucratic systems of administration over the course of the 19th and
20th centuries, culminating in what is often called the Information Society, played a pivotal role in the emergence and contemporary proliferation of FOI laws. Without the administrative category of information in the contemporary sense, FOI laws, as an international phenomenon, would not have been possible, at least not in their current shape.

Internationally, FOI is better understood as a global assemblage. It confronts persistent and emergent problems of democracy, forming at the locus of new technological complications or challenges that face democratic forms of organization, such as bureaucratic administration, organizational management, information technologies, communications, and even nuclear physics, to name a few.

The translation of FOI technology into a common legal language has both provoked its proliferation while normalizing disparate FOI contexts, sites with early FOI laws. This has created a common identity for these laws, as well as establishing a possible audience and set of actors most apt to participate in information access policy, legislation, and constitutional debates. FOI now has a common international language in the analytic forms and structures it engages. This common language is located inside of democracy; FOI is now a recognized part of democracy. Simultaneously, it has become an object of democracy, a new norm for democratic states.

As a result of the legal formalizations, FOI has taken on multiple functions. FOI is a highly flexible instrument of democracy. In Poland, for example, it serves the anti-corruption community. In Hungary, it serves as a method to access communist-era archives. In the United States, it originally served the interests of the press before
multiplying its utility for the interests of consumer advocate groups. This proliferation of FOI instrumentality has also furthered FOI's international proliferation.
Chapter 6:

A Measure of Success & Failure: The Implementation of UDIP

How are FOI laws measured? How is it possible to measure such an abstract phenomenon as information flow? This chapter investigates some of the different ways that groups have assessed the implementation of UDIP and the implications of those assessments, using such parameters as democracy and administrative efficiency. Specifically, the chapter addresses how the assessments generate a sense of the public’s interest in or need for information.

“Well, I know that in America, an entire community of information access experts have sprung up around our FOIA, but this had taken many years. In America – “

“But how can you say this? You can’t compare Poland to America in this way! You can’t expect us to be like that. You should instead compare Polish information access with the American situation 15 years after the Revolutionary war, at the end of the 18th century.”

At a meeting of a small circle of open software advocates at a technical institute in Warsaw, I did not intend to set off a firestorm of angry criticism. However, that was the effect my remarks had on one member of the group. While I hoped to offer an optimistic model for the future of a Polish information access community, I instead received sharp criticism for suggesting a comparison in which Poland appeared backwards. Much more than just an indicator of Polish sensitivities, the exchange revealed the sense of difficulty and pessimism those Poles most aware of the complexities of information flows felt about their situation. Strictly speaking, a
comparison of present-day American information access communities to their Polish counterparts would be as uneven as comparing 18th century America information access communities to contemporary Polish communities. The technological gap alone makes this nonsense, but further, no access law existed in 18th century America. The criticism reveals the awareness of unmet needs in properly implementing the Polish information access law, as well as the lack of a community of information access experts.

Recalling Chapter 3, in which two coalitions of NGOs were in conflict to conceptualize and pass their own version of the Polish access law, one coalition leader offered the following proverb: “Success has many mothers, but failure is always an orphan.” Chapter 3 dealt with the battle to be the law’s mother. The current chapter explains its orphanage.

This chapter concerns the implementation of the Law About Access to Public Information of 2001 (hereafter known as UDIP [Ustawa o Dostepie do Informacji Publicznej]). By implementation, I refer to the set of practices set into motion by the Polish government in its efforts to bring about and fulfill the promises of the law. But implementation cannot be separated from monitoring implementation of the law, both inside and outside of the government. Proper assessment requires the generation of representations of implementation and the practices involved in carrying out the law. The assertion by bureaucratic institutions that they follow and have implemented this law or any other does not suffice. Monitoring, like any form of representation, attempts to draw an accurate picture of what happens in the world, but deals with a particularly complex process taking place in many different places simultaneously. For the sake of utility to
policy-makers, monitoring must simplify and spot trends in behaviors, ultimately generalizing or overlooking the particularities or situatedness of the actual practices.

The purpose of assessing legal or policy implementation inevitably implies two things. First, that the phenomenon under question is too large or vast or widespread to be understood immediately or first-hand. Therefore, proper monitoring requires some form of representation, preferably scientific and objective, to present us a portrait of how the law operates generally in disparate locales, what general tendencies have occurred, what has gone wrong and what has gone right. Second, the need for monitoring implies something amiss with implementation. For example, the Polish Supreme Chamber of Control (NIK), which regularly audits governmental institutions, claimed that the press signaled incidents in which the government had evaded its UDIP responsibilities, thus provoking a UDIP audit. Simply, it makes little sense to conduct monitoring if everything appears in order.

Implementation refers to more than an act of putting policy into practice, it also includes a *measure of success*. Measure implies both a standard of practice or a coherent and applicable rule, as well as a manner of measurement or form in which to collect data on a practice. As discussed in the previous chapter, success is always the source of debate and conflict. While the law’s passage was a success, in the sense that it was passed at all, it remains unclear whether its implementation is a success. Even many within the Polish bureaucracy have cited either a lack of compliance or overly ambiguous rules. The NGO sector generally and the NGOs responsible for the law’s creation in particular have been mostly dissatisfied with implementation. All sides have placed blame for improper or unfulfilled implementation elsewhere: lack of funds, lack of
training, a bureaucratic culture of secrecy, or confusing and contradictory legal codes. At
the same time, some individuals, such as UDIP’s author Jan Stefanowicz, have heralded
aspects of the law as successful, particularly the provision for creating online information
bulletin sites. The semi-independent state accounting office NIK released an audit at the
end of 2004 finding positive results of UDIP implementation in the area of the country
which they investigated. Yet, as no group has begun to stake claims for the responsibility
of UDIP’s overall implementation success or taken the lead in advocating for stronger
implementation, it may seem that Professor K.’s proverb has held true: failure, in this
case, is truly an orphan. At least, until something changes.

This chapter does not intend to thoroughly analyze the implementation of UDIP,
but rather presents different interpretations of the law’s implementation and its failures
within and beyond the bureaucracy. Beyond a periodic comparison with more developed
FOI traditions throughout the world, this chapter highlights the incipient arenas, as well
as entrenched perceptions for generating knowledge about bureaucrats, oversight
agencies, and a community of citizen requestors in Poland. With this in mind, it is still
useful to understand the early criticisms and commendations of the law’s implementation
because these various critiques can offer a coherent portrait of future visions for
information access. Beyond that, this chapter turns to the various modes of measuring
UDIP implementation, drawing comparisons again to other national contexts and their
equally challenging attempts to measure FOI effectiveness with special emphasis on the
effect of this research for legal reform, and practices of bureaucrats and requestors.
Failure Breeds Success

In May of 2004, I arranged to meet with Marek G., the editor of the Bulletin of Public Information (Biuletyn Informacji Publicznej or BIP) for the Ministry of Internal Affairs and Administration (Minister Spraw Wewnętrznych i Administracji or MSWiA). The MSWiA building is located within a larger complex of military offices just south of downtown Warsaw. Upon moving through the main gates of the complex, I proceeded to a guard stand next to the road and asked for directions. After having my passport inspected, I was directed to the building in front of me which led me through a large archway and into a rather secluded courtyard. I walked into what appeared to be the main lobby, though the building felt eerily silent and empty. There, I checked in with another guard behind glass who called Marek G. and asked me to wait. The only other person there was also waiting, an Australian woman with a video camera. They refused to allow her to shoot footage of the interior of the building. After ten minutes, Marek G. came downstairs and introduced himself, taking both the Australian woman and myself through the metal detectors. He had been instructed to take the Australian woman to an office near his own.

Marek G. is a young man, in his twenties. He wore a slightly ill-fitting dark suit and very short hair. His demeanor was professional, straightforward, and sincere. There was no small talk or conversation as he led us through the main lobby and into the elevator. The lobby was a plain affair, off-white walls and a tall ceiling, but mainly dominated by open stairwells leading up through the building which could not have stood more than five stories high. It was purely communist architecture, austere and severe. From the expansive and airy lobby, the elevator strangled us. We stood close to one
another and maybe even closer to the ceiling just inches above my head. As the elevator
doors re-opened, we slipped into the hallway in front of us. Once again, an emptiness
pervaded the space. The hallway stretched approximately 200 feet. Doors lined both
sides of the hallway, evenly spaced at 15 or 20 foot intervals and perfectly symmetrical.
Not one door stood ajar and not one human presence could be felt. The hallway had no
windows, the building felt hermetically sealed. We turned and entered a doorway.
Marek G. explained to the secretary who the Australian was and then the secretary asked
her to sit and wait. We left the room and I followed Marek G. several doors down to his
office.

Reflecting the rest of the building, Marek G.’s office was sparse, off-white. A
large desk, Marek G’s desk, dominated the room. In total, the room probably stood 15
feet long and 8 feet wide with tall ceilings and a large, vertical window. Another man, a
small man, sat facing the corner, but did not turn to recognize our presence as we entered.
He hunched himself over his typewriter, as I tried not to stare or laugh at this Kafkaesque
detail. On occasion during our interview, the man would leave the office and return at
random intervals. He was not introduced to me, he was presumably Marek G.’s assistant,
though he did not talk to Marek G. Marek G.’s desk was remarkably clean. A computer
sat atop a side table. At one point during our discussion, while we spoke of a problem
case in which the ministry denied information access to a woman, Marek G. opened a
desk drawer, carefully and immediately pulling the case file. It looked as if the drawer
was empty, save for this single problem file.

In some manner, our conversation and Marek G.’s ruminations on openness
belied the austere surroundings which evoked PRL-era bureaucracy, but, at the same
time, the space served as a reminder of those traditions, the environment in which Marek G. sometimes reluctantly existed. Speaking in a relatively candid manner, Marek G. shared with me many of his concerns about his Ministry’s failures in implementing UDIP, his own personal struggles in implementation, and his insights into the way bureaucratic practices change and would soon change. At this point, many months into my fieldwork, I was unaccustomed to speaking with officials within the bureaucracy in such a candid manner. I encountered such honesty, but it was rare. More common was the spokesperson or local official who explained that the law dictated bureaucratic practices and the government always functioned in a proper manner.

Working from within MSWiA offered Marek G. a unique perspective on UDIP because that Ministry specified implementation details in its rozporzadzenie. In the Polish legal system, the ustawa is the highest level of law. Parliament passes an ustawa, often with specific instructions inside of the law concerning the establishment of rozporzadzenie (a decree or order). Usually, the Prime Minister writes the rozporzadzenie instructing the government how to enact and implement an ustawa in more precise detail. In the case of UDIP, it appeared that the Prime Minister assigned MSWiA to manage the government’s oversight and enforcement. But the rozporzadzenie only offered rules concerning the implementation of BIP (Biuletyn Informacji Publicznej – Bulletin of Public Information). As the central locus for administrative organization, it seemed that MSWiA would play a key role in establishing the course of information flows within the Polish bureaucracy. However, the rozporzadzenie fails to specify how oversight on UDIP should function. Marek G. explained that officials are not expected,
even discouraged it seems, from interfering with implementation in other ministries or departments:

the rules of this law authorize the Minister to write this rozporzadzenie and to define how this BIP site should look, the standards of this site. But there is no rule that says the minister should check how these rules of the main act are realized by other institutions. So we only made standards for these websites and made the national website. And that is all we could do. There are no specific rules we can use to discipline other institutions for not realizing the rules of these two acts, the ustawa and rozporzadzenie.

So, if the rozporzadzenie fails to assign oversight responsibilities, then there is effectively no administrative oversight from within the bureaucracy.

The measurement of a good site or even a strictly legal site remains inexact. Marek G., who took great pride in his work as the Ministry’s BIP creator and webmaster, seemed frustrated with this lack of implementation. He told me that although he “was not supposed to,” he often examined other BIP sites. His site for the MSWiA and the national site he worked on are exemplary models often used by other sites. One administrative journal recommended to officials to use this website as such a model. In addition, e-administration companies offered to create BIP sites for government offices or any other organizations receiving public monies and required by law to create a website. So, models existed and many of the BIP sites look similar while the rozporzadzenie sets out some general rules concerning the content of the website. But in the end, no one inside of the bureaucracy can or will attempt to ensure that all of the BIP sites conform to the rules laid out in the ustawa or rozporzadzenie.

As no arm of government is held responsible for following the law, Marek G. explains that the modus operandi of Polish administration, echoed by some of his
colleagues I talked to, is to simply believe that all bureaucrats understand and follow all rules and laws:

(author in italics) So, how does the ministry evaluate the BIP site and monitor? I think you've already answered this question, but let me address it more directly.

(Marek G.) Yes, but let me elaborate. For other sites' models, institutes or offices go to the national site, the head site. And at this level, we are checking that everything is correct at this site. Everything is working, the standards of rozporzadzenie are realized at this site. I think we are not allowed to do this, but as you know, we are checking that this site is okay.

But does the rozporzadzenie say you can’t do this?

No, but the general rule is that we can’t do more than the law tells us to do. So, this is the general rule. We have to strictly realize the law. We can’t do anything more than the law says, we – it says nothing about whether we could or couldn’t.

This the general rule of how administration works?

Yes, all administration of institutions, the police also, every institution.

So, for example, one question on the FAQ [located on the MSWiA’s BIP information site for other institutions] concerns whether an institution can put more information on its site than required by the BIP; if it is normal practice to strictly realize the law, then this is uncommon?

Yes. But, you know, this rule says that there are some types of information that have to be published and then there is other information that may or may not. So I think this is realization of the rule. When we think something could be published because there is no security risk, no protection of privacy (dane osobowy), then we could publish this information. But as I know these websites, there are not many examples of that kind. Almost everyone is publishing only that kind of info that he has to publish, not more. We try and get our site, MSWiA, to publish more information than is strictly required in this law.

The “general rule” and lack of central oversight effectively means that each institution subject to UDIP must realize the law on its own terms, possibly even in its own manner.

If oversight cannot be enforced, training and information campaigns appear not to bolster common ground on the law, either. Marek G. explains that his Ministry, and Polish administration more generally, has little money to produce a widespread,
concerted effort to train officials on the fine points of UDIP or any other law, for that matter. In the case of UDIP, press conferences were held by the Minister, letters were sent to all government institutions informing them of UDIP compliance, and articles were written in journals widely read by Polish bureaucrats.

For the most part, it seems that the limited information and training campaigns focused on lists, of BIP requirements and rules as laid out in UDIP, but not interpretation. As Marek G. and other Polish bureaucrats I talked to explained, the rules of UDIP are sometimes general, sometimes overly general. As a result, different institutions may interpret and practice the same law in different manners, but again, no Ministry or department has either the power to assert proper interpretation or even serve as a central office to coordinate interpretation. Marek G. explains:

> I think the main topic of the [training] seminars was BIP realization, not interpretation. Because we can’t make that kind of interpretation; because we are not allowed to directly interpret this law for everyone. We could interpret for our own Ministry, for our own use here, but not for everyone. Because there is no such law in Poland that one institution could interpret the law for everyone. There is no such possibility.

A spokesperson from the prokuratura (the office equivalent to the Attorney General), for example, explained that the ustawa which organized their office and its goals superseded UDIP and therefore, they interpreted the law as mostly irrelevant.

Because the law is still new, most offices have not yet dealt with many requests specifically citing UDIP, much less problematic instances which might force the establishment of standard or best practices. At MSWiA, Marek G. showed me the case file for a case in which a citizen requested information through UDIP and the Ministry refused to disclose these records. In response, the citizen sued MSWiA and won her case. As a result, the court fined the Ministry and the Ministry, in turn, reprimanded
those officials responsible for illegally withholding the information and not acting in compliance with UDIP. Marek G. explained that, as a result of this one case, he witnessed transformations in the behavior of some bureaucrats now more cautious or at least conscious of the power of this new law.

"I always have this close to me," Marek said, referring to the open file in front of us. "Because there are so many documents here that show how to carry out this procedure, how the procedure should work. I learned a lot with this case, studying this case."

The file in question was not a model of success, but one of his Ministry's biggest failures in its implementation of UDIP. It stemmed from a request made two years earlier by two women who claimed that a non-uniformed policeman attacked them at a supermarket. MSWiA contains a wide variety of sub-departments, including the police, but was unaware of the attack allegations at the time of the request. In their request, the women invoked UDIP to demand personnel documents and other private information about the policeman in question. Officials at MSWiA denied the release of such documents, citing the privacy exemption. However, the officials failed to address the entirety of the request, replying to only the first two of four queries. Upon administrative appeal, officials at MSWiA again upheld their initial ruling and failed to even respond to the appeal. The case went to court and the women won their case, but not their right to know:

we had to pay, I don't know, five thousand złoties (approximately US$1,250) and realize this request. So, the court told us we must respond to the other questions. And the answers for the questions were brief, only 5 or 6 words. It was a very simple request and yet the case took 2 years. They made the request 2 years ago and it finished about 2 months ago. It was a very simple case, but no one could read this request in the right way.
The story represented not a failure of the Polish citizen’s right to know, but a breakdown of technical rationality within the bureaucracy. The bureaucrats neglected the regulations and the courts demanded that they adhere, but the court stopped short of demanding that MSWiA answer the women’s questions in-full.

This particular case – one of, according to Marek G., a very small number of information refusals at MSWiA – resulted in enhancement of bureaucratic rules, practices, and expectations. As a result of the lawsuit, the Ministry reprimanded several bureaucrats and refused to pay them their salary bonus. Marek G. believed these repercussions would certainly have an impact on future cases. “The bureaucrats,” he told me, referring especially to the older bureaucratic mentality, “now treat cases of public information more seriously.” But in addition to the gravity of procedural interest, Marek G. explained that the Ministry changed internal rules concerning information access requests. The case also generated discussion within the Ministry about the officials directly responsible for information flows. Because the law was still new, those officials failed to completely understand how they would approach such difficult situations, “a few of my colleagues also know that case. And we are trying to realize other requests in the right way, the best way possible because we don’t want another such case. We are learning a lot on every case we make, so the next cases will be much easier.”

Before UDIP, Polish bureaucrats could simply refuse to disclose information, as they did in the case outlined above. But the force of the new law now required bureaucrats to respond to all requests, legitimate or not, feasible or not, and whether they would disclose or not. Officials like Marek G. who receive information access requests must refer to the department with the answer to the request for guidance on whether the
requested information is exempt from disclosure or not. They then carry this decision to the requestor. If that department refuses to disclose the information, officials like Marek G. must explain that decision to the requestor:

they would have to tell me why this is secret and who personally makes it secret. And when I’m answering, I would have to write: I will not grant access to this document because this is confidential by the rule of this ustawa and, for example, the director of the department on public oversight or public health who declared it confidential. So the requestor should know why this document is confidential and who made it confidential. So I think it’s kind of an open policy of information because we don’t tell people, this is secret and that’s all, we will not tell you anything more. We have to explain why this is secret.

UDIP therefore has no necessary effect on the amount of openness of government information, but it certainly allows requestors to know, in such cases where their requests fails, why they cannot know what they would like to know.

This highlights the most forceful element of FOI law: not the liberation of knowledge, but the routinization of information flow procedures. And if many observers outside of the bureaucracy criticize an implementation failure, Marek G.’s reflection on the rather absurd nature of the case reveals something about how perceptions of UDIP from those outside observers disrupts their possibility to understand this effect:

they [the requestors] wanted us, the Ministry, to produce something. And they were using UDIP. They were saying, invoking an article of the law, I want to know what you will do with the policeman who attacked me that evening? And you know, we can’t answer the question of what we will do with something that we didn’t even know happened. So they wanted us to produce something, but this is not the correct way of using the law.

The citizen requestors believed the law would unleash the past, present, and future of the bureaucracy, but instead they found that it would only force the bureaucracy to respond to their request in a rational manner consistent with all other requests.

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14 Meaning that he would cite a specific law that makes the information confidential.
From within the bureaucracy, Marek G. measured success not in terms of a right to know or breaking the barriers of administrative secrecy, but in terms of compliance with bureaucratic rules and procedures as created by law and enforced in courts. In the future, he will measure success through court victories or avoidance of court appeals altogether. He will not measure success by the level of secrecy he can secure for the bureaucracy. In fact, I found quite the opposite. Marek G. opposes greater administrative secrecy and advocates from within the bureaucracy for as much openness as possible.

**Failure is a Tradition: Pessimism**

“This law, this is only paper. Like all of the other laws, just paper. It has no power to change people, really change them.” Kazimierz D. does not mince words. Explaining his interpretation of the law’s implementation bluntly and honestly, he stated, “the law doesn’t work.” For him, the law is failure.

Kazimierz D. worked as a journalist for many years and speaks with a cynical wisdom that stems from his struggles with the communist system and its aftermath. Today, he heads a small technical school which trains college students in journalism, public relations, and communications. Many Poles, especially those of his generation who have passed from one system to the next, share a similarly pessimistic view of the Polish state and its bureaucracy. There are three main reasons Kazimierz D. provided for why UDIP fails to work properly and all three appear to stem more from his historical and local perspectives than from concrete data collection. These reasons include a bureaucratic mentality in favor of secrecy, a lack of knowledge about both the law and
democratic rights more generally amongst citizens and bureaucrats, and the changing
dynamics of media and the market resulting in the commoditization of all information.

"The year 1989 was a breakthrough," Kazimierz D. explained, "but it was not a
180 degree turn. It was a 360 degree turn." New political, economic, and legal systems
emerged, but the people, or rather their mentality, remained the same. "Censorship has
been abolished and this new law guarantees access to information, but mentality
problems remain," he argued. Based on his understanding of communist bureaucracy, in
which superiors "dictated" the behavior of their underlings, Kazimierz D. drew similar
conclusions for contemporary bureaucracy. As a result, bureaucrats resist disclosing
information to journalists or citizens because they work in the interest of those higher
powers. They refuse to disclose information out of loyalty. "Law," according to
Kazimierz D., "has no way to regulate behavior or change people and how they do
things." Bureaucrats are aware of the law and its existence, but they cannot effectively
carry out the law because of this allegiance to power. As a result, bureaucrats simply
refuse to release information:

they know about the law, but they do not adhere to it. It is simple for them to
block information, they simply label it a trade secret or private data. Blocking
information is easy: you get your stamp, ink it, and stamp away. Secret! Secret!
Secret! Do you know how this works? Because I don't. I don't understand it.

As he strongly emphasized the arbitrary nature of secret-making, he simultaneously
pointed to an extreme bias within the bureaucracy that always gravitates toward greater
secrecy.

Plainly, Kazimierz D. does not believe that the government tells the truth or has
any interest in doing so. "No one," referring to politicians and bureaucrats alike, "wants
this freedom [of information] to happen." According to him, the government has an
interest in broadcasting information consistent with a strategically created image they
would like to present of themselves. There is no place for journalists or citizens to turn
for objective and unbiased information about government activities. In particular,
Kazimierz D. offered an extended tirade on the offices of government spokespeople,
stating that they deal with the maintenance of the positive image of government, “They
take part in a strategy of images, of public relations. They do not give out bad
information or information that might make their Ministry look poorly.”

Citizens and bureaucrats alike lack knowledge about UDIP, but also about
democracy, more generally. Of course, Kazimierz D.’s generalization resulted from his
intuition, not solid evidence: “If you were to accurately test the awareness of journalists
throughout Poland – and not just the big names and important papers – I am certain you
would find that the vast majority of Polish journalists have very little knowledge about
the access law or their rights in general.” He further extended this lack of knowledge to
Polish citizens, arguing that because democracy is still so new, regular citizens fail to
comprehend the rights guaranteed them. Without this lack of demand by journalists or
citizens, the state has not been pressured to impart a right to know to its citizens. The
process of doing so, according to Kazimierz D. and echoed by many other transparency
advocates and journalists, could take a very long time.

Furthermore, the pressure on the state to generate a positive image has become
exceedingly important due to the emergent market for information created among media
sources competing for more sensational information about government corruption and
scandals. On one hand, Kazimierz D. believes the state withholds information about
governmental corruption or incompetence, he the points out the emergence of a media-
saturated environment, as well as what he calls a “moral and political crisis in Poland” brought about by declining economic fortunes. From all sides, it seems, mounting forces impinge upon the very possibility for greater openness. In an environment of heightened crisis, more serious corruption, and greater demand for scandal, the state can only raise its guard and increase secrecy, it would seem.

“Is the average Pole well informed? No! But he does know he’s being robbed! How does he know? Not through government officials.” This type of pessimism and mistrust of government access procedures is quite common among Polish advocates for greater information access, especially journalists and NGOs. Many people from different backgrounds and environments echoed identical sentiments of a lack of trust in the state, a rupture of the social contract essential to democratic rule. Quite simply, these Poles question and mistrust their government. Essentially borrowing from the same sources of legitimacy enumerated by Max Weber – though without explicitly referencing Weber – these critics point out a failure of leadership to establish a legitimate state based on either charismatic, traditional, or rational authority. They consider charismatic leaders, such as Jozef Pilsudski, figures of a distant and romantic past. Traditional legitimacy was tarnished by the PRL bureaucracy and, before that, the partitioning powers. A lack of bureaucratic systematicity during both the PRL era and the present circumvent trust in technical rationality. As a result, the legitimacy crisis that the PRL suffered continues in a similar form, though a different media environment.

Much of the pessimism specific to UDIP’s failure stems from initial expectations or perceptions of the law. Perhaps expectations would be incorrect, as it would assume that Kazimierz D. once held the belief that UDIP could produce any change when he
stated that he believed such change to be impossible. Rather, he perceived the intention of the law to include greater openness in government operations. Either way, he felt disappointed with the law’s failure to create more transparency of government activities, especially the workings of power. In a similar manner, a member of the successful Adam Smith Center coalition with whom I tried to breach the subject of implementation and effects of UDIP claimed he lacked interest in implementation because he already felt disappointed: “I thought it would reveal to us, for example, notes on meetings with the Prime Minister or others in the corridors of power, but I see now that this will not be the case.”

The law has disappointed pro-openness advocates not only because of the lack of openness of either bureaucratic or high-level power, but also because of a failure to aggressively utilize the law. Kazimierz D. complained, “even journalists are mostly unaware and misinformed about the law.” In fact, no group, outside of environmental or green organizations15 has found a need to use the law. Many of the journalists I spoke with who share Kazimierz D.’s pessimistic sentiments refuse to make a proper UDIP request for the very same reasons Kazimierz D. enumerated when describing the failure of law to transform bureaucratic practices. One Lublin journalist who had been unaware of the law until I explained it to him, replied that this law was no great innovation, that it would not work properly, and besides, journalism was a time-sensitive market, “If I had the luxury of researching a story for one week, even this amount of time would probably be too short for me to receive the information I needed through these proper channels.” Another journalist disdained the new law, arguing that it only provided bureaucrats a new

15 A separate access to environmental information law normally subsumes their specific requests.
reason to withhold information from him. As such, no coherent community of information access requestors or experts exist in Poland and, at least amongst UDIP’s pessimist critics who also happen to include many NGOs that got the law passed, it appears that none will emerge in the immediate future.

**The Science of Failure: Generating Knowledge about UDIP Implementation**

"The maxim," concludes Wojciech Przybylski, "that openness of information exemplifies the quality of a democracy is unfortunately confirmed in this data."

Przybylski coordinated an assessment of UDIP implementation for the Adam Smith Center (ASC), the same NGO which helped create and successfully lobby for the law. Several years after this legislative success, Przybylski, on behalf of the NGO, called the implementation of the law an unmitigated failure. *Gazeta Wyborcza*, reporting on the findings of the study, wrote, "Research collected by the Adam Smith Center finds that the right [to know] is practically dead and information is also hard to obtain, in spite of [UDIP’s] introduction" (2003).

The ASC, like Kazimierz D., holds a somewhat pessimistic viewpoint on the Polish state. But while Kazimierz D. may speak for a much larger number of Poles distrustful of their government, his pessimistic opinions are based on anecdotes and perceptions which will likely have little effect on government policy. Nor could they, from a pragmatic point of view. As witnessed in the case of corruption, feelings of incense or disgust rarely have the power to transform policy in the same manner as statistics and scientific data. This section examines how and why the ASC undertook its implementation research, as well as investigating a currently incomplete dissertation
project by e-governance scholar Marcin Sakowicz which similarly deploys scientific
modes of collecting data on UDIP implementation. Their statistics show that
implementation has failed, the bureaucracy has broken the rules and failed to comply.

Their data proves this failure and I do not contest it. However, I posit that the
form and method of their research inevitably places the onus of blame for UDIP
implementation on the bureaucracy and that failure was quite nearly the only possible
result of their research. Artificially designed to test bureaucratic responses to an
“average” or “normal” citizen-requestor, this research frame conceives of citizens as
victims of bureaucratic offenses, static subjects unwilling to participate in or negotiate the
access relationship and incapable of forming information access strategies. Furthermore,
in attempting to standardize potentially replicable and consistent data sets, this research
method oversimplifies differences in culturally inflected variables such as desire or
curiosity which may drive certain individuals or groups of requestors to more extreme
requestor positions. In sum, this form of research oversimplifies an extraordinarily
complex and dynamic relationship, but, in doing so, insures that UDIP implementation
will be perceived as a failure of the bureaucracy.

A press release accompanying the ASC report serves as an analysis of its data.
The press release highlighted specific figures for media outlets such as Gazeta Wyborcza,
whose article states:

In 43 percent of institutions researchers did not receive a response to any of the 12
questions. Only in 22 percent did officials responds to all of them. On average,
they were successful in obtaining answers to four questions. The worst was in
hospitals, where in 69 percent of cases responses in general were not given and
the best was in offices of self-government, where all questions were answered in
29 percent.
The *Gazeta Wyborcza* article does not specifically reference UDIP in its title, but instead “Officials Do Not Want to Inform about Finances” (11.7.2003). It leads with the statement, “What officials do with our money, every citizen has the right to know. When we want to know, officials – in defiance of law – do not want to inform us.” Only later does the article indicate its assertion on the basis of the ASC report, where it states that according to their survey, the right to know is “practically dead.”

Marcin Sakowicz studies e-governance and the implementation of UDIP, recently completing his doctorate on these subjects at the Warsaw School of Economics. Before carrying out this research, he participated in a program at OSI in Budapest intending to promote research on democracy in Eastern Europe. There, he wrote and researched policy analysis entitled “Problem of Access to Information and Effective Communication at Local Level” (Sakowicz 2001). As a pragmatic and goal-oriented approach to information access which recognizes the implicit distrust amongst Poles in their government, Sakowicz’s policy suggestions are more optimistic than Kazimierz D.’s prognostications. For Sakowicz, the key to better implementation rests in technological development which would allow citizens easier access to information outlets, thus bypassing more traditional routes of access, written or oral requests.

Though his research remained incomplete when I first spoke to him in April 2004, Sakowicz essentially implied that, according to his research, implementation was a failure up to then. He experienced a level of response, meaning any type of response whether successful or not, between 50% and 70%, depending on the region. He also noted long delays in response, procedural violations in which officials questioned his identity and his intent, and low quality or inaccurate responses. He analyzed the
implementation problems as a result of administrative neglect and a continuation of bureaucratic traditions of paternalism and secrecy.

Based on evidence collected through social science surveying techniques, both ASC and Sakowicz asserted a failure of implementation. More precisely, they arrived at these conclusions and authoritatively asserted themselves as a result of scientific design and methodology. ASC conducted its survey of UDIP implementation in 2003 through a private research firm called ESTYMATOR\textsuperscript{16}. ASC called its method "anonymous," making a point of obscuring the identity and the purpose of its requestors. A total of 24 different researchers visited 109 government offices in Warsaw to ask a set of 12 questions. The researchers followed a careful list of instructions. First, they were to enter the building and locate the individual responsible for providing information at the institution. Then, explicitly referring to UDIP, they would ask the 12 questions. They would record all responses in writing, providing contextual details. In case of a refusal to disclose, they would inquire the reasons behind withholding the information. In case identification became a necessary requisite for answering a question, researchers were instructed to simply tell them that they were students collecting necessary information for their work. Instructions specifically stated not to offer any personal data, even identification, unless a person of authority, such as police or security, required it. The research questions concerned institutional budgets and finances, salaries, as well as procedures for carrying out UDIP and the manner in which the institution made preparations to implement the law. In all likelihood, it should have been obvious that these "anonymous" requestors were participating in some sort of implementation study.

\textsuperscript{16} Ironically, ASC refused my appeals to obtain a copy of their survey. A reporter at \textit{Gazeta Wyborcza} kindly forwarded me the report.
In our conversations, Sakowicz explained his difficulties with research on UDIP and BIP implementation in Poland, collecting survey data in a manner similar to the ASC study. For this research, he sent off hundreds of requests to three different wojewodztwo (self-government regions, 16 in total) in Poland, including nearly every governmental institution at all levels in these three regions. Each letter requested the same 12 pieces of information. Along with the mailed requests, he included self-addressed stamped envelopes. One of the key variables of the research focused on the form of request. Sakowicz made email, regular mail, and telephone requests. He also attempted to gauge response effectiveness, average days of response, relationship to the size of the institution, and whether invoking UDIP helped or hindered access.

An enlightening element of Sakowicz’s struggle to study implementation and a difficulty echoed by others undertaking similar research, requestor identity is a variable manipulated by researchers to assert both a view from nowhere and a view from the normal citizen’s point of view. As essential elements of both methodologies, researchers attempted to maintain a sense of anonymity. An internationally agreed-upon standard of FOI legislation, UDIP does not allow the identity of a requestor to infringe upon the access decision. Implementation researchers feel certain that some form of identification takes place. And indeed, they have reason to believe this is true. For one, Polish bureaucratic traditions have involved informal connections which can garner information access. And many corruption scandals, especially those involving public tenders and bidding for government contracts, rely on an unequal distribution of information to bidders, those with special connections receiving better information than their counterparts. In addition, I spoke with one police officer who explained that his office
may actually undertake background checks for information requestors. So, suspicions of legal violations have solid grounding, but nonetheless leave researchers in a conundrum similar to corruption scholars. Identifying the requestor and releasing information according to identity is illegal, but finding proof of the law’s violation is difficult, if not impossible, to come across.

Sakowicz attempted to overcome the identity issue by obscuring his own identity. Instead of Marcin, he often requested information as Maciej, a common Marcin nickname. He would also use a middle name. His last name, however, turned out beneficial. Sakowicz is a “border-lands name,” popular in the region in Poland where he conducted his research. That familiarity, he believed, helped him gain better access, though he had no comparable proof of this. On the other hand, his Warsaw return address, he believed, obstructed greater access and may have made him a source of suspicion. To make matters more difficult, his post office box was under M. Sakowicz and when packages too large for the box came to Warsaw, postal employees would scrutinize his identification and question whether the box actually belonged to him.

Sakowicz explained that many local governments figured out he was conducting research, probably due to the form in which he requested information. Sakowicz sent out each request in the same form, a 12 question request letter. In his desire to request a variety of different types of information, it probably became obvious that he was a researcher and not a citizen who needed or wanted to know about a more specific matter.

All of these difficulties were part of Sakowicz’s research goal to appear as a regular citizen who simply wanted to inquire about the workings of his government, but because of his identity and the form in which he requested information, officials
questioned his motives for inquiry. Questioning motives of the requestor is not allowed by UDIP, but several officials told him that the information was not important to him and that he must prove its importance. Instead of openly revealing his research status or even appealing to Constitutional Article 61 or UDIP, he simply claimed a personal interest in the matter, thereby re-asserting his regular citizen status. Sakowicz was not the only implementation researcher concerned with creating a visage of normal citizen requestor. An environmental activist explained that he had conducted similar research around the same time as Sakowicz and also attempted to make requests without letting the officials know he was conducting research. The implications or obligations of proper research ethics did not concern either of these scholars because, as Sakowicz explained, this was simply the only way to assess UDIP implementation for regular citizens.

The ASC press release is also revealing in the manner which it refers to the plight of the regular citizen, “Jan Kowalski,” who tries and fails to obtain information from the government bureaucrat. In common Polish language usage, Jan Kowalski is the Polish equivalent of John Doe, but with connotations of the everyman. So, for example, Przybylski writes such statements as, “every Jan Kowalski may, in practice, personally examine what [the state] spends his money on.” In another passage, Przybylski draws on imagery of unnamed “citizens” who go to a government office to request information on a variety of topics, from salaries of officials to the properties held by the office of the treasury. In response, “officials regard them with disgust and send them from room to room, where in turn the petitioner learns that here such information is not dispensed and in general, for what do you want to ask” (2003).
By constituting itself as an objective form of knowledge, collected through anonymous means, the ASC survey attempts to draw a link to and speak for the average population and its victimization by a government that deprives them of information access. In its conclusion, the press release critiques the lack of access as a failure of liberal democracy which only serves to promote more corruption and less transparency in public life. While some possibility for improvement may exist, the ASC has deemed UDIP implementation an utter failure with dire ramifications for the state of Polish democracy.

Poland is not alone in its UDIP implementation reviews. Many countries which have adopted FOI laws have also carried out implementation research. While the Polish researchers did not necessarily intend to make their findings compatible to those of other FOI implementation studies, they nonetheless share similar frames of data collection, methodologies, and research goals.

In 2003, the Open Society Justice Initiative (OSI) Freedom of Information/Freedom of Expression Program launched the first study of its kind to assess and compare FOI implementation, developing a monitoring tool to compare implementation research in different countries. Their press release succinctly describes the project and its results:

Conducted in Armenia, Bulgaria, Macedonia, Peru and South Africa, the survey marks one of the most comprehensive efforts yet to test the limits of government transparency. It involved the submission of 100 information requests to 18 different public institutions by a range of actors in each country. On average only 35 percent of requests for information were fulfilled. Many requests not explicitly rejected or were simply ignored—in total, 36 percent of requests submitted resulted in tacit or "mute" refusals.
The report acknowledges from the outset that "there is no fixed international standard governing the right of access to information," but nonetheless attempts to enact a set of 15 standards called "the primary principles against which government transparency was tested" (2004: 3-4). These standards are similar to Blanton’s expectations for the fundamentals of FOI laws worldwide, but focus more pointedly on administrative procedures: "all bodies performing public functions should be obliged to respond to information requests... anyone may request information without having to specify grounds... if exemptions apply, then there shall be partial access to relevant documents... an office or officer shall be designated to handle requests for information" (2004: 4-7). In unison with the actual FOI statute in each country, these standards form a baseline from which FOI implementation is compared and measured. This is why the first step in the OSI’s monitoring process is a “legal analysis” which compares national law to the standards put forth by the OSI in the form of a legal template.

Following legal analyses, the monitoring methodology consists of making actual FOI requests and then assessing the government’s responses to these requests. The OSI research attempts to isolate three variables for comparison: the identity of the requestor, oral or written request submissions, and different types of governmental institutions. Five main groups of requestors participated: pro-governmental journalists, oppositional journalists, NGO representatives, non-affiliated persons, and excluded group members. Requests were made in both oral and written forms. In each country, requests were submitted to 18 different institutions, including executive, judiciary, and local administrative branches. All requestors "filed similar requests over a comparable period of time" (2004: 9). Requests stemmed naturally from the type of institution from which
information was requested and the type of requestor, "so that requests would have relevance to the requestors and meet their real information needs" (2004: 7). While this circumvented the possibility that government institutions could easily decipher the purpose of survey form-requests, it may have also introduced national or contextual particularities into the research. Researchers then categorized responses in one of five manners: unable-to-submit, oral refusal, written refusal, mute refusal, or fulfilled request. No further delineations scrutinized the quality of fulfilled requests or whether a partial denial was made. As the OSI report stated, "authorities were given a wide margin of discretion, and even rather incomplete information was included in this category" (2004: 10). Following the requests, a lead NGO in each country attempted to conduct an interview with each institution from which researchers requested information.

The OSI study, not only the most comprehensive comparative study of its kind, but also remarkably coherent and thorough, still fails to include in its purview many of the qualities that makes the FOI request process such a complex phenomenon. But in assessing implementation as a mode of comparison to a baseline phenomenon – the legal expectation of bureaucrats – rather than assessing the relationships between requestors or a community of information access experts and bureaucrats responsible for FOI administration, the OSI study, and others like it, transfer the onus of failure from the dynamic relations between requestor and bureaucrat to the bureaucracy alone. Surveys of this nature fail to measure difficult phenomena such as desire or persistence, though the OSI report notes:
the monitoring methodology was not always applied uniformly in every country. For example, some of the requestors were more persistent than others in trying to submit their requests (2004: 11).

Additionally, the OSI methodology report fails to describe the manner in which requestors crafted letters or framed oral requests for information. In my research on the art of information access practices using the American FOIA and among Polish investigative journalists, I have consistently discovered that subtle distinctions in appearances and forms of asking has a considerable effect on the amount and quality of information received. However, here I intend not to simply critique the OSI study for its nearsightedness – they had the wherewithal to recognize the limitations of their study – but to demonstrate that this form of generating knowledge concerning FOI implementation necessarily measures success solely in terms of bureaucratic rule-following, rather than presenting a wider and more accurate view of success and failure. When a bureaucrat fails to adhere strictly to all rules, as is almost inevitable, this implies a failure of implementation. True success is quite nearly impossible.

In the same manner that the OSI study posits an irresponsible bureaucracy which victimizes passive or homogenous citizen-subjects, the ASC and Sakowicz surveys oversimplify the role of the requestor and the oftentimes dynamic relationship between citizen and bureaucracy. They fail to problematize the requestor. Who in Poland seeks information beyond what can be gathered from media outlets, personal connections, or even family members? Why is Jan Kowalski interested in the type of inquiries involved in the ASC assessment, such as the number of cars managed by the Minister of Infrastructure or the budget of the national dermatological hospital?
In 2001, when Sakowicz wrote his policy paper on information access in Poland's local government, little research had been conducted on UDIP implementation. Instead, he reviewed relevant legal statutes concerning information access, described their limitations, and then moved on to what sparse data he could explore. From the outset, he referenced public opinion surveys which establish citizen disapproval of local government and the failure of citizens to participate in elections or any other forms of activism. In doing so, he sets the stage for an analysis of the government-citizen relationship through a stakeholder model: “this may be exemplified by a gradual shift from citizens as customers (clients) to the more participative citizen as stakeholder model of governance” (2001: 27). Implementation of UDIP requires citizen participation, as well as establishing democratic practices and respecting the rule of law within the bureaucracy. Through analysis of limited data, including a 1999 ombudsman report on the right to know and several brief case studies of journalists denied information, Sakowicz asserts that more technology will bring about more openness, better information access, and greater opportunities for citizens to take initiative in locating information important to them. As a measure of success, Sakowicz asserts, “Usefulness of [the right to know] must be measured by the extent to which it permits people – ordinary citizens, organizations, journalists, companies and even public authorities – to obtain the information about public activities, which they seek without overburdening the administration” (2001: 23). In this definition of success, Sakowicz shares sympathies with the bureaucrat, Marek G., who essentially seeks administrative efficiency. But such sympathies are inherently contradictory to the format of implementation surveys outlined above.
A Positive Assessment

"The Supreme Chamber of Control (Najwyzsza Izba Kontroli or NIK) positively assess the workings of administrative organs samorzadowej and rzadowej wojewodztwa podlaskiego ([local] self-government and [central] government of the province of Podlaski) in connection with the implementation of UDIP, despite confirming irregularities," stated an audit from late 2004. While the NIK audit confined itself to one (of 16 total) Polish provinces, it suggested a result different from the ASC and other findings.

When I visited NIK headquarters in 2003 and 2004, the audit, or "control" as they refer to it, remained incomplete, but a NIK auditor who focused on corruption anticipated its release with great interest. The corruption assessments NIK prepared called for greater openness and access to information as one method to help reduce administrative corruption, so UDIP was a particular point of concern. The justification for a NIK control was not, however, to examine its linkage to corruption. For one, they had never undertaken an assessment of access to public information. Additionally, they had received anecdotes and stories from the press of bureaucratic evasion from distributing information in violation of UDIP. Based on these conditions, NIK took its own initiative to embark on a control.

The Supreme Chamber of Control is situated within the Polish state, but outside of the control of the government proper, the government organized and operated by the Prime Minister. Parliament directly allocates funds to NIK in an attempt to create some distance from the rest of the administration. By most accounts, NIK has been fairly
successful in garnering an image of an objective, non-biased observer of government activity, particularly because the agency has boldly embraced strongly critical positions against the government and consistently uncovered administrative irregularities in the administrations of both left- and right-wing governments. A NIK “control” normally consists of accountants who go through administrative records and receipts to ensure that the government office channeled their funds in a legal manner and as intended. Many times, this leads to NIK corrections or suggestions for new regulations, the goals of which are to make the administration operate more efficiently. The NIK control on UDIP differed in that it focused less on accounting bottom-lines and instead examined the implementation of a law and the manner in which the rules of the law had been followed. While this was not beyond the bounds of NIK’s powers, the auditors deployed a mixture of methods, including non-statistical and non-mathematical methods.

NIK based its positive assessment of UDIP implementation on its examination of BIP sites, published information registers, and response to information access requests. It found that a majority, though not all, of the information required by law to be published in the BIP sites and other information bulletins was present. NIK considered UDIP requests, the area so strongly criticized by ASC and Sakowicz, the most overwhelming implementation success. Of the 16 administrative entities reviewed, only one UDIP request had been refused and that office had refused the request on apparently solid legal grounds. However, NIK also included a long list of reservations. Of its 7 main points in its analysis of the data, most were negative. It noted that the central province office successfully implemented the first step of a plan to enhance the IT capabilities of the local administration, but added that the plan failed to include a majority of the local
government offices and that the project’s expenses were not economical. It criticized the lack of standardized access rules and supervision of the BIP sites. Many of the BIP sites neglected to provide access to information required by UDIP. In particular, many offices only minimally offered information concerning property and financial activities of local administration leaders or published such information behind schedule. And many offices, especially those of the lowest administration level, the village level, failed to publish or unreliable stated budget information, as well as failing to update information throughout the year concerning changes to their budgets. While it sounds like a mixed message, we should remember that the purpose of a NIK control is to locate flaws and irregularities. Their overall assessment for UDIP implementation remained positive.

NIK has unlimited access to all records, activities, and personnel in the administrative sectors that they audit. This access plays a key role in determining the type of research methodology which they can employ. As opposed to the assessment methodologies deployed by the ASC outlined above, which essentially needs to deceive the state to compile their data, the government administration must cooperate with NIK through force of law. And unlike many other national auditing agencies, NIK auditors are physically present in the offices which they examine. This offers them a first-person perspective similar to the ethnographic fieldwork experience, a detail which NIK analysts proudly imparted to me. The UDIP audit consisted mainly of comparing the information posted in BIP sites and public registers to the information required by law to be published in those places. It also involved talking with officials responsible for UDIP implementation to understand the administrative rules they follow, their decision-making process, supervision strategies, and their training or knowledge of UDIP and other
relevant laws. To best study their “nonmathematical goals” NIK selected a “mixture of techniques” that combined statistical methods with non-statistical, “relying on the judgment of auditors” (2004: 50). But for an auditing agency normally concerned with accounting numbers or other forms of quantitative statistics, interpretation or finding bigger-picture social contexts is not an option.

The NIK control explicitly outlined its goals and justifications at the outset of the report. The goals, however, were quite redundant and readily apparent; to “study the implementation of UDIP,” or, in particular, “the degree of ensuring in reality and comparing access to actual and reliable public information, specifically in the scope of the operations of public power, the state of the environment, public finances and legal regulations” (2004: 4). The other goal, again restating the original point, is to study “realization of rules required in the implementation and functioning of BIP, and in particular, preparing organization and financing of audited departments for accessing information” (2004: 4).

As an organization, NIK controls have two potential effects. First, they may suggest improvements or adjustments in laws, regulations, or policy based on their control findings. In the case of the UDIP control, they recommended two policy adjustments and two legal amendments. In order to “remove the stated irregularities, departments should” (2004: 11) first, exercise stronger supervision and oversight for BIP publishing, specifying officials responsible for editing and decision-making. Second, they should widen the scope of open information concerning the budget, its passage, and reports on budget effectiveness. Generally, NIK found that proper implementation required more standardization of rules, especially for public finance openness. It
suggested amendments to two *ustawa*, which would place all of the responsibility for publishing budgetary and financial information in the BIP sites, rather than the wider and non-standardized array of sources where information is currently located. The second potential effect of a NIK control is prosecution for wrongdoings discovered during the course of a control. NIK would pass on such information to the public prosecutor who then makes a final decision concerning law enforcement, but NIK does not actually arrest anyone. UDIP violations carry fines and even jail terms, but NIK discovered no violations.

NIK’s analytical methodology, unlike that of the ASC, did not relate UDIP implementation to the quality of Polish democracy or the “disease of corruption.” This lack of desire to equate UDIP success with democratic success in Poland is in line with the generally straightforward scope of NIK controls, based on facts found within the bureaucracy. The internal scope of NIK research helps reveal its inherent measure of success. For NIK, success means regularity and standardization of bureaucratic procedure, strict adherence to law. As an organization, NIK prides itself in its lack of imagination or political interest, choosing instead to focus on administrative efficiency, particularly in the realm of public finance, and technical rationality or the reliability of bureaucratic rule-following. These are the goals of the NIK control, not a bigger picture analysis that would draw intersections with Polish history and tradition, or economic and political forces.

When NIK assessed the implementation of bureaucratic responses to UDIP requests, it could positively assess this work solely based on requests received. This explains how ASC could produce such radically different results in their assessment of
UDIP request implementation. According to NIK's finding, few citizens requested information: "the number of recorded requests suggests little and even minute interest in [citizen] recognition of their UDIP right" (2004: 38). Of the 16 offices closely scrutinized by NIK, only 8 had received UDIP requests. Of these 8, only 2 had received more than 10 requests. And of the requests from these 8 offices, 1208 in total, they refused only one request. Additionally, 14 of the 16 offices collected no payments for their requests. The other 2 offices had established administrative rules for collecting fees, but in practice, NIK found that even those fees were normally not collected with the exception of one extremely large request concerning railway passenger information which cost 134 zł (approximately US $ 33.50). NIK explained the general lack of interest in requesting information as a function of population size and already established information services, "in the offices of the gmina (village) in Punks and Wizn, the office of the municipality in Kleszczel: lack of requests to obtain public information is explained by the fact that in such small villages, around 5-6 thousand people, practically all information about the workings of the administration and its officials is generally known" (2004: 39).

But while NIK's even-handed assessment of UDIP implementation commended the manner in which it handled the requests it received, it also pointed out problem areas. NIK’s critique of standardization is particularly compelling because Marek G. of MSWiA noted the same problem. The lack of standardization created research problems for NIK in its attempt to assess UDIP, stating "units did not uniformly record the reception of [access] requests, so that it was not possible to compare their numbers" (2004: 38). Some departments recorded oral, telephone, or email requests, while others did not. All
recorded written requests. However, NIK did not intend to imply that this lack of standardization prevented them from collecting accurate data on request response, although Sakowicz explained to me that oftentimes his emails to local administrations went unheeded and phone requests may have been considered “less seriously” than physical letter requests. ASC, of course, had only deployed oral requests, in person. Additionally, the NIK control failed to examine the number of days requestors waited to receive a response.

The most crucial distinction between the NIK control and the ASC survey, resulting in different conclusions, lies in their different methods for generating knowledge about UDIP implementation. While NIK relied on information collected by the bureaucracy about its own activities, ASC stimulated the state to create new data through manufactured requests. No one at NIK actually made a UDIP request. Ironically though, the NIK control noted that in January of 2004, four different offices received the exact same request for information from the same Warsaw resident. While NIK did not assert that the person from Warsaw was probably undertaking their own UDIP assessment, it seemed almost certainly the case, since this was the only request received all year by some of these offices. This does not necessarily imply that the NIK audit produced more “natural” results than the ASC survey, but it helps clarify the distinction between the two forms of knowledge. Space for implementation failure existed in the NIK frame of knowledge, but space for success also existed. Unlike the ASC survey, NIK did not test the bureaucracy, in the sense of bending possibilities or furthering demands for information, but instead assessed the response and ability of the bureaucracy’s information-response capabilities within the present environment of
information demand. In that environment, NIK considered UDIP implementation a success. In an environment with greater demand, or the almost infinite demand imagined by ASC, it is unclear how the bureaucracy would respond.

**Concluding**

It would probably be most simple to conclude that state assessments of UDIP implementation are and will be positive and optimistic, while those conducted by citizen groups and NGOs will be negative and pessimistic. In general, this trend has held true. But this simplification conceals more than it reveals because it assumes the two sides assess the same thing and create their knowledge in the same manner.

From ethnographic accounts of individuals to scientific studies that scrutinize implementation both positive and negative, all organizations and individuals endorse the standardization of *measures of success*. In terms of the measure by which bureaucrats carry out UDIP, outsiders like Kazimierz D. suggest that bureaucrats fail to follow the rule of law. Bureaucrats agree that standardization among agencies has failed and NIK suggests that UDIP requires oversight. But faith in oversight would rely on subjects like Kazimierz D. to believe that bureaucrats have rule-of-law as a goal in the first place. Instead, they are less concerned with following rules and more concerned with making the state more open, a prospect which they do not really believe in. Instead, some believe that habits of secrecy control all bureaucratic conduct. From within the state, bureaucrats believe that through training and experience, UDIP implementation will begin to operate in line with the law. If implementation has failed up to now, those failures will serve as experiences to inform future action, aiding the bureaucratic quest for administrative
efficiency and technical rationality. Greater openness, in its abstract sense, is a policy concern for those who create new laws and guide the direction of the administration, not the direct interest of the bureaucrat.

In terms of the measures or measurements of UDIP success, standardization concerns fixing elements and variables necessary to produce reliable and objective assessments of implementation. Here too, the standardization of measures differed between different groups. While ASC and OSI created measurement methods which fixed the requestor side of the access relationship, the bureaucracy conceived of measurement which fixed existing experiences as the sole data set from which to produce assessments. The NIK study, in particular, standardized the environment of information demand, thus showing that administrative responses had largely met this demand. The ASC survey suggests that not all requests will be met and not in accordance with an exceedingly demanding set of requestors.

The significant group who remains misunderstood is the citizen, or rather, the specific groups of citizens who have a pointed interest in accessing information from the government. Only one such group exists, the environmental activists. However, their requests fall under a separate law governing access to environmental information. The OSI study suggests that journalists and NGOs should be interested in FOI statutes, but journalists in Poland have found no need to specifically reference the law. The NGO sector constitutes an emergent site for the existence of an information access expert community not yet in existence. While an increasing number of NGOs and individuals have become aware of UDIP, sites for knowledge-sharing or discussions of best strategies to exploit the law do not yet exist with the exception, again, of the
environmental activists. However, a lack of UDIP standardization may prevent the emergence of such a community because each request will be too particular. Potential requestors may instead opt for other, possibly informal channels of information flow. Or because each request is particular, they may see no need to consult with centers of expert UDIP knowledge. On the other hand, without a pressing demand for greater information access through the efforts of a concerted and organized access community, the call for more bureaucratic oversight and UDIP standardization may go unheeded. It remains to be seen whether UDIP will emerge as the type of cultural phenomenon witnessed in other countries, such as the United States.

This chapter has discussed in some detail and from different perspectives the understandings and knowledge generated about and around UDIP. It has examined how people understand implementation, but does not constitute new knowledge about UDIP implementation based on original data collection. Throughout the world, while FOI researchers, many of them lawyers, have compiled many legal histories and analyses, legal implementation analyses are much more rare. There exists no standardized form in which to collect information on the proper implementation of FOI law. Various methods of collecting data have been deployed. The best measurement for their success may ultimately derive from the effect of their knowledge. As mentioned in the previous chapter, Ralph Nader organized a team of FOIA researchers in the early 1970's to find evidence of shortcomings in the implementation of the American FOIA, particularly in terms of administrative details such as fee payment regulations and time limits. As a result, Nader’s findings, combined with the lobbying efforts of a wide range of openness in advocates, brought about important legal amendments to FOIA. For the most part,
best practices in designing FOI laws worldwide seem to rely more on experiential data than quantitative findings, but we should never underestimate the power of numbers and statistics in making a change. When the leading newspaper in Poland publishes data declaring UDIP a failure, along with numbers gathered to support this assessment, it matters little to the general public what type of methodology generated this knowledge. While every new representation of the data removes us farther from the original context of data collection and its complexities, the numbers remain unchanged, solid, and frankly believable. However, it remains to be seen what effect these numbers will have, either from ASC or NIK, or what effect this new knowledge will have on the future course of implementation.
Inter-Section:

Rywingate & Regimes of Transparency

This chapter characterizes the cultural environment of Poland in the early 20th century, in a context of increasing awareness of corruption, the institutionalization of anti-corruption, the perceived urgency for more information access, and the intense politicization of anti-corruption. It generates this ethnographic insight by introducing the fieldsite of investigative journalism. This site exists at the inter-section of powerful social and political forces, demonstrating the ethos of the Polish anti-corruption assemblage. It asks: what types of shared cultural logics have emerged in this situation? What particular forms of subjectivity can help us understand this space? And how have legacies from before 1989 played a pivotal role in shaping this ethos?

In May of 2004, I visited the offices of Gazeta Wyborcza (Newspaper of the Election) for the second of three extended interviews with deputy editor-in-chief Piotr Stasinski. Gazeta Wyborcza is Poland’s largest daily newspaper, first founded in 1989 by underground dissidents and allowed by the Round Table discussions to provide information to Polish citizens concerning their first democratic elections. When I arrived at Stasinski’s office that morning, he led me away from his space and into the editor-in-chief’s office where we could have more privacy. The editorial board was holding a meeting in Stasinski’s office, which is almost a hallway, approximately ten foot by twenty foot, with two doors on opposite ends allowing a passage through and walls of full glass. A table in its center functions as the site for daily editorial meetings. Editor-in-chief Adam Michnik is one of the best-known people in Poland, famous there and internationally for his central role in the underground resistance movements KOR
(Committee for the Protection of Workers) in the 1970’s and Solidarity in the 1980’s. He has been editor-in-chief of Gazeta Wyborcza since its inception. In 1989, he took a position in Parliament, but soon decided he preferred other forms of political activity over legislation. Having been a political radical for so many years, it was difficult for him to play the role of statesman. Rather, he pursued a type of role more consistent with his true character, a purveyor and supporter of progressive civil society and culture. Millions of Poles, especially the younger generation, deeply admire Michnik for his selfless sacrifice during his underground days, and for his having spent many years in jail in defiance of the communist state. In turn, the respect earned from the days of resistance by Michnik and his old friends, now co-workers at the paper, carried over to Gazeta Wyborcza. Many have hailed and respected the newspaper as a guiding light towards a more democratic system and society.

However, in recent years Wyborcza’s good name has been tarnished, mainly by the revelation of what is easily the biggest scandal in the Third Republic’s brief history, referred to as either “the Rywin affair” (pronounced Ry-vin) or “Rywingate.”

In 2001, the government’s National Broadcasting Council (KRRiT) began a campaign for a new law that would effectively limit media monopoly in Poland. If the law was passed, no organization could own more than one radio station in a market and the owner of a nationwide daily newspaper would not be allowed to also own a nationwide television station. The only exception to these rules would be the state-owned public television station, Telewizja Polska (TVP). While the law appears sensible enough, there was no impending danger of media monopoly. The only nationwide daily owner was Agora, which publishes Gazeta Wyborcza. Agora was interested, at the time,
in purchasing a television station called Polsat. It is not irrelevant that *Gazeta Wyborcza*, whose editors are largely right-leaning/centrist, did not share the political viewpoint of the party in power, Alliance of Left Democrats (SLD).

On Monday, July 22, 2002, film producer Lew Rywin, who co-produced such well-known films as *Schindler’s List* and *The Pianist*, visited the office of *Gazeta Wyborcza* editor Adam Michnik, the same office where I conducted my interview with Stasinski. A week earlier, Rywin had approached Agora president Wanda Rapaczynski and vice-president Piotr Niemczycki concerning their interest in purchasing Polsat and their feelings about the potential new law. In not so many words, Rywin hinted that a bribe could make possible Agora’s acquisition of Polsat. After that meeting, Michnik contacted Prime Minister Leszek Miller to ask if he was involved in this bribery scheme, but Miller denied the accusation. On the 22nd, Michnik secretly recorded his conversation with Rywin. During the meeting, Rywin openly attempted to solicit a bribe of $17.5 million dollars from Michnik and, in return, the bill would change in the interests of Agora. The idea for this bribe, according to Rywin, came from a vaguely referenced “group that holds power,” which most believe referred to Prime Minister Miller and his cronies: Andrzej Zarebski, a former KRRiTV member who was at that time an independent media advisor; and TVP president Robert Kwiatkowski, who allegedly wanted to privatize TVP2 and purchase it with the money from Rywin’s bribe.

The story is shocking enough up to this point, but from here, things get really weird. *Gazeta Wyborcza* did not publish any part of the story until December 26, 2002, five months following the incident. Further, discrepancies existed between the tape of the conversation, posted online, and the transcripts of the conversation published in the
newspaper. Longtime critics of Wyborcza, particularly those on the political left and ex-communists, used the delay and the discrepancies as evidence that the newspaper edited the tapes and the entire story was simply political manipulation. According to its editors, the paper withheld the story because its release might have harmed Poland’s delicate negotiating situation with the European Union accession committees taking place during that summer and fall. Later, Michnik admitted it was a mistake to delay publication of the story, but he claimed to be acting in the public’s interest.

Following the release of the story, parliamentary hearings were broadcast on TV to an enormous national audience. After years of political analysts and sociologists noting low voter turnout and a general apathy towards Polish political life, viewership for the investigations were much higher than anyone expected. More Poles tuned in to the hearings than voted, evidently proof of their interest in politics after all. But the hearings also turned into a soap opera, with many witnesses refusing to incriminate themselves and little being revealed or solved. At one point, a junior SLD senator questioned Adam Michnik for several minutes concerning the color of his red socks. She implied that homosexuals wore red socks. In response, Michnik noted that it was common for dissidents to wear colored socks during the communist era, an open allusion to the senator’s membership in the post-communist SLD party, as well as her youth. More than anything, politicians used the hearings to gain greater recognition for themselves and their political parties.

Rywin finally went on trial and was found guilty in the Spring of 2004, but the state refused to try any other officials. Officially speaking, the “group that holds power” was a fiction. But in public opinion polls from the same time, a majority of Poles believe
that there was a conspiracy involving officials at the very highest levels of government. And while most of the public outcries are directed towards the corrupt dealings of those inside the government, Michnik and Gazeta have also received a great deal of criticism and, for many, they seem to have fallen from their respected position as a moral voice in Poland today.

The final story on the Rywin affair is far from final. The public’s indignation is indication enough of that. Suspicion remains, as it surrounded the case from its inception. But the story is much more than a failure of transparency. In fact, transparency was in abundance. Rather, the story reveals the complexity of revealing how power operates, as well as the many levels of revelation made possible through regimes of transparency: from parliamentary hearings to public court proceedings, through architecture and journalism itself. Older styles of Polish politics, born of the communist era and the moment directly proceeding the 1989 revolution, have become entangled with a newer style of politics, influenced by international trends in transparency, anti-corruption and good governance. The result is a uniquely contemporary form of subjectivity characterized by, among other elements, suspicion and paranoia.

**Being There**

At the offices of Gazeta Wyborcza, Adam Michnik still commands a great deal of respect. The paper is more than a company, but a group of friends and family, sharing a special ethos.
Already knowing the Rywin story, talking to Piotr Stasinski in Michnik's office, the site where the scandal originated, was like having a meeting with Woodward and Bernstein at their meeting place with Deep Throat. After I sat down and we chatted, I asked if I could record our conversation. "Yes, of course," he said. "You know, this room is quite famous for recording interviews."

"This is the place where..." I said, while making some hand gestures, "right?"

"Yes, exactly," he said, openly pointing out to me the places where they had hidden the microphones to record the conversation. One in the bookshelf and the other underneath a coat next to the desk. We sat in the same places that they sat.

"You know that in America, you really couldn't record this interview legally. You're supposed to tell someone they are being recorded, the tape would never stand up in a court of law."

"That's funny. That's funny really. You wouldn't have any evidence then [of the bribe offer]."

"But I recall, when the Pentagon papers were leaked, that they [the U.S. government] entrapped the guy who leaked them. They recorded him secretly and they were surveilling his phone calls. And fortunately, all of that information was thrown out of court because it was captured illegally. So it turned out they had no case without that evidence. But I suppose in this case, the ridiculousness of the legal findings, that there was no group [referring to the "group that holds power"] and the whole fiasco of the yearlong - "

"Sort of fiasco. Formally, it is. No, but the truth is there. I mean, everyone who watched it, nearly every commentary on that. All publications in general, except for
some smaller exceptions, they showed that there must have been some people [behind it]. And also the most serious of the reports, the Nalecz report, which is the president, the chairman of the commission, is saying there are people who must have sent him [Rywin]. Otherwise, it cannot be logically explained. It cannot. So, fiasco, yes. In formal terms. But in the very sense of the perceptions of this case, it’s not a fiasco. It’s not a victory, but it’s not a fiasco. It’s a knowledge, public knowledge that people have.

“So, it was a good thing in a sense?”

“What?”

“This kind of thing [a corruption scandal] has happened before, but –“

“Exposing, yes. Exposing it was good.”

“The exposition of how high levels of power work.”

“Yes. This is the most important part of that. And I think it’s really valuable for democracy here, for the workings of democracy. For people to know how the authorities work: illegally.”

In another point in our conversation, Stasinski elaborated on the people’s reaction to and expectation of the illegal tendencies of power. The “Polish public is paranoid,” he stated. And while Gazeta attempts to temper this paranoia with a degree of optimism – “If you’re too critical, the public starts to feel bad; they don’t want to read anymore” – stories like the Rywin affair almost inevitably gravitate towards corruption and crime.

In such a context, Stasinski is acutely aware of the production of news, balancing what the public wants with what it needs. Gazeta speaks for the public while simultaneously speaking to the public. Does the newspaper expose because the public wants democracy or because democracy wants revelation? If the situation seems
ambiguous, it is only because equating greater transparency with more democracy is unclear.

Transparency by Design

What struck me as most peculiar in that particular situation, sitting in the very place where a giant conspiracy began to unravel, was the built environment of Gazeta Wyborcza’s offices, full of glass and transparency. Adam Michnik’s office is not a remote or secluded bunker for secret affairs, but a transparent and central location for open meetings. Even if less opaque materials cover the glass that looks directly upon the editorial workspace, there were two ways that co-workers could bear witness to Rywin’s presence on that Monday meeting in July of 2001. First, his presence was conspicuous. Rywin would have walked directly through the journalist’s workspace and have been recognized. Second, one of Michnik’s wider walls is completely glass, overlooking a small courtyard. An outdoor catwalk above the courtyard allows people to enter the editor’s office from adjacent offices. And part of the conversation actually took place outside, there on the catwalk.

After all of my experiences talking with and building relationships with journalists at Gazeta Wyborcza, the Rywin-Michnik meeting felt like an idiosyncrasy. Rywin operated in a manner of politics-as-usual in Poland, acutely unaware that his transparent surroundings were much more than surface decoration, but foundational to the paper’s spirit of operation. After countless interviews in offices throughout Warsaw, the Wyborcza office stood out to me as a uniquely open environment, in tune with the social environment of the paper’s staff and democratic ethos. Stasinski went on to
describe the types of person they specifically look to hire at the newspaper during a
discussion of what he perceived as the lack of professional journalism during the
communist era:

News and stories, features weren’t very professional journalism [under communism] because under censorship, you cannot be a professional journalist at all. Very rarely there were people who were able to do really good journalist work. That is why, by the way, we don’t employ many people after journalism studies. We don’t think journalism studies really teaches the profession. This profession is being taught on the job. You learn on the job. You need to be a generally educated, open minded person. If you want the news, you want the story, you know what is important. You have some sense of the social. And you shouldn’t be political, you shouldn’t be politically biased. There are some general values you should share, certainly in this newspaper, for instance. You are liberal in a very general sense of the word. You should be civilized, you should be cultured. This newly independent state that respects a market economy and democracy. You have to respect and value these things very much. These are general things.

As journalists at other newspapers recognized and explained to me, *Gazeta Wyborcza* is not like a normal workplace. It is a culture unto itself in many respects, a coherent and stable workplace with less turnover than most other media outlets in Poland.

For several years, the paper’s first headquarters was housed in a nursery school.

A famous story told to me by a *Gazeta Wyborcza* reporter recounts editorial meetings taking place in the outdoor sandbox, where editors would format the next day’s paper in sand. In 1992, *Wyborcza* moved into an office building from the 1950’s, a former headquarters for a state-owned enterprise. While the building was not a model for socialist realist architecture, it was neither as gray and repetitive as much of Warsaw’s built landscape. It held many qualities in common with the numerous government buildings I encountered, full of interior hallways stretching the length of the building with symmetrically even, closed doors on both sides.
The new Agora headquarters was designed in 1998 by a group of ultra-modern Polish architects, part of a larger trend in Poland to reconnect with Western and especially European style. Prior to 1939, Polish architecture did not differ dramatically from the rest of Europe. And while Polish artists have always recognized themselves as peripheral to the great artistic capitals of the West, they have also always followed these trends closely, even adding their own local flavor. The destruction of Warsaw during World War II demanded that the state rebuild the city from the ground up. In the late 1940's and early 1950's, socialist realist architecture was obligatory throughout the Soviet bloc. Design was monumental and classical with a touch of modernist style from the inter-war period. The Palace of Culture and Science stands in the middle of Warsaw, an elaborate testament to this style. But after the death of Stalin, Polish design was allowed to reconnect with European trends and essentially departed from socialist realism. However, lack of funds prevented Polish architecture from keeping pace with contemporary developments and, as a result, buildings were quite simply constructed, usually of poor quality. Even today, large rectangular slabs populate most of Warsaw, serving as either apartment complexes or business office spaces. The effect is usually imposing, gray, and gloomy. While the fiscal crisis of the 1980's brought what little construction that existed to a stand-still, the events of 1989 opened a floodgate for foreign investors interested in new construction throughout Poland.

As early as 1990, Gazeta Wyborcza's parent company Agora dreamed of a newly constructed headquarters, initially envisioning a skyscraper in downtown Warsaw. But as a couple of different plans for a new headquarters failed, Agora's consultant architect persuaded them into a low-slung building more conducive to organizational interaction.
In particular, they were interested, as a model, in British Airways’ headquarters near London, designed by Norwegian architect Niels Torp. The headquarters consists of six buildings connected together by a glassed-over street, a central nerve of the overall design and a site for social interaction and diverse activities. According to Torp’s design firm, “Interiors are designed as light, open, airy spaces, with the main emphasis on stimulating internal communication.” As opposed to the typical Polish workspace built during the communist era full of rather dark, stale, enclosed spaces, the inspiration for *Gazeta Wyborcza*’s new offices represented a radical departure in terms of communicative possibilities, information access, and transparency. Their new building embodied the spirit of the newspaper and its democratic ideals.

In 1990, Agora prepared to build a skyscraper, a symbol of might, while in 2000, when construction began, they had changed their minds and opted for an open and airy space full of transparency. This shift in design taste mirrors the emergence of transparency in the political arena in the realms of anticorruption initiatives, the information access law, and investigative journalism. All three realms emerged as strong forces at the end of the 1990’s, the same moment when the JEMS Architecki won their 1998 bid to design the Agora headquarters.

What is the connection between these elements? Is this nothing more than a coincidental juxtaposition? A strong or weak connection? Certainly, the built environment offers additional context, a thicker and more meaningful description of the Rywin affair. But even so, Poles have not accepted this move towards transparency as necessarily fueled by pure motives. The Rywin affair shows that transparency guarantees
very little. Revealing one scandal sets a stage, but Poles are, at present, acutely aware
that there always exists more dirt beneath each revelation. A common metaphor
deployed by regular citizens concerning Rywingate was that this was merely “the tip of
the iceberg” and, as they all knew, only a small fraction of the iceberg can be seen above
the water.

If a transparent ethos represents an emergent logic in 21st century Poland, we
cannot analyze that discourse apart from the dominant discourses that preceded
transparency and persist today. In certain situations, the two forces interact and the
Rywin affair is such a situation where the result is particularly volatile. This is the type
of discourse that mirrors the typical built environment preceding open and airy structures,
such as the Agora headquarters. The newly transparent style intermingles and overlaps
with older forms of political secrecy, rather than transparency replacing secrecy. In the
Rywin affair, the two styles overlap and the result is not any degree of transparency, but
rather paranoia. The political scandal reveals that corruption can even take place in a
glass house.

**From Paranoid Style to Paranoid Subject**

The most striking comment that circles and returns us to the original scandal
concerns Rywin’s reference to “the group that holds power.” Every Pole that I have
talked to about this case says essentially the same thing, that they are not at all surprised
that there is a small group of people who are in control of the government, that this small
group is most probably a hold-over from the communist era and, of course, that
corruption is widespread and extending to the highest levels of power. The paranoia is so
widespread as to constitute a dominating logic of explanation for all of Polish politics today. In contemporary Poland, there is a "paranoia within reason" (Marcus 1997), meaning not just that paranoid explanation is perfectly reasonable, but also that shared institutional rationalities – such as that of anti-corruption, information access, and journalism – actually contain a kernel of paranoia at their base. The novelty of corruption as an object of knowledge is that it stems from a paranoid subjectivity, a paranoid way of seeing things.

Many reports claim that corruption in Poland is probably not getting worse, but what has changed is the availability of information and the public reports of the corruption. Corruption is going public, but will this change anything? Hand-in-hand with this new twist, paranoia seems more permissible. No one considers the paranoid critic a crazy populist or a conspiratorial nut, but a savvy observer of contemporary Polish politics. At the same time, few people are generally optimistic that this new openness will affect a change towards democracy.

This is the environment of the paranoid subject, a perspective and mode of reason employed by those within and beyond the state, among certain journalists and scholars, as well as bureaucrats and policymakers, politicians and their mafia bribe-makers, both healthy citizens and the mentally ill. Paranoia, generally speaking, may serve as a general reaction to the workings of power, as when Canetti writes that "secrecy lies at the very core of power" and the paranoid thinker reacts suspiciously. But the Polish form of paranoia emerging or transforming itself at the end of the 20th century is subtly different

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17 While highlighting paranoia and suspicion, this analysis is careful not to call Poland cynical, referring to a belief that all action is self-motivated. The focus of this dissertation is on modes of reason in practice, embodied in the process of conceptualizing and creating knowledge about corruption. It does not purport to fully pinpoint a shared belief, unless that belief is somehow deployed in knowledge-production practices.
and maybe even more complex than the paranoia of the communist era. Then, paranoia was justified by the absurdities of the system and its complete lack of transparency at all levels of power. Now, transparency fuels paranoia, tempting with its possibilities, but always carrying its limits. Then, all was opaque. This fueled wild dreams of imaginative possibility. Now, they can see contours or tips of certain icebergs, the gaps become clear. This is “paranoia within reason,” a much more grounded and even sensible paranoia.

The next section follows the development of investigative journalists as they seek to uncover the wildly corrupt acts of public servants, politicians, and prosecutors. Because they work and speak in the public interest, breaking some, but not all laws of information access and state secrecy feels completely justified in terms of moral ends.

The paranoid logic of investigative journalism is not simply, they argue, a development upon the critical mission of the press in a democratic society. It is made possible by contexts of the transition, including the end of censorship and privately owned media outlets. It is also fueled by the general wave of laws, regulations, policies, and ideas that push for greater transparency. This wave strengthens the justification of the journalists to bend and break information laws. This builds a context in which paranoia makes sense because the decision-making capacity of politicians and bureaucrats cannot be trusted. Further, in these contexts of increasingly, yet not wholly transparent bureaucratic operations and decision-making, enough information comes to light, whether through new legal regulations or journalist contact networks within the bureaucracy, that newspapers may assemble a heretofore unprecedented degree of knowledge about their objects. In combination with the availability of experts and their knowledge in a wide variety of fields, journalists attempt to reconstruct stories for public
consumption concerning the workings of previously secret operations, from the very highest formal levels of power in Poland to the workings of informal forms of power such as the mafia.

The novelty of the investigative journalist has less to do with the topic of his or her investigations, as the workings of power have always existed under some veil of secrecy, or even the methods by which he or she obtains information, whether informal contacts or even technologies of recording, but the subject position of the journalist, including the subject’s mode of reasoning, his or her understanding of the objects of investigation, and the methods which seem justifiable from that position. The novelty of corruption as a recalcitrant object of knowledge thus stems from the particular subject position.

Inside of a glass office space, the Rywin affair represents layers of ironies upon ironies. And despite the transparency of the situation, or rather, because of the transparency and its limits, the entire affair only raises an increasing number of questions which appear increasingly unlikely to ever be answered. Who sent Rywin and for what purpose? Did they know he would be caught? Was that their intent? Who is the “group that holds power”?

In addition, Rywingate itself constitutes an important element of its own context, as a reference point for understanding high-level corruption and the ubiquity of corruption, as well as the futility of anti-corruption and its disappointing realities. At the same time, journalists such as Stasinski believe they successfully exposed this case of corruption. Perhaps Rywingate will deter future plans for corruption. At the very least, it
will take a place in the ever-accelerating and more complex paranoid mode of reason through which people plot corrupt acts and journalists reconstruct them.
Chapter 7

The Logic And/or Reason of Investigative Journalism

What is investigative journalism? How does it differ from other forms of journalism? More importantly, how and why is investigative journalism unique in Poland?

Investigative journalism (Dziennikarstwo Sledztwo) represents a site for the production of knowledge about corruption in a vastly different context than the realm of anti-corruption policies, experts and NGO’s described in the previous sections. Generally, investigative journalists share a common goal with anti-corruption groups in their effort to root out corruption in Poland. Other similarities exist, but the distinctive difference rests in the articulations of this common goal, the form of knowledge journalists produce, and the instrumentality of journalism as knowledge deployed. Investigative journalists operate in a separate environment where they must consider the ethics of professionalism, a more popular and widespread audience, a more focused and intimate research agenda, and a lack of interest from international actors or other countries.

Investigative journalists produce knowledge about corruption in a different manner from policymakers and then deploy that knowledge for different ends. Their context demands such differences, but it also demands different rationales for pursuing their object of knowledge, as well as instilling their work with different concepts, constraints, and meanings. While policy-level analytic knowledge may reference an investigative article to illustrate their points concerning general trends in corruption, investigative journalists in Poland rarely point to general trends of corruption. Such
references only serve to weaken the investigative findings, suggesting, I would argue, that the object of the report was somehow less guilty because of their context. Investigative journalism makes accusations and locates guilty parties.

The following chapter presents a brief history of the emergence of investigative journalism in Poland since 1989. The first investigative stories came out in the mid-1990’s and journalists I spoke with agree that no such investigations took place before 1989. In the course of this chapter, I trace the emergence of investigative journalism through important stories and figures that established the incipient traditions of investigative journalism in Poland.

**Distinguishing Investigative Journalism in Poland**

*Dziennikarstwo Sledztwo* is not a form unique to Polish journalism, or a form wholly imported and therefore foreign to Polish journalism. Since 1989, Polish journalists consistently wrote about bribery, scandal, and other illicit activities of public officials. This has made a distinction between reporting about corruption and investigative journalism difficult. Both require a degree of uncovering and description of previously hidden activities. Regardless of whether academics could analytically define corruption in 1989 or that the World Bank only reported corruption in Poland in 1999 or even that anti-corruption NGO’s did not appear on the scene until the late 1990’s, Polish journalists have possessed a strong sense of morality concerning the conduct of public officials that has both informed Polish anti-corruption discourse as their reports simultaneously offer case studies for the study of corruption.
The most important distinctions between journalistic coverage of corruption and investigative journalism rest in the scope of the reporting and the independence (for lack of a better term) of the investigation. First, corruption reporting deals with individual cases or local phenomena. Investigative journalism connects the dots between previously disparate or merely suspected private figures and public institutions, often revealing the true identity of individuals, small companies, or corrupt networks and their hidden connections. Second, journalists undertake these investigations independent of any state-sanctioned agency, such as the police or the prosecutor’s office. In many cases, corruption stories stem from already-existing investigations or arrests undertaken by state agencies. Investigative journalists may make use of state investigatory agencies or specific investigations, but the stories they uncover, while worthy of such prosecutorial investigations, are not (yet) fully understood by state prosecutors. The final step before publication of an investigative piece often includes a trip to the public prosecutor to lay out their case and find out whether the prosecutor will begin an investigation. Third, although all corruption-related stories involve a public interest, investigative journalism distinguishes itself by focusing on stories that deal exclusively with public officials, public funds, or public institutions. Through the course of an investigation, they uncover previously secret or obscure information about the operation of these public objects. However, they are not concerned with the private lives of the public figures involved, nor would these stories deploy investigative techniques to uncover information about purely private figures, such as celebrities, or purely private operations, such as business transactions outside of the realm of the transfer of public or governmental funds. Unlike the United States, where investigative journalists see a public interest in revealing illicit
activities of corporations who defraud their stockholders, Polish investigative journalism has not breached corporate corruption, perhaps because the Polish stock market remains small.

Models and Comparative Examples from the U.S.

While the Polish history of investigative journalism is unique, it is not without precedent or model. Repeatedly, investigative journalists would make reference to their American counterparts and, more specifically, to Woodward and Bernstein's famed Watergate investigation. For many journalists in Poland, America serves as either an example or a model of what investigative journalism can accomplish. At the same time, the American history offers important points of comparison with the Polish history. Therefore, it is important to highlight and briefly recapitulate the American history of investigative journalism as it relates to and informs Polish journalism. In doing so, I want to make three key points. First, the patterns and trends in the American history, particularly in terms of investigative journalism's popularity or influence, can help us understand and foresee patterns and trends in Polish journalism. The American history simply offers perspective for an analytic framework. Second, investigative journalism is a form that travels, though very loosely. The form in Poland might be reduced to an inspiration, but it nonetheless resonates as an example of how journalism should operate. Third, Watergate in particular is a key metaphor for Polish journalism that reveals their desire to assert an important role in Polish democracy. Watergate is an example of the power and possibility for journalism to change or reform the state. This is directly linked to many journalists' socially minded goals, to hold government accountable and serve the
Polish public, to speak for the people and act on their behalf as the “Fourth power” or estate.

The American “literature of exposure” often serves as a model for investigative journalism throughout the world (Armao 2000: 36), including Poland. In the United States, investigative journalism found its predecessors as far back as the late 17th century, though the first “modern” investigations began around the beginning of the 20th century. Henry Demarest Lloyd first defined the modern investigative journalist form by mirroring the investigative techniques of a prosecutor, directly quoting witness and expert authorities, following paper trails, and deploying objective research to bolster his cases (Armao 2000: 38).

In America, the history of investigative journalism has not progressed in a linear pattern of increasing popularity or public acceptance. Instead, it has fluctuated. Early 20th century “muckraking” journalism became increasingly unpopular around the time of World War I when patriotism and trust in the government grew, while critics of investigative journalism asked whether muckraking could lead to social apathy (Armao 2000: 39). For many decades afterwards, journalists continued to deploy investigative techniques which became an important methodological instrument in the institutionalized field of professional journalism – the University of Missouri opened the first journalism school in America, for example, only in 1908 – but investigative techniques were used with limits and focused mainly on local news stories. In the 1960’s, investigative journalism returned to fashion on a more national level, reaching a crescendo in the 1970’s. Despite contemporary popular nostalgia, Watergate was not the high point of investigative journalism in the 1970’s. Seymour Hersh’s 1969 expose of the My Lei
massacre fueled an already existent sense of public outrage over the ongoing war in Vietnam. And in 1971, the publication and eventual judicial vindication of the Pentagon Papers by the New York Times set an important precedent allowing American news outlets to publish previously secret government information unimpeded by the wishes of the state (Daniel 2000).

The sociologist Michael Schudson (1992), in his book on the role of Watergate in the American memory, devotes special attention to investigative journalism, arguing provocatively that “Watergate overwhelms modern American journalism” (1992: 103). Regardless of its effect on journalistic professional practices, Schudson posits Watergate as a central myth, which has:

become part of an institutional apparatus, like corporate goodwill, like any tradition, like language itself. While a tradition of muckraking precedes Watergate, Watergate gave it flesh and blood (Woodward and Bernstein), as well as an unforgettable knock-out-punch triumph (Nixon’s resignation), however unfairly attributed to journalism (1992: 125).

The myth reinforced by popular representation and pop culture nostalgia is a David and Goliath story of two young, idealistic and pure journalists who “follow the money” and end up taking down the old, jaded president, backed by his evil minions. Schudson diligently pursues Watergate as a myth, polysemic in meaning, inviting exploration into some of the most difficult questions for journalism and society more generally, and, most importantly, “remythologizing” the tradition of investigative journalism for a new era.

Even before the Watergate myth had settled into the pantheon of journalistic mythology, critics such as Edward Jay Epstein asked, “Did the Press Uncover Watergate?” (1974). His answer was no. Although Woodward and Bernstein began the publication of the Watergate investigation, they concluded their series of articles before
the Senate Watergate committee began, before the release of Nixon’s extensive
recordings, before prosecutor Archibald Cox subpoenaed the Nixon tapes, and before
Judge John Sirica ordered Nixon to comply with Cox’s subpoena. In addition,
Woodward and Bernstein’s investigation ran parallel to the FBI investigation of the
Watergate break-in. And now that we know the identity of Deep Throat, a top official in
the FBI, it has become even clearer that Deep Throat translated his intimate knowledge of
the FBI investigation into suggestions for the journalists’ investigation. More
importantly, the bureaucrats, officials, and anonymous sources who offered information
to Woodward and Bernstein, as well as the Senate investigation, probably deserve more
credit than the two journalists alone.

The book and subsequent movie All the President’s Men solidified the myth of
Woodward and Bernstein as major players in the Watergate investigation, as more than
journalists who first revealed the story, but actors who actually caused Nixon to resign.
But while Schudson portrays the Woodward and Bernstein saga as a myth, I find it more
useful to understand Watergate as a metaphor. Meaning not only that Watergate is good
to think with, but also, that this metaphorical logic translates more easily to disparate
contexts, such as Poland. In the movie All the President’s Men (1976), for example, we
can see how the metaphorical logic frames an important contrast between the intensely
bright newsroom and ominously dark scenes of Washington DC (Leuchtenburg 1995:
288-291). Much of the movie’s action takes place in the brilliant newsroom where
producers spent a great deal of effort assembling a close facsimile of the actual
Washington Post newsroom, including details such as identical desks and vivid paint
hues (6 1/2 PA Blue and 22 PE Green), as well as actual trash shipped in from the Post.
The newsroom is an environment for truth-tellers to work and reveal. Washington DC, on the other hand, “that sunny city of broad boulevards, white edifices, and pink cherry blossoms – is seen in spooky darkness” (Leuchtenburg 1995). Woodward meets Deep Throat in the poor lighting and stale air of a parking garage. The outside world of politics takes place in darkness, where truth is covered up. As opposed to the recurrent imagery of transparency found in more complex paranoid movies such as *The Conversation* (1974), director Alan Pakula, who also directed the conspiracy classic *The Parallax View* (1974), deploys contrasts of darkness and lightness to imply deception and truth, rather than multiple strata of transparent imagery representing the obscuring quality of revealing one layer, only to find another layer below.

The specter of Watergate and its legacy of mythical journalism, still palpable in contemporary discussions of information leaks and ubiquitous critiques of excessive government secrecy, has also influenced Polish journalists. Many of them had read the book or seen the movie *All the President’s Men*. And many of the investigative journalists actually likened themselves, though oftentimes in half-jest, to Woodward and Bernstein. “I think it is always good to work in a group, best with one partner. Like Woodward and Bernstein,” one investigative journalist told me. Others spoke of writing personal accounts of their investigative travails, what they called “the story behind the story.” In a strange confluence of interests, I began my interviews with the investigative journalists by seeking the story behind one or more of their investigative stories. And when Woodward and Bernstein pitched their book idea to Simon & Schuster, they called it “the story behind the story” (Leuchtenber 1995: 288).
But more than simply understanding their own positionality vis-à-vis environments of media and media analysis, Polish journalists also perceived the role of investigative journalism, as well as journalism more generally, as powerful in both politics and society, within certain limits. “We are the ones who expose corruption. Not the government or the World Bank,” one investigative journalist told me. Another told me that, as a result of their investigations, “politicians are now afraid,” or at the very least, “they will think twice before they make a bribe or some other corruption.” With an increasing frequency, public officials have resigned immediately after publication of investigative articles, while others have been sent to jail as a result of journalists’ efforts. This mythic role of the press has become even more the reality in Poland than in the United States.

“In Poland, we lack heroes of journalism,” claimed Piotr Najsztub in an interview for Press magazine (2004). “In American cinema, journalists – apart from police, bandits, and politicians – are the fourth group of film heroes. In Poland, we have ‘Samo Zycie’ [“Alone or Only Life,” a serial drama/soap opera], which tells a story about editors that never know and the same with journalists.”

Rhetorically speaking, we might assume that Najsztub only watched All the President’s Men and failed to watch Absence of Malice. Sydney Pollack’s 1981 movie about a politician unfairly and inaccurately accused by an investigative journalism report, eventually destroying an honest man’s career. The difference between the two American films actually mirrors a historical trend of general public sentiment toward investigative journalism. In America, after a spike in investigative journalism following the My Lei and Watergate headlines in the 1960’s and 1970’s, the 1980’s ushered in a public and
political backlash against excessive and increasingly petty investigative stories. The backlash in the 1980’s focused on both journalistic accuracy, as well as the means by which journalists accessed information (Daniel 2000, Armao 2000, Greenwald and Berut 2000). In Poland, an incipient backlash may have begun in the summer of 2005, a year following the conclusion of my fieldwork, when Gazeta Wyborcza released an investigation into ties between several city police departments and local mafia. Less than a week later, the paper had to recant the story, claiming an anonymous source inside the police office had purposely misled them. They then publicly out-ed the anonymous source, a police chief himself. One journalist, formerly of Gazeta Wyborcza, told me that, following the incident, some journalists began to speak of a “moral revolution” in journalism.

The First Investigations

It is significant that the above quote concerning journalist heroes in cinema came from Piotr Najsztub, a pioneer in Polish investigative journalism. Today, he is the editor-in-chief of the weekly magazine "Przekrój" (Section), but in the mid-1990’s he wrote for Gazeta Wyborcza. In late 1994, that newspaper released the first work in the Polish press definitively labeled as investigative journalism, “Corruption in the Poznan Police.” The article was an extensively researched and diligently scrutinized examination of the workings of the police force in one of the largest Polish cities. As a result of the leads in the case, a second, equally monolithic investigative report came out, entitled “The Nation of Elektromis,” about a shady network of companies that allegedly controlled commerce and politics in Poznan and elsewhere.
“Eight years ago I wrote with Piotr Pacewicz [another co-author of the Poznan investigative articles] the screenplay for a feature film, Juliusz Machulski [famous Polish movie director] bought it. Now TVP [Polish Public Televison network] wanted to return to it, so we had to adapt the screenplay. It will be a serial, beginning production in a month. It’s in a large degree a history of our investigation with Maciek [Gorzelinski, co-author of the Poznan investigation articles] in Poznan, we wrote it indirectly after that. The history of two journalistic investigations, which began to teach this profession” (2004). Najsztub is trying to say that the Poznan investigations are themselves movie-worthy, the Polish equivalent of Watergate. The investigations are an origin point for a new (sub-)profession in Poland.

On April 9th, 1994, Gazeta Wyborcza published the groundbreaking work of investigative journalism, “Panstwo Elektromis” (Nation of Elektromis), calling this giant holding company with its wide variety of business interests a “state within a state.” Elektromis was one of Poland’s newest and biggest companies, founded in 1987. The business arena in early 1990’s Poland was an especially obscure environment, rife with corruption and general confusion. At the time, many observers felt that corruption was expected or unavoidable. Elektromis consisted of a vast network of operations which transported goods from Germany to be sold in Poland, bypassing tax authorities. The article discovered that even if the state could capture one part of the Elektromis network, they could not trace the tax evasion back to the larger whole of the entire company, a whole which seemingly did not exist.

The truly remarkable journalistic innovation of “Panstwo Elektromis” rests in the way it maps out its object and draws connections between different companies, business
operations, key figures, and all of their ties to the Poznan police, sectors of the
government, the military, and the secret police. At the core of the operation sat Mariusz
Switalski. Officially, Switalski’s only official connection to Elektromis was as head of
their fire brigade. But Gazeta Wyborcza uncovered him as the ringleader of a massive
corruption ring. In connecting the dots between previously disparate objects, “Panstwo
Elektromis” takes us back in time to the orphanage in Szamotula where Switalski grew up
and cultivated close friendships with a tight-knit group that would eventually spawn the
Elektromis empire.

In addition to “Panstwo Elektromis,” Gazeta Wyborcza included four
supplemental articles that explain how Elektromis “turned” the trick of their trade. In the
“Dekalog pana E.” (10 Commandments of Mr. E), one of their anonymous informants
shares ten of the most important rules or business philosophies of Elektromis. First,
“honesty is not to be confused with stupidity/bullshit.” The rest of the list reads like
ethnographic insights, a thick description of high-stakes corruption in the Polish market
of the early and mid-1990’s: (2) Elektromis buys cheap, without examining official
permits of their sellers; (3) the Polish nation only tries to prevent business profits, a
remainder of the communist legacy; (4) Elektromis never loses with the state tax office;
(5) journalists cannot be trusted; (6) Elektromis is the best, most organized company in
all of Eastern Europe; (7) Elektromis bolsters all business; (8) Elektromis employees
always act righteously and respectfully; (9) never ask where new employees worked
previously, even if it was the communist secret police; (10) beware disguised customs
officials. The other supplemental articles explain the informal practices deployed by
Elektromis to avert tax officials and circumvent tax structures.
The Poznan investigations were groundbreaking for Polish journalism in their scope and depth, but failed to spawn an investigative journalism revolution. Reports about corruption continued, as they existed before the Poznan stories, but investigative reports with an equal magnitude ceased until August of 1997 when the daily paper Zycie (Life) carried a story entitled "Wakacje z Agentem" (Vacation with the Agent).

The 1997 article "Vacation with the Agent" alleged that in August of 1994, Aleksander Kwasniewski, who would become Polish President in the latter part of 1994, spent his family vacation with an alleged undercover Russian KGB agent named Wladimir Alganow. Kwasniewski and Alganow vacationed at "Rybitwa" (Tern, a type of seagull), a resort built during the communist era for the political elite and, after 1989, for post-communist politicians and wealthy businesspeople. Apart from the main hotel, Zycie investigators established that the two families stayed in a small, private building with only 12 apartments for special guests. As the report states, guests are not "accidentally" placed in this special location. Kwasniewski adamantly denied the suggestion of his intimate relationship with Alganow, but Zycie spoke with around thirty present and former employees of Rybitwa to establish their co-presence, as well as their intimacy. One witness actually served dinner to the two families in a private dining hall. Zycie also published receipts of their stay. Although Kwasniewski's bill lists only two people – he allegedly stayed with his wife and daughter – a former employee claimed the head of Rybitwa, an individual with ties to the former communist party, changed the original bill to register only two guests rather than three.

Kwasniewski's relationship with a former KGB agent, at the time identifying himself as a private businessman, was not scandalous in itself, especially since the entire
nation previously knew his role in the communist government and might expect that he would have developed relationships with their prior ally, the Soviet Union. But Alganow became a national icon in Poland first in 1995 for his involvement in the “Oleksy affair.”

In 1995, then Minister of the Interior Andrzej Milczanowski, a Solidarity government appointee, began an espionage investigation of then Prime Minister Jozef Oleksy, the first Prime Minister from the post-communist left-wing party. Allegedly, Oleksy had been leaking information to the Russians since the 1980’s. His main contact with the KGB was Wladimir Alganow. The Polish secret services (UOP) spurred the investigation by collecting information about Oleksy and releasing it to the prosecutor, but the press played no role in gathering the information. Rather, the government’s Center for Information released a “White Book” that explained the reasons behind the investigation. A sub-article next to the Zycie investigation of Kwasinewski summarized the White Book and pointed out sections of it which suggested Alganow’s “activities” among an “elite circle of politicians” (1997: 2).

Alganow has come to embody Russian involvement in Polish business and government after 1989\(^8\), a much more secretive and conspiratorial presence as opposed to the role of the Soviet Union in the Polish state during the communist period. Then, the Soviet influence was a public secret in Poland and in some official diplomatic arenas, but never in the West. Today, Soviet influence is, for many Poles, a paranoia within reason considering the history of Russian partitions and the Soviet sphere of influence, not to mention even earlier incursions in Poland.

\(^8\) Alganow’s name would return to Polish headlines in 2004 when journalists linked him to the possible sale of Poland’s largest oil company ORLEN to Russian business interests.
The subjects of the Poznan investigations, as well as President Kwasniewski himself, both sued investigative journalists for violation of *dobry osobisty* (personal goods). Following many years of court rulings and appeals, both cases remain tied up in the courts without any legal precedent-setting standard apparent. However, the cases established a precedent of filing such lawsuits. But other such cases have been settled, some in favor and some against investigative journalists. These lawsuits and their threat of financial destruction, if not journalist incarceration, have contributed to an emergent professional journalist appreciation for how to write about the public life of public officials.

Similar to the Poznan investigations, the Kwasniewski story did not inspire an investigative journalist revolution in Poland, though it certainly contributed to a spike in such stories beginning around the year 2000. One reason is the lawsuits brought on by such stories threatened to put cash-strapped news sources under further financial strain. *Zycie* went bankrupt not long after the Kwasniewski story, although legal fees were not a direct or main cause of that failure. Another reason is that the journalists who conducted these investigations soon left their newspapers or the field of journalism altogether. Piotr Najsztub, quoted above, obtained a degree of fame from the Poznan stories and parlayed this into a successful talk show, before moving into the medium of socially-minded magazine work. Jacek Leski, co-author of the Kwasniewski investigation, now works for Transparency International Polska. Meanwhile, other journalists known for their scandalous revelations now work in public relations, helping defuse scandals for business or political interests.
The Year that Investigative Journalism Broke

Around the year 2000, something changed within journalism, especially investigative journalism, in terms of its popularity, its newfound capabilities, and even its self-sustainability as a force to expose corruption and play a major role in the political arena. However, it is unclear how to define the nature of this transformation. It is not simply a rise in the number of investigative journalism articles. For one, no one has specifically counted the number of these articles. Academics who have counted “corruption stories” in the press could not account for a rise in corruption, though they made no attempt to discern between different forms of journalism, much less the structure of information access. And secondly, the quantity of corruption stories or even investigative stories defies the palpable weight of their qualitative transformation. The development of investigative journalism’s importance in politics and for society, its power to battle politicians and capture audiences, and its demands in questioning ethical environments for both politics and journalism are certainly Polish investigative journalism’s most lasting impacts to date.

I suggested this trend of the increasing weight of investigative journalism to a World Bank official on assignment in Poland during that period. In my discussions with anti-corruption experts, as well as journalists, I found that although they often immediately recalled and offered examples of this historical movement, few, if any, others had explicitly recognized this movement as a significant reorganization of journalism in relation to the state or to the problem of corruption. Yet, when I posed the question to them, they essentially confirmed my idea:

I can tell you that in 1999, the World Bank, together with Reuters and some other independent organizations, was offering training in investigative
journalism to Polish journalists – and the training was fully paid, it was taking place in Holland, two weeks. And I was personally approaching editors of some large newspapers, but the reaction of the editors was almost zero. I was telling them, look, this is an opportunity to train those guys. They were not terribly enthusiastic about sending their journalists to participate in the training. Finally, I think two people were trained.

Two years later, the situation was completely different. So, there were a number of reasons for that. One was the basic, we [the World Bank Anti-corruption Working Group made up of Polish politicians, NGO’s, experts, and representatives from the Church and labor unions] started the whole idea, saying investigative journalism was important. Then, Grazyna Kopinska and her program [the Anti-Corruption Program, part of the Stefan Batory Foundation, the Polish affiliate of the worldwide Soros network] organized a competition for anticorruption stories. I remember very well the first competition that they had. They had very good prizes, by the way. The first prize was 10 thousand dollars, the second was five, the third was three. This is a good prize, even in the United States. And this was highly publicized. The lady who won the first prize, she is one of the most well-known investigative journalists, she’s working for Rzeczpospolita [referring to Anna Marszalek]. You may also know that the person who came in second, he was working for a small newspaper somewhere in a small township. And he exposed a corruption scandal and wrote about it. This requires a very strong degree of personal integrity. Plus, the chap was very brave. He touched on the interests of almost everybody in this township including, most probably, his family members and his friends. So, definitely there was an act of bravery in this. I think after this he was offered a job in Wprost, one of the biggest polish weeklies and I think he took the job.

Anyway, this was definitely a very interesting development, this competition. And people became more and more interested. Now, investigative journalism plays a very important role in exposing corruption. Rywingate, that scandal is one of them, but you have other scandals. Basically there are some leaders at Rzeczpospolita and Gazeta Wyborcza who are leading the process, but there are some other smaller ones, newspapers and weeklies who have their own team. So I think that this makes an enormous impact. The fact that there are journalists who are much more effective than they used to be. And we, in our report in 1999, we pointed out that investigative journalists and free media play a very important role. Also when we designed the strategy, the strategy of the High Level Working Group, free media and effective media were one of the most important elements of the effective anticorruption program in a given country, next to strong political leadership. We’re always saying that if you want an effective anticorruption strategy in a country, you need to have a knight on a white horse who will lead the charge.

As this official makes clear, no single actor took control of or credit for the emergence of investigative journalism as a key force. An assemblage of different forces and incidents
occurred at a precipitous moment. This official felt that the emergence was a result of institutional forces, such as the World Bank’s organizational efforts, anti-corruption NGOs, and newspapers.

Journalists, however, take a more personal view of the matter. Although they see themselves in a larger context, they also point to the particular impact of specific stories in changing the tenor and landscape of Polish politics.

Anna Marszalek of Rzeczpospolita is Poland’s leading investigative journalist, named “journalist of the year” in 2004 by the industry trade magazine, and has uncovered innumerable corruption scandals concerning high ranking public officials leading to their dismissal and in many cases, to their arrest and conviction. She has faced the investigation of an irate Minister of Justice hellbent on attacking her personally before she might dig up anything on him. She has received death threats for the work she does.

Before I met Marszalek, I expected to find a stern, courageous, possibly even embittered woman. Instead, I received donuts. It was paczki day in Poland, a feast before the Lent season, and not even hardcore journalists could neglect such Polish customs. Marszalek was surprisingly candid in explaining her career and her profession. For a position working in such close proximity to secrecy, Marszalek took a completely opposite approach, freely sharing information about her professional life and transparently elaborating on those activities.

She took me through the history of investigative journalism in Poland from her own perspective, elaborating her important role in solidifying that form since the year 2000.
While investigative articles appeared before the *Gazeta Wyborcza* articles on Poznan, they were rare and incidental. Marszalek stressed the novelty of the Elektromis stories, noting that *Gazeta Wyborcza* was the first to show the links of a criminal network. The story actually revealed the network. Before the article, Switalski was the chief of a fire brigade, untouchable. He was tried, but never prosecuted. He hired lawyers to bribe the judge. In comparison, the article itself produced a significant impact.

Following the Poznan stories, *Gazeta Wyborcza* started an investigative department\(^{19}\). But, Marszalek expressed disappointment with *Gazeta Wyborcza*’s failure to actively pursue investigations, instead relying on information from outside sources and mirroring ongoing government investigations. For Marszalek, this was not real investigative journalism.

After the Poznan stories, the *Zycie* story about Kwasniewski and its attendant scandals constituted the next important step for investigative journalism. More than anything, Marszalek pointed out how Oleksy had already sued everyone writing about his scandal, even before Kwasniewski sued *Zycie*. This was significant because as former Prime Minister and President, the two highest-ranking political figures in the country, used lawsuits to battle journalists.

But for Marszalek, investigative journalism first got “serious” in 2000. And it happened at *Rzeczpospolita* when Bertold Kittel arrived and the two teamed up on a series of articles. Although *Rzeczpospolita* has no specific investigative department and Marszalek works for the social issues desk, the two journalists work together in the same space, along with two other journalists. Marszalek & Kittel, either working together or

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\(^{19}\) Editors and journalists at *Gazeta Wyborcza* refuted Marszalek’s story on this point, arguing that no such division ever existed, at least not explicitly.
solo, have uncovered a range of investigative articles from schemes to sell ineffective software to the national social security agency, to a link between Warsaw-area mafia and politicians that would funnel VAT tax money back to the mafia, to a deputy minister who misappropriated flood relief donations for his own private investments, and a local government official whose anti-corruption efforts were foiled by his corrupt colleagues.

In one typical investigative story by Marszalek & Kittel, “Courts for Rent” is one part of a larger investigation concerning a corrupt judge from Torun, Zbigniew Wielkanowski. The article establishes the judge’s relationship with the head of the Torun mafia, Edward Smigielski, a.k.a. Taty (Father). Marszalek & Kittel offer a description of their conversation with Wielkanowski, carefully detailing the security and entrance to his office, “like a fortress.” There, the judge refers to Smigielski, a childhood friend who grew up with him in Torun, as a respectable and well-known businessman. The judge, it turns out, was part of an elaborate criminal cover-up engineered by Smigielski in the early 1990’s. The scheme involved burning down one of Smigielski’s own warehouses to collect insurance money. The judge was dining with the gangster at the time, providing him with an alibi. Months later, two of Smiegelski’s employees drowned under suspicious circumstances and when the local newspaper began to investigate the case, its editor was severely beaten with a pair of brass knuckles, leaving a scar on his head and permanent hearing loss in one ear. The authorities never found the assailant, the editor quit, and the paper dropped the story. Today, the paper’s new editor is close friends with Smiegelski. Returning to the relationship between the judge and Smiegelski, Marszalek & Kittel found that while the judge claimed to have cut ties with Smiegelski after the local prosecutor issued a 1995 arrest warrant, the judge played a key
role in ensuring that Smiegelski’s mafia colleagues received minimal sentences in a 1999 court case. The case involved a brawl that broke out between rival gangs at the courthouse in 1998 while both sides defended themselves at a trial involving Smiegelski. Shots were fired in the courthouse and Smiegelski’s rivals escaped through a window. The entire story became increasingly absurd as Wielkanowski presided over the brawlers’ trial, eventually finding that the prosecution could not accurately identify the shooter or shooters and he would therefore consider the gun not as a firearm, but a weapon similar to a club, thereby dramatically lessening the stakes of the trial. Marszalek & Kittel’s investigative work stretched beyond the “circus-like” atmosphere of the trial, which included a supposedly anonymous witness referred to as “007,” to establish the manner in which the mafia paid off at least two of the judges, including Wielkanowski. They re-collected references by a witness who testified that “Zbysiu,” a diminutive nickname for Zbigniew Wielkanowski, “controlled” the court and therefore, the mafia figures need not worry. The official record struck the precise name from the court transcript, but Marszalek & Kittel spoke with numerous court observers and journalists who claimed otherwise. Additionally, the reporters spoke with automobile importers and mechanics who played a role in the mafia’s gift of expensive luxury vehicles, probably stolen, for two judges on the case.

The innovation, of sorts, is that Marszalek & Kittel were the only journalists capable of reporting the case because local journalists found it too risky. Most often, they encountered sources who could help verify the corrupt relationships and they would tell the reporters that “everyone knows about this.” This was not only common to the Torun case, but in similar corruption schemes throughout the country. Because of the
court's ties with local prosecutors and police, the judge in the middle of this scandal was
veritably untouchable. The investigative article effectively revealed the nature and extent
of this close-knit network with ties between state institutions and local mafia. Due to the
complicit nature of the relationship and the possibilities of media intimidation, whether
physical or financial, no one in the area would dare to reveal this story. And no other
media outlet in Poland has consistently attempted to investigate and reveal stories about
corruption in these types of complicit situations since 1989.

More than the string of corruption stories investigated and reported by
Rzeczpospolita, Marszalek pointed to three important stories that emerged in 2000 that
had less to do with the subject matter of investigative journalism than the methods and
motivations of investigative journalism. Essentially, these stories consisted of rumors
turned into political rhetoric, tied to concerns over who Marszalek & Kittel would target
next. A rumor surfaced that Rzeczpospolita, essentially a politically center or moderately
right-wing paper, was ordered to destroy the AWS (post-Solidarity) political party
coalition that had a majority in Parliament at the time. While Marszalek explained that
many AWS politicians felt betrayed when the newspaper reported corruption among their
own ranks, the reporters defended themselves by arguing that, as a rule, they would
investigate whichever party held power at any given time. After 2001, when the left-
wing SLD coalition took a majority in Parliament, their politicians became a common
target of investigative journalists. A second rumor alleged that Marszalek & Kittel had
access to too many secret service documents and that they might be undercover secret
service agents. Marszalek dismisses such allegations as absurd, the product of fearful
politicians. The former Minister of Justice Lech Kaczynski, Marszalek explained, had
apparently heard a rumor that he would be the next subject of a Rzeczpospolita investigation, so he publicly criticized the journalists and began a public prosecutor investigation of Rzeczpospolita’s investigative journalists that spanned the previous five years of Marszalek’s work. In the end, it discovered no wrongdoing. The final rumor concerned politicians or political interests manipulating the press by feeding information to investigative journalists. For six months, Marszalek endured the investigations in an environment of great tension. Throughout the ordeal, the newspaper’s editors continued to support their journalists. In the end, Marszalek not only survived the prosecutor’s investigation, but may have only furthered her journalistic fame because of it.

In the wake of the investigative journalism articles making public secrets explicit, as well as revealing previously secret corruption among state officials, and in combination with the very public escalation of tensions and conflicts between the state and the investigative journalists, Marszalek became one of the most well-known journalists throughout Poland. But more than this, she has come to symbolize investigative journalism as a serious form.

Her articles are an exemplar of journalism with an impact, especially in the world of politics. Recognizing this impact, Marszalek was both proud of her anti-corruption accomplishments and cognizant of the great responsibility of her position. “In investigative journalism,” she explained, “you are both prosecutor and judge at the same time.” This is why she only writes about public authorities in their official capacities and tries to only write about central political scandals that negatively affect a sizeable portion of the population. Above all, she stresses that investigative journalism has made a great
impact in Poland because it is successfully revealing its stories and in the last several years, it has become much more successful than state prosecutors in exposing corruption.

**Conclusion**

In the course of my fieldwork, my examination of journalism began largely following my conversations, interviews, and experiences with anti-corruption advocates. When I spoke to them about information access and anti-corruption in practice, they uniformly told me to talk to journalists. Some of those advocates more specifically recommended investigative journalists. Authors of the information access law specifically had journalists in mind when they conceptualized that law. But when I spoke with general journalists, most of them seem confused that I wanted to talk to them about information access. They recommended I speak with the investigative journalists. I allowed this local knowledge of the anti-corruption and information access scenes to guide my research and it led me to a locus of conflict concerning information access; a site that articulates the tensions of the state and the journalists, public and confidential information ebbs and flows, and eventually, the complex games involved in obtaining and reporting information in Poland today.

This chapter is significant for much more straightforward reasons, as it attempts to delineate my object of study in the third section of this dissertation: investigative journalism. For one, it distinguishes investigative journalism from other forms of journalism, while suggesting that this distinction is significant in relation to corruption and information access. Secondly, it traces the history of this isolated object, the emergence of investigative journalism in Poland. The history of investigative journalism
in America is a useful comparative analytic tool to understand larger trends of this
history, as well as acting as an important metaphoric form and inspiration for Polish
investigative journalism.

Anti-corruption scholars have not made a distinction between journalism,
journalism about corruption, and investigative journalism. Malgorzata Fuszara, a Polish
sociologist, has written about corruption as it is reported by journalists in Poland. Her
method was to count the number of stories about corruption appearing in several major
Polish newspapers over the course of several years in the 1990’s. However, Fuszara
ignores the nominal categorization of “corruption.” As a result, she told me that her
project became a frustrating exercise of definitional debates. Furthermore, she never
distinguishes between those articles discovered by journalists themselves, as compared to
those uncovered by law enforcement agencies. Investigative journalism represents a
trend in Poland of journalist’s asserting a right to know and deploying informal networks
of information flows to assemble stories and reveal corruption scandals. As such, it is a
unique phenomenon that is different from stories about corruption.

A World Bank Institute edited volume called The Right to Tell: The Role of Mass
Media in Economic Development also points to the important role journalism plays in
fighting corruption. But the assembled scholars also never make the distinction between
investigative journalism and other forms of journalism. Rather, the authors seem to agree
that a more free and independent media equates to more transparency and more
democracy. “We would expect that greater press scrutiny would be associated with lower
corruption” suggests Besley, Burgess, and Pratt (2002: 55-56). This scrutiny occurs
when media is independent from the state, according to the authors.
But what meaningful forms does this scrutiny take? And how is scrutiny defined in particular contexts? This chapter begins to look at a form of critical and skeptical scrutiny, investigative journalism, in Poland.

This scrutiny is important because it represents a unique site for production of knowledge about corruption independent of other production sites, such as the state. At the same time, investigative journalism has helped raise public awareness about corruption, while also serving as a potential outlet for citizens to voice their complaints about corrupt government. Therefore, investigative journalism has become an important tool to fight corruption, especially at high levels of power.
Chapter 8:

The Stress of Information Access, The Ideologies of Journalism

In an environment of skepticism, how do journalists go about asserting claims of corruption? This chapter addresses this question by characterizing broad views in specific individuals. First, it offers a representative of the state’s attitude towards the allegations of investigative journalists and then moves a journalist professor who criticizes investigative journalism. Finally, it juxtaposes these perspectives with the revisionist ideology of a newspaper editor involved in investigative journalism. How do journalists deploy their skeptical and oftentimes paranoid form of critical reason, while still maintaining a sense that their efforts really can deter corruption? In an atmosphere of great secrecy – such as the secrecy that surrounds corrupt acts – how do journalists in Poland triangulate their elusive object of knowledge and make this object into a believable and convincing form of knowledge production?

Malgorzata, Spokesperson for Public Prosecutor’s Office

The phone rang as the prosecutor’s spokesperson told me about Article 156 of the Polish Criminal Procedure Code, paragraph 5, which supersedes UDIP and allows the prosecutor in control of a specific case to make final decisions concerning public access to information about that case. We had been talking for at least a half hour without 5 minutes of interruption-free conversation. Phones ring while prosecutors or their assistants come through the door. She pressed a button on her cell phone to answer the call, but continued telling me about the code. Finally, she addressed the phone.
“Slucham (I am listening),” she nearly yelled at the caller. From that point, the conversation escalated and accelerated to a pitch and speed I could rarely comprehend.

I did not say a word, but stared at my notebook and tried to appear as if I was writing. During our conversation, I had taken note of the logical connections and directions through which she understood information access as a relationship between the press and the government. Her job placed her in a precarious position between the two sides. Certainly, she was located on the side of the state, but she also dealt with journalists on an hourly basis, if not more often. Many of the phone calls she received while we sat in her office came from reporters. At the same time, because journalists rarely spoke directly with the prosecutor on a particular case, she served as their conduit for information access requests and even, at times, and only within the boundaries of the administration, their strongest advocate.

As I waited for her to finish the telephone conversation, I had an opportunity to assiduously document the details of her environment: stacks of papers, files, an ancient computer sat in the corner, a row of empty coffee cups, a pack of cigarettes. But above all, my senses returned to the conversation, not for its content, but its pathos. The sense of tension was palpable, I started to feel nervous, all the while trying to block it out.

Finally, she pressed a button and ended the call.

“I’m sorry about that,” she told me. “That was my husband. He’s a prosecutor, too.”

She offered me a cigarette and I declined.

“Of course, you’re an American. I should have expected you wouldn’t smoke.” She seemed to stress my alien and foreign origins, cigarettes serving as a sign of insider
status. “But you must understand,” she went on, “that in my line of work, smoking is really necessary.”

She walked to the window and opened it, took a seat and blew her smoke into the crisp December breeze filtering through the room.

At the beginning of our interview, I almost instantly recognized the tension surrounding information access conflicts between the press and the state embodied through her terse reactions to my initial questions. She responded in an almost defensive manner, arguing to me that UDIP was a very difficult law to interpret, it was unclear, and besides, it did not apply directly to her job because of the superseding Criminal Procedure Code.

During the bus trip to the Ministry of Justice and my wait for the meeting, I had accidentally pressed the record button on my tape recorder. The batteries were dead. As it turned out, this was a serendipitous event because it allowed the spokesperson to open up and freely reveal some insights she otherwise might not have shared. I took notes, but we agreed that most of our discussion would be off-the-record and I should not freely quote what she stated.

While such a background, almost secretive meeting sounds exciting – and there were a small number of stories and details which I should not share and which, regardless, remain irrelevant to this dissertation – my questions rather had the purpose of eliciting the environment of information access from the perspective of an important figure working from within the state. I had already spoken with a number of journalists, who are much more accessible and easy to find, though often challenged by schedules and punctuality, and the journalists roundly felt that the state withheld too much
information from the press. Further, a sense of persecution had arisen since after 2000 as journalists felt that the state tried to get revenge on them for their biting investigations exposing government corruption or incompetence. This revenge was supposedly embodied in state investigations of leaks and demands on journalists to reveal secret sources with the threat of criminal prosecution.

I asked for the spokesperson’s perspective on this tension between journalists and the state and got it. Echoing the sentiments of many others who worked in the state, her thoughts contradicted the perspective of the journalists. She argued that the journalists are not objective, many lack professional responsibility, and refuse to consider the liability of blindly releasing any information they get their hands on. Then, when the state attempts to fight back, journalists complain that the state hunts them. But the spokesperson feels their complaints are unfounded; they try to take a moral high ground of the “truth.” The result is a horribly tense relationship between the press and the government. Many international NGOs, including the anti-corruption organizations, exacerbate the problem. Unlike the journalists, they have no professional standards to uphold. The people, the public interest, are harmed by a non-objective media. She raised a criticism of the press system in a country both capitalist and democratic, because money and economics are always involved in journalism.

At this point, I could sense a growing possibility for defensiveness and a readiness for argument if, for example, I had asked why the state is not more open to information access or whether she believed that journalist investigations achieved some truth, considering that many investigative journalists informed the public prosecutor of corrupt and criminal activity. The clearly drawn battle lines represent a seemingly natural
contradiction. She agreed that access is “obvious” in a democracy, but Poland needs a better defined access law which might allow the state to operate with clear goals and boundaries.

So instead of conflict, we talked about the embodiment of an abstract idea, democracy in terms of information access. Her office and her telephone lines represent a site where access and secrecy get balanced, mediated practically through discussion and even argument.

We talked about the black and white, good and bad dichotomy in which many journalists have framed these issues. She had already raised the problem that journalists prefer to represent themselves as purveyors of the “truth,” taking the moral high ground in all conflicts. She further complained that reporters often write nasty and unfair critiques – not even journalism, she considered them veiled editorials – about people who work in the government she personally knows and respects. Even if the facts fail to substantiate these stories, they continue. As she sees it, reporters too often conflate their ideas of good and bad with true and false. The two must remain separate.

Upon further reflection, it seemed that information access itself takes place in a gray area of dialogue and mediation, resolutions within an environment of persistent conflict. By raising the issue of black and white, I could see that she understood I respected both her position and the job she does there. Simply recognizing that her job is important, along with my outsider status, allowed us to circumvent the circular arguments of the press and the state, the public and the private. This site, these telephone lines, embody the grey area of state-level democracy.
“Yes!” she exclaimed when I recognized this insight, “this is what I am always saying.”

While the journalists and so many other critics of incipient democracy in Poland search for the great lights of truth and freedom, perhaps the spokesperson, a figure so derided among journalists as propagandists of only good information about the government, actually represents the reality of democracy. Instead of a great light, she operates in an office off of a small courtyard with limited light. Instead of clear air, a smoke-filled room. Instead of purity, a row of empty coffee cups. And instead of calm unison and agreement on the truth, yelling and screaming.

The phone rings again as we discuss the sober reality and possibilities for information access in Polish democracy. As before, she continues talking even after she presses the button on her cell phone, allowing the caller to sit in on our conversation, if just for 15 seconds.

“Slucham,” she tells the phone.

A more congenial conversation ensues, though not without moments of tense crescendo and seeming resolution. She refers to the caller several times as kochanie, a term of endearment. She presses a button, ending her call.

“Young daughter?” I ask.

“No, it was Anna Marszalek, the reporter from Rzeczpospolita.” I knew her, of course. She is Poland’s most famous investigative journalist. “She is really quite good,” the spokesperson went on. “I have a lot of respect for her and how she works.”

We talked about Marszalek and some of her groundbreaking investigative articles for Rzeczpospolita.
“She knows about your project,” the spokesperson added. “She’s very interested in information access.”

From Stress to Revision

This chapter describes information access conflicts that surround Polish journalism through three profiles: a government spokesperson, a university journalism professor, and the deputy editor of a major newspaper. It begins with conflict and the embodiment of stress, a stress that directly results from conflicting ideological positions. The purpose of this chapter has less to do with understanding the state’s reaction to journalistic access practices than with the journalistic ethos and rationale for their information access practices. As such, journalism becomes the central and most elaborated upon focus of the chapter. This examination of ideology is informed by Clifford Geertz’s essays on ideological formation, as well as his articulation of ethos and worldview.

From ideological conflict, the chapter moves to more specific instances in which a skeptical and even paranoid form of critical reason – harmonious with the journalistic ideology of revisionism – is deployed to triangulate the journalist’s object of investigative journalism: corruption. In many instances, the entire logic and process turns in upon itself: the production of journalism about corruption serves to reinforce the journalist’s original suspicions and paranoia of the state. The practical process of journalistic revisionism and meaning-making is informed by Harold Bloom’s theories of literary influence and creation.
What defines the journalist’s form of reason as particular is the manner in which they make far-fetched explanations plausible, reasonable. Beginning with accepted or obvious stories, journalists must deploy their skeptical reason to break the alibi apart and call the apparent truth at hand into doubt. But beyond that, they must construct a new story and re-represent those prior appearances as misleading.

Maciej

Maciej is a large, rather imposing man who speaks with a big voice, the kind of voice which could fill a room much larger than the small office where our meetings took place. He is a professor at the University of Warsaw Department of Journalism and shares that small office with at least 4 other faculty who I had met at various times. I met Maciej, as I met so many other contacts, through a contact of a contact, Jerzy Oledzki, a famous journalist and professor of Journalism. When I explained that I researched information access, he called Maciej on the phone and arranged a meeting for us. I could tell that Maciej was a long-winded talker when I saw Professor Oledzki making funny faces while listening to him respond on the phone, waiting to get a word in edge-wise. The professor handed me the phone and I spent the next 10 minutes doing the same. I came to the Department to speak with Oledzki, but I used up my time listening to Maciej talk over the telephone.

Over the course of several months and many meetings with Maciej, I gained an intimate knowledge of one important perspective on the state of journalism in terms of investigative reporting and information access. Some of these meetings lasted many hours. Once, a conversation continued as I followed Maciej out of the office and down
the street, while he stopped by a meeting at the Ministry of Culture. After I had waited in
the lobby for about 15 minutes, Maciej resumed his lecture where he left off. Despite his
ramblings and his repetitiveness, I remained fascinated and captivated, at least to the
limits of possibility. I spoke very little, especially in our first several meetings. But after
months of listening, when I did have the opportunity to interrupt him – finally realizing,
of course, that no other form of interjection could be possible – he was amazed that we
could understand matters of journalism in a similar manner. Even still, he would
commence each session by praising our “dialogue” and expressing his happiness that we
could communicate across such different contexts.

Maciej’s own words could be long-winded, but I could probably sum them up in a
very small space: journalism today lacks professionalism. He would crook one eyebrow
low and elaborate on the necessity of journalistic professionalism for at least 10 minutes,
then crook the other eyebrow, as if he suspected something of no one in particular, and
critique journalists for their unprofessional behavior for another 10 minutes. He had, in
fact, an elaborate manner in which to explain the problems leading to this lack of
professionalism and many suggestions for systemic reform.

Maciej explains information access through the lens of a delicate legal and
normative balance between openness and secrecy. Poland is not a free market of ideas,
nor is any other democracy, as he explains it. Yet, many of his colleagues and most
journalists mistakenly believe that in a democracy, the constitutionally granted freedom
of speech – and here he would reference the American 1st Amendment as the golden
model that all Polish journalists admire – as an absolute right with a power that
supersedes all other rights. No, he says. We must move away from the “vertical” model
of information flows to a “horizontal” one. In the communist era, the state had total control over information, though in Poland, the Church also exerted its influence on this control. From the state, authorities filtered information to the press which then, in turn, filtered information to the citizen. From a legal perspective, regardless of the informal channels of communication, this vertical control essentially defined the communist state’s information flows. Beginning not in 1989, but, according to Maciej, in 1984, when the state passed the first Polish media law, a shift towards a horizontal model of checks and balances of power began. On one side, legal guarantees for press freedom, rights defined in press laws and other regulations assert the powers of the press and its potential instruments and mouthpieces. On the other side, limits to free speech and information access through secrecy and confidentiality laws, as well as protection from individual slander and libel, referred to in Polish as moral or personal goods (*dobry osobisty*). In Maciej’s estimation, Poland has not adequately synthesized the balance of guarantees and limits for the press, especially in terms of contemporary technologies of communication and information. There are no manuals and only partial analyses. Maciej sees it as a site for the constitution of new knowledge, but not yet solidified as a field of study. And unfortunately, because of the wide array of related subjects, Maciej explained that such interdisciplinary endeavors in Poland are rare.

Journalists, he said, think they are the decisive power in society, the 4th estate, translated into Polish rather as the 4th power. The press thinks they are the key to the balance of power and therefore have a mission in society. But Maciej thinks they should not take such a powerful role into their own hands. They go too far, try to do too much.
Maciej has many complaints about journalism today and he enjoys elaborating on these criticisms, as well as extending them into new critiques. But for the most part, I would categorize the critiques into three main currents. First, that journalists assert too much power, often more than legally permissible. Second, that journalists set themselves up in a position susceptible to manipulation. And third, that they too often pursue journalism for the wrong reasons, whether they be business, personal fame, or even a cynical political perspective. He is uncertain what motivates many journalists, but feels certain they are motivated by something other than journalistic integrity and professionalism.

"Journalists are not gods," Maciej would tell me. "And I explain this in my university lectures at all times. We should not act as gods or judges, being judge, jury, and executioner all at the same moment." Specifically, he refers here to the practice of investigative journalism, chiding those journalists for releasing articles condemning public officials for committing criminal acts before the state has either investigated or prosecuted these individuals, much less before they have an opportunity to a fair trial. "Even criminals deserve a fair trial," he told me. The term in Polish for "investigative journalism" in the singular sense of an investigation is dziennikarstwo śledztwo, śledztwo meaning investigation or inquiry. However, Maciej asserts that a śledztwo has or should have a much more limited meaning as an investigation pursued by agents of the state, not investigations generally. Instead, journalists should use the term wynikiwa, which means something more like "results." It is a weaker term than investigation in terms of the pursuit.
In criticizing the over-exertion of media power, Maciej also critiques their development of para-state functions. Maciej understands their assertion of this role in response to corruption and the state’s unwillingness or, at times, its complicity with corruption. But if journalists feel the state or elements of the state are corrupt, then who else could possibly be qualified to investigate the state? Here, Maciej reminds us of the original goal of the 1989 revolution, to have a state which Poles need not rebel against, but work from within. “If you think the state is corrupt, okay, but you can’t replace their job.” The press, as a 4th power, tries to supersede the state and fulfill its investigative and prosecutorial roles. Maciej is not necessarily in favor of the groups, political parties, and individuals that occupy the state. “They have their own false impressions,” he says. “They favor secrecy and security. They lack tolerance and speak a language of fighting.” But these groups, he feels, should only be replaced through democratic mechanisms, either the ballot box or the courtroom. He believes in the democratic system and feels strongly that investigative journalism is non- or even anti-democratic.

One unforeseen and problematic outcome of the investigative journalist’s assertion of a 4th power is susceptibility to manipulation, especially by the rogue, secret, or even corrupt forces against which the investigative journalists purport to defend Poland. Political infighting, for example, may result in leaking information from one rival against another. The journalist, normally unaware of this larger battle, is easily manipulated by a desire to reveal any possible misdeed of a public official, but without any manner in which to verify the truth of the story or the motivation behind the leak.

Aside from the motivations of those who leak information, Maciej was consumed by the motivations of the journalists, especially investigative journalists. Upon learning
that I had interviewed many of them, he asked me, “Why do they do it? Are they cynical or just fools?” I thought the question was rhetorical, but he seriously wanted me to reply.

“They believe they are working in the public interest,” I answered.

For Maciej, and unlike the journalists or the anti-corruption groups, the public interest is not more important than the individual interests. For one, he believes that social and individual interests may simultaneously be protected. Investigative journalism, in particular, harms the individual interest by giving journalists the power to attack an individual in the supposed public interest. While filing a libel case may help deter false accusations, if a story has been printed, the damage has most likely been done. A second, compelling reason Maciej objects to the preeminence of the public interest stems from the history of communist-era priorities. During communism, the state would assert that the public interest is greater than the individual’s interest. Therefore, individual rights could be retracted for the greater good.

But in a somewhat paradoxical manner, Maciej also critiques the investigative journalists for working either in the interests of business, personal fame, or a cynical political perspective. These are not public, but private interests. Maciej reconciles the two positions by advocating for a professional journalism, responsible to the public and limited in its behavior by professional normative and legal standards. Above all, he asserts that journalists must always act within the boundaries of law.

As such, this professional journalism represents a journalistic ethics, an ethics-as-journalist.
Piotr Stasinski: Editor, Revisionist

Piotr Stasinski, deputy editor-in-chief of Gazeta Wyborcza, takes a long drag from his cigarette and exhales. He is a rather gaunt man and severe, exuding an air of confidence and experience. His responses are always blunt and direct, yet he refuses to oversimplify matters or talk around difficult problems. I had asked him a question straight from Maciej’s thoughts, whether strictly adhering to law is or is not an important element of journalistic professionalism.

He calmly continued, “So what can you do? Are you God or something?! No. You have to be scrupulous. Diligent. And the rest belongs to the court. They have to judge, if [the journalist] did the right thing, if they did everything they could to verify the story.”

I nodded my head slowly, listening intently, and thinking to myself, what would Maciej say right now? The journalist as a god. Stasinski employed exactly the same metaphor, but in the completely opposite manner.

“And this is alright because life isn’t perfect, no one’s work is completely perfect. But if you go within the limits of the law as those critics I understand say, you wouldn’t publish any investigative story. It would be fucking stupid! So this is picking gum from our feet. And we are part of a democracy, this should be respected. The margin of error is there, yes. And sometimes, there is even bad or wrong motive. We are trying to avoid always wrong motives, but we cannot avoid some errors. This cannot be avoided.”

None of the tension hanging so heavily in the spokesperson’s office fills the air here with Stasinski. As opposed to the heavy walls and cramped surroundings of the
spokesperson’s office, my trio of interviews with Stasinski took place in airy and transparent rooms at the newspaper’s newly constructed headquarters. Entire walls made of glass allow us to see each other in natural light and even while the editor lights several cigarettes, the smoke pauses only momentarily before dissipating through the well-ventilated ceiling ducts. And in our conversation, Stasinski describes his newspaper as firm in their resolve to disregard laws restricting what they consider fair and responsible journalism for the sake of a more democratic Poland.

Our conversation about journalistic professionalism ambled on, but clearly, Stasinski was not the type of person to direct me towards the Journalist Association’s code of professional ethics. He took his time and painted me a portrait of the practical complexities involved in getting information, processing it, validating and verifying before finally publishing the articles. As a deputy editor-in-chief, he is a right-hand man, part of the Gazeta Wyborcza leadership. Stasinski is near the core of the operation. Further, he serves as an information clearinghouse of sorts. When reporters find a leak or receive new information, they bring it to Stasinski and together they decide what to do with this information and how they feel about the lead, the motivations behind its arrival and its potential ramifications. As Stasinski freely admits, it is not a perfect science, but often an intuitive act.

**Revisionist Ideology**

Clifford Geertz’s essay “Ideology As a Cultural System” (1973) represents an attempt to make “ideology” a useful analytic instrument for social science. As a result of “theoretical clumsiness,” ideology had become an overly evaluative term, representing
either deformed, distorted thought or authoritative apparatus. In general, discourses labeled as ideological are considered opinionated or plain wrong. Instead, Geertz recommends we examine ideology from a non-evaluative, anthropologically-informed relativist standpoint.

As an alternative to defining ideology, Geertz offers a systematic manner to address the sources, usage, and consequences of ideology. He combines two important currents in ideological analysis: interest theory, which understands ideology as a mask and weapon in a universal struggle for political advantage, and strain theory, which views ideology as both a symptom and remedy to chronic states of sociopsychological disequilibrium. While interest theory lacks a plausible theory of psychological motivations, reducing ideology to Machiavellian political struggle, strain theory oversimplifies ideology as a latent function, neglecting its meaning for the actors involved. Both theories lack any concept of symbolic formation: how do emotions get attached to symbols? Geertz suggests we examine ideology “as systems of interacting symbols, as patterns of interworking meanings” (1973: 207). While most analysts have described symbols as derivative of strain, Geertz asserts a more complicated and dynamic relation between symbolic structures and ideological attitudes than emotive resonance. Environments of political, social, and psychological stress and strain provide contexts in which ideology, interpreted figuratively as a trope, appears and become plausible.

Ideological ferment, according to Geertz, appears most widespread in “new states,” such as Indonesia. As such, it would only make sense that newly democratic countries, such as Poland after 1989, would also provide fertile landscapes for ideological arrangements to help resolve emergent political problems such as corruption.
In the first part of this chapter, I offered the profile of a government spokesperson who embodied the stress of complex information access decisions and the sometimes illegal flows of information to journalists. The key context for understanding that stress is the environment of corruption, the motivation behind journalists’ grasping for such information. The professor, Maciej, offers one ideological outcome for Polish journalism in a context of rampant corruption. He suggests that journalists adhere to professional standards and strongly maintain their traditional moral authority. But most Polish journalists, including Piotr Stasinski, deride the professor’s ideology as subservient to a corrupt state. Because they believe that corrupt political circles refuse to abide by the law, most journalists feel that they must break the law to attain their higher goals.

“Do you think then that following the letter of the law should be done or this is something that often ties your hands behind your back?”

“What kind of law? Do you mean the press law?”

“No, more so the other kinds of information law, particularly about secrecy and confidentiality.”

“No, absolutely. We don’t. We accept some important matters, like that you may be, you may harm some higher good, like your country’s vital interests, exposing a story that may be harmful to the real, important values. Except for such cases, I wouldn’t respect this secrecy law. Because what is happening in this country is a broadening of the power of the authorities at various levels to create these secrets… You cannot respect secrecy which is forced upon us by various levels of authority, of bureaucrats. We fight the secrecy law. We fight it and we criticize it in our articles because now they want to broaden it and make it more arbitrary. So we don’t agree with it. And we won’t reveal our sources.”

If Stasinski’s ideological imperatives for journalism derive from and exist within the stress of an environment replete with illegal information flows, overly authoritative

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20 Italics represent the author’s questions, regular font is Piotr Stasinski. Indented sections are from interview transcripts.
bureaucrats, and corrupt politicians, Geertz’s recommendation to analyze such an ideology as a trope through Kenneth Burke’s science of symbolic action fails to comprehensively grasp the complex nature of ideology as a trope. In Modern Greek Lessons (1993), James Faubion challenges Burke’s argument that all figures of speech, thought, and action can be subsumed under four “master tropes”: synecdoche, metonymy, irony, and metaphor. For Faubion, in attempting to comprehend the complex figurations of the contemporary Athenian landscape, Burke’s argument can only describe temporary portraits.

Instead, Faubion embraces the more fluid and developmental tropic analysis map of literary critic Harold Bloom from his Map of Misreading (2003 [1975]). Unlike Burke’s master tropes, which require an analytic identification of tropes in practice, Bloom’s map offers a guide through the meaning-making process of textual interchange and influence between prior contexts of authoritative voices and emergent revisionist voices seeking to overcome those earlier discourses. To be sure, meaning is often made through repetition of tradition. But if we appreciate the ideology of Polish journalism as a cultural system, then we require an understanding of emergent meaning-making that attempts to revise earlier traditions of Polish journalism, as well as the influences of a potentially corrupt state and the traditions of the authoritative and overly bureaucratic communist state. Bloom refers to such pressures as the “anxiety of influence” and posits that such anxiety eventually has a productive effect on the production of new meaning.

Beginning with the influence or precursor, Bloom develops his meaning creation story by borrowing from the revisionary replacement of scriptural meaning through techniques of opening as deployed in Kabbalism. The first stage requires re-seeing or re-
interpreting the precursor influence, a purposeful mis-reading which results in the limitation of meaning. The prior influence puts limits on the possibilities of what can be said or done. Through a second state of re-estimating the precursor, the meaning-producer can then substitute the terms of the prior text, thus setting the stage for new meaning. Bloom likens this to the second stage of Lurianic creation in Kabbalism, the "breaking apart" or "creation as catastrophe" where the precursor influence is destroyed and deconstructed. In the third stage, new meaning is produced by re-aiming and representing. Here, the creator seizes an opportunity to overcome the precursor influence, thus completing the cycle of revisionism. The three stages represent a coherent movement of dialectic relations between meaning forces or, as Bloom explains it, "All interpretation depends upon the antithetical relation between meanings, and not on the supposed relation between a text and its meaning" (2003 [1975]: 76).

**Revision, Stage 1: Re-assessing/Limitation**

In the case of Piotr Stasinski and his revisionist ideas about journalism, Bloom’s map guides us through his cultural logic of re-reading the precursor forces, including the state bureaucracy, and then breaking this force apart.

"We will put light onto what is secret regardless of whether some stupid bureaucrat thinks it should be secret. We don’t think so. Exposing. Democracy relies upon openness. It should be an open society. An open society is a sound society. Secret authorities, secrecy of authorities is a sign of pathology! So, I repeat: except for really serious matters that might be harmful for the greater good, secrecy is not our business. Our business is openness: exposing, revealing, showing things to people for them to understand how the state works, authority works, democracy works."
“So then, following the letter of the law, do you feel that this is not part of what professional journalism is or, if it is, that you want to exclude that part of professionalism?”

“It is not part of professionalism, no. I think professionalism is finding stories, publishing it, and showing it to the people. These must be true. The stories must be true in every sense of the word. But you cannot be one hundred percent sure. No scientist is one hundred percent sure about his findings usually.”

In this particular case, Stasinski derides the power of the bureaucrat to make decisions for journalists concerning secrecy for the public good. But first, he must engage with the powerful authority, the bureaucracy, before making his strong break from the bureaucrat’s influence, a break that speaks for all journalists, “We don’t think so.” Immediately following this fracture, Stasinski moves to posit what journalists will do to create a healthy democracy. He returns to the authorities and their secrecy, but only to once again deconstruct their authority and posit the “business” of journalism: “openness.”

In making reference to bureaucracy and secret authorities, Stasinski alludes to much more than the contemporary state’s habits, but also to the tradition of Communist-era bureaucracy and secret authority. The primal scene here, repeated in different forms throughout his consistent and coherent ideology, is 1989. From its inception, Gazeta Wyborcza has located its mission as the promotion of democracy and civil society in Poland. And because the newspaper has staffed itself with many former dissidents – Stasinski himself was imprisoned during the 1980’s for his role in Solidarity – the goal of democracy comes before the goal of professional journalism. Stasinski combines the two goals, conceiving of journalism in the service of democracy. The more recent twist on this formulation is his highlighting the tension between openness and secrecy, which
conflates anti-corruption efforts with democracy or more democracy. The pathology of which he speaks, corruption, exists where there is secrecy. In accordance with the ideology of anti-corruption policy circles, Stasinski agrees that openness thwarts not secrecy, but a corrupt and ill state. While he accepts limits to that openness, he forcefully argues that only through revelation and exposition can journalism bring about the ultimate goal of democracy. In responding to my question about professionalism, Stasinski further refines his ideology in response to the influence of academically informed journalism, professors such as Maciej who urge journalists to adhere closely to law. While Stasinski accepts the risks involved with his proposed form of journalism, he also feels that the risk is an acceptable one because journalism, for him, must pursue truth for the sake of democracy.

In the revisionist mode, a type of defiance exists in the relationship between creators and their potential influences. In the case of Polish journalism, Stasinski elucidates a special form of skepticism born out of years of experience in dealing with the state, politicians, and bureaucrats.

While Stasinski describe criticism as part of the larger mission for Gazeta Wyborcza, the form of skepticism towards the state actually precedes new ideological representation as it clears the path for a critical mission. Critics like Maciej, the professor, argue that this criticism is probably fueled by the political cynicism of journalists. But according to Stasinski, who differentiates cynicism from skepticism, his experience has taught him and many other journalists to become cynical of politicians while still attempting to maintain a degree of professionalism that guides them in their information access judgments. Skepticism is necessary for a journalist because past
experiences have shown that officials use journalists as part of their political games. When they receive information about a corruption affair, they do not necessarily pursue the lead instantly, led by a cynical belief that everyone in the state is corrupt and therefore the lead must be true. Instead, they carefully examine their leads and scrutinize both its source, as well as its subject, with skepticism. Skepticism precedes representation. Representations can then be critical if the facts of the story support such criticism.

"Maybe it’s not cynicism, maybe that’s too strong. Maybe it’s more of a healthy skepticism. Do you think, do you feel that there are some journalists, maybe not here, but in other news outlets, who are more cynical in their journalistic tone? And do you feel that Gazeta is more cynical or more skeptical about —"

"Well, I tend to think that we are rather skeptical, not cynical. Although journalists in general, their attitude towards issues they cover and towards politics, the government, rulers of various kinds, officials, is partly cynical because we probably understand more about their motives. And we feel they are low, more often than not. Also the Parliamentarians, Deputies to the Parliament. So we don’t judge them highly in terms of the quality of their work, the quality of their motives, their devotion to public service. We don’t judge these highly. Usually. You shouldn’t generalize, but you always generalize. This is how it is. You have this tendency, this is very human and also present among journalists. So, if you frequently encounter people, officials of various kinds, and some of them from the secret services, trying to use you through leaks they provide you with, you get skeptical at the very least. It calls for a real power of judgment, a real ability of judgment to select what is worth a story, a story which is worth your effort to investigate, research, cover, and publish eventually."

The skeptical relationship between journalists and their anxiety-inducing influences stems, in part, from a mistrust in the ability and integrity of the state’s decision-making capacities. While Stasinski holds out some hope that the state could monitor itself, he consistently deconstructs the idea, pointing out drawbacks and the persistence of political complicities. And although EU accession has bolstered the state’s ability to
independently and honestly monitor itself, in the end he returns to his more skeptical
mode, suggesting that the press could perform this monitoring function in a much more
effective manner.

So he has too much to decide. Too many decisions are in the hands of public
officials in this country, concerning the economy. And the larger the scope of
their potential decision-making, the larger the potential for corruption. This is so
simple. So you have to shrink. The state should shrink. The state’s influence on
the economy should shrink.

This is very liberal, what I am saying, but also I’m talking about good regulation.
This needs to be accompanied by good regulations and control over the regulators
should be independent. We only have two good examples of regulatory bodies
that are independent. First is not clearly a regulatory body, the Balcerowicz
National Bank and its council, this board that deals with monetary advice. In a
sense they are regulators, but the central bank also controls banks. And they
provide some control over banks and this is also a very important regulatory
function. This seems to be independent. And it works. It is a constitutional body
and the terms of its members is not the same as the politicians in the parliament.
They bypass, it’s not the same term. It’s important. So even if they’re
ominated by some Parliament, Senate, lower chamber and President, then they
go independent because they’re not controlled by the bodies that nominated them.
The second is probably this antitrust body. It seems to be quite independent. This
one that we mentioned about the two newspapers in Wroclaw. But the media
regulator is completely politicized. It’s a political parody and in fact, politically
controlled by the left, the post-communists. So, it can fail, so easily. It needs to
be so scrupulously done. The way of nominating these bodies should be
scrupulous, should be intelligent, should be done in a way that guarantees its
independence in the future. This is difficult, building institutions, building
reliable institutions. I still hope the EU will help although we know of the cases
of corruption in Brussels. So, you know, there is no ideal world. It’s not a
paradise.

Another persistent anxiety resides in the influence of political parties that hold
power, but in particular, the post-communist party. However, this is a tenuous
relationship. It would be inaccurate to simply state that because Stasinski, Michnik, et al.
at Gazeta Wyborcza were prominent in Solidarity, then these post-Solidarity people
remain in opposition with the post-Communist leaders. For one, that primal scene, 1989,
represents those two sides coming together. Reconciliation and recognition, rather than political overtaking, represented victory, an overcoming, by Solidarity in 1989. But secondly, and in the same vein as anti-corruption NGO’s, Stasinski defines his journalistic objectivity through a form of apoliticism which simply stands against any political party holding power, whether left or right. At the time of our conversations, the left-wing SLD party held power.

The problem in Poland recently is the monopoly of the post-communist party. They have the President, they have the majority in Parliament, but what happened to them? They got so down in the polls. They won’t win. And partly it’s their own fault, not only that they destroyed public health services, probably the major force behind their losing popular support, but also all of those affairs show that people who are not controlled lose their morals, get demoralized so quickly and they get involved in corruption and we are to disclose it.

From this perspective, the degradation and corruption could happen to any party in this power dynamic. In the following excerpt, Stasinski points out his skepticism towards other political parties who fell into similar traps. But Stasinski takes criticism a step farther, deepening into skepticism then suspicion, finally calling it a form of paranoia. Criticism, the main instrument of press inquiry, deploys a paranoid style. Although Stasinski tends towards paranoia and claims that most of his audience thinks likewise, he also believes there are limits to the paranoia. If taken too far, the media is in danger of alienating its own paranoid readership and must therefore temper its skepticism with a degree of optimism or at least neutrality. In a rather ironic turn, Stasinski recognizes the anxiety of self-influence, Polish paranoia preying upon and thwarting itself. As such, we can recognize this paranoid skepticism not as a creative form of representation, but ultimately as a limitation on emergent ideological formations.

Paranoia is instrumental in breaking-things-apart, but fails to properly re-aim journalism.
Has the mission remained more or less the same since 89?

I think so. Yes. We think, for instance, that we are more critical towards the nationalistic Catholics and anti-European parties. We are more critical towards the Lepper party [Samoobrona or Self-Defense, a radically populist party]. We are now very critical, mostly because of their corruption and their monopoly on power, of the post-communist SLD party. But we used to be very critical of the right wing party and especially the right wing conglomerate which was called AWS [AWS controlled Parliament from 1997 to 2001], again because they were incompetent and corrupt. And they created legislation that destroyed our public finance sector. So, criticism is the main instrument of this mission. Be skeptical. Be suspicious. Even paranoiacs have their enemies. And the Polish public is paranoid. They hate our politicians. They hate them. They don’t respect our institutions. And this is terrible. We try to be critical and balance ourselves. You can’t hate the state institutions, it’s our only state! You have to improve it. So it’s difficult. Because you’re so critical that you become the public enemy of politicians. And if you’re – there’s a fine line again. If you’re too critical, the public starts to feel bad: they don’t want to read anymore.

Revision, Stage 2: Breaking-Apart

As much as Stasinski captures and reinterprets the aims of those forces seeking to shape the contemporary Polish state, he simultaneously breaks apart their ideology, thus forming space for new ground. At moments, he explicitly turns the corner from criticism to an emergent space for his vision of Polish journalism, negating the prior vision. “We don’t think so,” he very forcefully asserts, contra the superceding forces of bureaucratic secrecy. When he recognizes that strong journalism takes, “a real power of judgment” to differentiate the manipulative source from the fruitful one, he again asserts the power of journalism to begin to overcome those ominous influences. Even more, this “judgment” includes recognizing manipulative motivations for leaked stories and having the clarity of purpose to go forward with the story when it fits with their larger mission. This type of judgment has the potential to break apart the leaker’s intentions.
Stasinski strongly critiques the state’s assumed responsibility to honestly govern itself and then moves to rectify the situation through more monitoring. But the underlying subtext is that the state cannot honestly monitor itself. Through his critique, he clears the way for reconceiving the press as society’s central instrument for monitoring the state. Before making such an assertion, he needs to strongly deconstruct the state’s capacity to monitor, finding only two bland exceptions in Poland and similarly small expectations from Brussels. Here, corruption itself analytically breaks apart the assumptions of state bodies to monitor itself. The specter of corruption, not as much an influence as a destructive force, corrodes trust in the state and creates a vacuum of honesty and credibility for other forces, such as independent journalism, to exist within and find a purpose. Stasinski also asserts the same specter of corruption in deconstructing the post-communist party, along with other political parties in power. Through critical engagement with these parties, Stasinski again clears the way for his re-aiming of Polish society, its transformation into a healthy state led by journalism.

Revision, Stage 3: Re-aiming/Representing

Following Stasinski’s assertions, his forceful “We don’t think so,” the editor immediately moves into a new type of discourse, a pronouncement. “Exposing. Democracy relies upon openness. It should be an open society,” he boldly announces. Moving from the limitations set upon journalists by secret authorities, Stasinski turns a corner and puts forth an ideology, with journalism as its backbone, which seeks to create a “sound society,” a healthy democracy, an open society. The path towards “should” is
only arrived at by exploding the pathologies of the present-day state and the disdainful traditions carried forth from the past.

Because, for Stasinski, the press attempts to serve as an oversight for the state, it cannot adhere to the state’s limits on and resistance to providing information to its observers. Stasinski conceives of the journalistic mission as constant vigilance through monitoring. He sees that his newspaper and others are getting better at this job, fueled by competition with other media outlets. As a result, their persistence has resulted in real political effects.

"There are a lot of cases against politicians now. And recently the fellow who was a major advisor in the Minister of Infrastructure, responsible for the post office, he was dismissed. Rather, he decided to resign immediately after the article. He is suing the newspaper, but still."

"But isn't there -- if I'm playing the skeptic: okay, he leaves and another guy comes in and does the same thing."

"Then the press does the same thing. So we have to watch them. And we try. And I think we've refined our methods recently, for a year or two now. The newspapers are better. And also the competition between the newspapers is better because we are chasing the bastards more and more."

Critical oversight of the state composes just one key element of the newspaper’s larger mission. For Gazeta Wyborcza, that mission derives from the identity of Stasinski and his fellow editors forged so strongly during their years as a democratic opposition force to the communist government and their understanding of Polish history. Comprehending history and political opposition in this manner, they have conceived of the power of the media to strike an important balance in Poland and strongly advocate for democratic freedoms.
Once again, 1989 resonates as a primal scene of meaning-making, an identity that the newspaper could not escape without self-destruction. After all, the newspaper was named in 1989 as the “Newspaper of the Election.” The “election” references the paper’s very first goal, to inform citizens about those historic first democratic elections in which Solidarity took representation of the state by a massive landslide victory in the polls. The initial mission was not simply to win the election, but to carry on the spirit of the democratic resistance, to fight for their vision of a better society. And Stasinski has no qualms in asserting that the mission has remained the same since 1989.

“Yes, this is the reasoning, but another reason concerns our general mission as we define it. And the general mission is that we have to modernize this country. It should be a more liberal, more open, democratic society. It’s still not enough. It is a work that will probably never be complete. And controlling the state officials, local governments, all people in power, even powerful businessman if they get their wealth through influence or state officials’ protection or corruption. So these kinds of things, watching the workings of this system in general, as well as the economy and system of state regulations and so on. We have to be a critical arm of public opinion, this is the idea of having a major newspaper in this country. We must be critical. Reliable. Otherwise, we lose our image, we are not functioning well, we are counterproductive to modernizing and opening a democratic society. We are, as a newspaper, very pro-European and pro-American because we feel that anchoring Poland both in the matters of general security, political and geopolitical, military security, anchoring Poland in a very general sense in the West – in both transatlantic relations and European relations – is best for Poland because our history says, you have dangerous neighbors. Poland has always had dangerous neighbors. For more than 200 years, we were off of the map. So this country has its experience and we define our mission to help the rational foreign policy of this country. And this is the way we very generally define it.”

“Has the mission remained more or less the same since 89?”

“I think so. Yes.”
Limits to Re-aiming

Stasinski's ideological goals are relatively straightforward and clear: to democratize and modernize Poland. But while critics such as Maciej, the professor, complain that journalists assert too much power in their roles as monitors, the 4th power with oversight above the state, Stasinski actually figures certain limitations into his ideological imperatives.

While Stasinski derides the absolute power of the state to hold information secret, he draws a line between justifiable secrecy and excessive secrecy intended to cover up corruption or incompetence. For example, in a discussion we had concerning national security investigations into potential terrorist threats, Stasinski conceded that the state must maintain a degree of secrecy which would allow them to monitor the activities of potentially threatening groups. At the same time, he understood that this concession ultimately allows the state to take control of information access decision-making without any oversight from outside of the state. This is a "catch-22" according to Stasinski, but only because he refuses to trust the state in making such decisions. A true "catch-22" requires rules and strict rule-following which then leads to unintended and absurdist results. Stasinski, echoing the sentiments of most other journalists I spoke with, rather understood secrecy and access decisions on a case-by-case basis. This flexibility allows them to criticize excessive government secrecy in a case of possible corruption and to support the secrecy of national security investigations into potential terrorist threats. If any constant rule exists, it is the shared logic of the "public interest" created by Stasinski and his colleagues in the editorial boardroom.
"And I admit, that they have to. If you do it cautiously, they have to. Because if you have Polish soldiers in Iraq and you have to take into account some degree of possible terror in this country, you have to monitor some groups, some of the religions, that might be — you remember the Hamburg people? They were students, just students in Hamburg Polytechnic. Decent people. You didn't hear any claims they were threatening any people. They were just doing their studies. And what happened? It appeared they were preparing themselves for the World Trade Center. So you would be a stupid agency if you didn't monitor them in some way. But this needs some procedures. And you have all those scandals, also in America, that they go beyond the limits they are allowed to."

"The conflict of the situation, investigating terror in America, is between individual rights and a sort of public good in terms of national security. But national security is such a tricky issue in terms of information because it's always decided upon by these secret service agencies, in secret."

"Yes and the reasons why are also secret. So you are in a catch-22 in a sense. It's difficult. You need oversight institutions. Let's say smaller issues, with soccer hooligans. They first select people who are suspicious and then start monitoring them. So this is difficult. You may make some errors, the security agencies. They may make, they always make errors; going beyond the boundaries of what they are allowed to. They will do it. But you need a corrective procedure, presumably a court procedure. And if these are in place, and these are executed to the extent it's reasonable, with some possibility for appealing, that's good. Okay, you correct at least. The higher good is the fair trial, not the accusing and sentencing of the innocent. This is our system of values that we belong to now. The higher value is having one criminal walk away without punishment than having sentenced an innocent."

"Do you think that then most Polish readers are aware of this kind of conflict between individual rights and the higher good?"

"Not necessarily the majority. The better educated of our readers, I would say yes. But this is why we dramatize this. We expose this story and make them sensitive to it. It helps in understanding the conflict."

"Right. A balance needs to be struck in a democracy, but there is no easy solution to how a democratic society solves this problem."

"No, no easy solution."

"It seems here it's a case-by-case."

"Yes, agreed."
Other limits to a new critical journalism are set by the boundaries of “serious” as opposed to tabloid journalism and judicial attitudes toward criticism of public officials. The boundary between serious and tabloid journalism has to do with a newspaper’s format, literally color-coding the distinction between, for example, the very serious black-and-white *Rzeczpospolita* from the multi-colored and full-page photograph format of the tabloid *Fakt*. Stasinski is more concerned with the differences in writing content. Both serious and tabloid newspapers criticize public officials; the key difference is that serious newspapers focus only on public officials in their professional capacities, while tabloids may also criticize officials for their private lives. Again, the specter of corruption looms because corrupt acts exist on the border of public and private lives, making the private lives of public officials extremely relevant to serious journalism. In such cases, Stasinski recognizes that the courts, not the journalists, are the final arbiters in deciding how much private life deserves protection from public sphere intrusion. While the limits of private life criticism remain ambiguously defined, editors like Stasinski must always contemplate the potential judicial limits of their criticisms, so as to prevent unnecessary financial damages to their company. In the end, a bankrupt newspaper has no critical voice.

“*Then, an important goal is to criticize public officials when it is warranted?*”

“Absolutely. This is part of the mission of any *serious* newspaper. And even the tabloids do it although we think they tend to be less credible because of the growing competition in the tabloid market. But I think that the judges are feeling there is too much unwarranted or adventurous criticism against public officials. And some of the judges, that the scandals that are being publicized or disclosed, that some of the accusations against public officials are going too far and there should be more protection. So they think there will be more responsibility on the part of journalists if the judges will be more strict. This is how I try to construe their thinking.”
Revisionist Journalism in Practice

If we recognize the limits of Stasinski’s ideology as a case-by-case, contextually-based exercise, then we need to analyze journalistic ideology in relationship to the practices of journalism with particular emphasis on investigative journalism seeking to make corruption its object of study.

As such, a skeptical form of reason which embodies the skeptical criticism of the newspaper’s mission scrutinizes both the motivations of actors involved in potential corruption, as well as the motivations of those who leak information to the newspaper. In the first instance, Stasinski pursues suspicious political characters, forming the realization that some normal, unsuspecting person is actually involved in secretly corrupt relationships. He investigates motives behind their public activities. These actors manipulate the state’s public interest for their own private interest. In the second, Stasinski dissects his sources of information, a reflexive and skeptical inquiry that questions the leaker’s motivations for offering the newspaper information. These actors manipulate the newspaper’s public interest for their own private interest.

In a manner similar to the way that Stasinski’s ideology responds to the anxieties resulting from the forces of the present-day state, especially its corrupt elements, and the traditions of the overly secretive and bureaucratic communist state, a form of anxiety also fuels Stasinski’s reasoning while pursuing his object of study and assessing his sources. Generally speaking, this anxiety is derived from the possibility that private interests could influence the newspaper’s public mission. But this anxiety is actually more fine-tuned. It revolves around the central theme that things are not as they seem and once the veracity
of the surface has been thoroughly disassembled as unfeasible, then the ground has been cleared for new representation. This follows the same pattern described by Bloom and applied above to Stasinski’s ideology.

I will use Stasinski’s description of an ongoing investigation into legislation that would regulate taxing on slot machines as an example of this mode of critical skepticism. Under debate, Parliament considered whether to tax on every pull of the slot machine or as an annual tax for each machine. The owners of the slot machines lobbied for the latter, an annual tax. Eventually they succeeded in securing passage of the legislation, but Gazeta Wyborcza journalists had received information leading them to believe that the slot machine owners purchased their influence through corrupt avenues. Skeptical and suspicious reasoning, re-created here by Stasinski, fueled the investigation. At the core of this skepticism, journalists wanted to know the motivations behind the activities of politicians and whether they acted in the public interest or in their own personal financial interests.

“So you’re most interested in the motivations?”

“Sure. The motivations for it. Why were they so eager? They were wasting a lot of time on this. We had a public finance crisis and many other problems. And they were so eager to push this legislation through Parliament. They finally did. So, there was more and more suspicious information about corruption coming to light, especially concerning the fellow who was former head of the SLD parliamentary faction. And more and more hearsay, rumors; that he took a lot of money from this gambling business. He was a friend of one of the leaders of this business. He was traveling with him. He was dining with him and so on. A fellow from a humble background became a very rich man with three luxury residences for him and his family, throwing banquets in the most luxurious hotels in Warsaw, meeting with members of Parliament from SLD. And we started to investigate and it seems it’s not finished yet, that this fellow took money. Recently we have heard rumors about 3 million dollars that he got. Straight to Parliament, brought in a suitcase in installments.”
Stasinski had already introduced the subject of the legislation and then proceeded to pick the story apart. *Why now?* Other legislative matters appeared more pressing, such as a national financial crisis. *Who and how?* Rumors filled the air concerning the head of the political party faction. In particular, Stasinski highlights the politician’s “humble background” in comparison to his present-day lavish lifestyle. From deconstructing the taken-for-granted story, Stasinski then moves to a representation that highlights a formerly background actor. By scrutinizing his newfound wealth, Stasinski makes the far-fetched explanation reasonable.

In the case of former national insurance company president Grzegorz Wieczerzak, Stasinski described at great length his efforts to manage manipulation. He needed to assemble an army of financial and economic experts to match wits with this man involved in corrupt financial affairs. Later, an investigative report from *Rzeczpospolita* would show exactly how Wieczerzak embezzled money from a state-operated company and funneled the cash to a private bank account in the Jersey Islands. Although Wieczerzak had not been found guilty at the time *Gazeta Wyborcza* spoke with him, Stasinski felt certain that Wieczerzak would try to use the newspaper as an instrument for his political maneuvers, as he tried to elude his criminal charges. As a result, Stasinski employed a logic of extreme skepticism to try to understand the larger context of Wieczerzak’s information and the motives behind his information.

“What an effort! What an effort to talk to one criminal! So, you know, this is the kind of work you have to do if you decide to take this challenge. This is just one example, there are many. Life gets more complicated and journalists – we are not this type of specialized journalist. Okay, they are competent, we have competent fellows, people who, guys and girls who know things, who associate things when they hear things. Intelligent people, right, but not experts, not educated in financial matters and so on and so forth. We are not a specialized magazine for
specialized interests. Even *Puls Biznesu* is probably better or some financial bulletins. But the people there don’t know how to write well, they write in the jargon of legal or financial markets. But we don’t write like that. We write for ordinary people. We are a general interest newspaper, we don’t have these people at hand, experts. We have to look for them.”

“This is like the Enron scandal in America. Even today, probably ninety-nine percent of the American people couldn’t tell you how a futures market works.”

“Sure. It’s so terribly complicated. Derivatives…”

“What’s the value? Nobody seems to know.”

“Absolutely! Nobody knows! So for a general interest newspaper, it’s difficult. You don’t have this expertise at hand. You have to find it.”

“And it seems when you have a case like this it’s almost similar to a mosaic. You’re standing on the mosaic and you can see the part around you, but you need to move five stories higher to see the entire picture. It’s only with some skepticism about what you’re looking at that you’re going to try to get a bigger picture.”

“Exactly. I don’t need to add anything to it.”

Whether dealing skeptically with the object of a corruption story or the motivation behind a source, the larger context is crucial. The figure of the mosaic, Stasinski agrees, is a useful analogy. The initial story offers a picture, but until the observer has reason to mistrust that picture, they will not understand the need to climb higher and gain perspective on the mosaic. Standing upon the mosaic suggests the limitations of the initial perspective, while skepticism facilitates the decision to gain new perspective. The view from above simulates the act of representation, re-aiming the facts of the story and incorporating new facets that existed before, but without the fuller understanding.

Stasinski provided an example of how skeptical reasoning can triangulate the position of suspicious, potentially corrupt activity in describing an investigation into the bidding and production of an army vehicle organized by the Ministry of Defense. At the
same time, this example represents an investigative failure. *Gazeta Wyborcza* failed to expose the corruption in this case because the information only led them into a situation where corruption appeared likely. Even without full verification, Stasinski felt strongly that the secrecy surrounding the state’s decision-making and the competing expert perspectives in the story suggested corrupt activity to the point it was palpable. He deployed a metaphor of smelling the corruption, suggesting that reporters can sniff out rotten elements. The pivotal argument in Stasinski’s revision of the official story came from competing expert positions on military vehicles who explained the technical problems surrounding the bidding. The experts’ opinions heightened the suspicion surrounding the story, but although the space was cleared for a thoroughly revised representation of the story, the reporters failed to establish a new perspective.

“We were investigating a story about the bidding concerning some army vehicle Poland’s Ministry of Defense was running a bid on and organized a bid. There were two major Polish companies with Western backing, but they lost to a Finnish company. And there were some suspicions because the vehicle the Finns were providing wasn’t providing certain important technical criteria. For one, it couldn’t be transported, it was too large. Which is crazy, because this vehicle should be used by mobile forces to be shipped to some remote places. So if you find such info, you try to investigate the story and what do you encounter? So-called military experts, each says different things. You don’t know what this fucking vehicle is worth or if it should win the bidding or not. Even if it meets the criteria – because they can interpret the criteria so that it doesn’t need to fit now, they will repair it. They say, we are cheaper. And then you find out that this Polish company that will make them on the Finnish license never produced anything. They were just a renewal factory. They were only a renewing or remodeling, repair factory. And there are some other factories that produce vehicles. Why did they lose and this one won? **So you feel, (sniff) you smell corruption.** There are some people in the commission, but everything is secret and you cannot get the papers on which those decisions are based. So you get the military experts. You are provided with information by the losers that there might be corruption, but you know they are losers and it is in their interests to criticize this outcome, so you’re not sure if you’re not being manipulated. You have to control it all the time again. And then you run the story finally and the story is not about corruption because we don’t have any evidence. We are only speaking about some strange things that happened here. Why this fucking vehicle doesn’t
fit the Hercules transport? Why it drowns in the Czech Republic on some trial maneuvers? Why some of the companies that lost the bidding were introduced into the offset? Which was accompanying this billing? Well maybe it’s a kind of secret compensation for them because they lost? And you’re trying to find out what is so strange about this and you provide the public with this kind of question. But not answers. This is the problem. And finally we had to drop the story because we finished our sources, we didn’t have anymore. And the rest is silence.”

Concluding

If the spokesperson and the professor urge journalists to work from within the system, obeying all of its rules and laws, Stasinski’s perspective creates the antagonistic environment which threatens the spokesperson with an ulcer. Journalists, most of whom share Stasinski’s sentiments, feel justified in breaking secrecy laws and criticizing the government. As a result, a complex and entangled milieu of forces, pitting the state and the bureaucracy on one side and journalists on the other, has emerged and continues to evolve into a cascading set of new forms of journalistic critique, new secrecy laws and regulations, a new openness law, and increasing numbers of libel suits and criminal libel investigations.

Gazeta Wyborcza has a specific mission to democratize and modernize Poland, to create a strong civil society and a more open society. While Gazeta Wyborcza’s mission is somewhat specific to its historical moorings in the democratic opposition to the communist state fomented during the 1970’s and 1980’s, it shares a common mission held among the majority of Polish media outlets who see their goal – most of them dislike “mission” because of its potentially political-minded implication – as critical vigilance. They are not allies of the state. Nor are they open enemies, but they are certainly closer to enemy than ally.
Instead, they see themselves as the monitor of the state, watching over their activities. In this respect, they fulfill a function which the state also performs, but from a distinctly different position. Journalists may also share similar responsibilities to the state when they make decisions to release information based on the public interest or the interests of national security. At other times, they release information and publish articles which the state would not, oftentimes against the wishes of the state, and for the sake of what journalists consider the public good or a healthier society.

In order to both perform the state's investigatory function and to fulfill their self-imposed professional mission of critical journalism, journalists employ a mode of skeptical and, at times, paranoid reason. This mode is necessary to fill in the gaps of knowledge and information, to assemble a larger or more coherent picture of a story for which they have a limited amount of verifiable or sometimes anonymous information. *This mode is necessary to produce knowledge about corruption.* In this manner, they attempt to recreate possible options presented to state decision-makers and figure out whether particular decisions were made in an incompetent or corrupt manner. In other cases of investigating a particular figure, the skepticism involves comparing an individual's income with their assets and skeptically wondering how the two equate to one another.

This chapter is significant for contributing to the explanation of the ethos and worldview of journalists in Poland in conflict with the state and concerned over the potential influences of a corrupt state and legacies of the communist past, intertwined abuses of power. It explains journalistic ideology as much more than a discourse meaningful unto itself, but in relationship to a number of different anxieties and
influences, both contemporary and historical. As such, it offers a fluid analysis and interpretation of meaning-making born out of stress and anxiety. Further, it explains the seeming obviousness or naturalness of a paranoid subject and ethos whereby the paranoid subject makes the non-obvious and far-fetched story appear obvious. The chapter helps us makes sense of how journalists make sense of corruption in contemporary Poland.
Chapter 9

Stories Behind the Story

Chapter 7 offered a history of the emergence of investigative journalism in Poland and chapter 8 described the revisionist ideology and paranoid, skeptical form of reason shared among Polish journalists who approach corruption as an object of knowledge. This chapter examines the dynamic relationship between those two chapters, the historical and the logical, in specific stories of investigative journalism that demonstrate how far-fetched explanations of corrupt acts are made concrete and believable. In the first story, a Newsweek Polska reporter who shared his investigative dossier with me tells the story of a corrupt prosecutor and the way the prosecutor extorted money from local businesses for his own private gain. With the help of a tipster email, the reporter broke the case and discovered holes in what looked like a solid story. In the second story, two journalists from different news outlets work together to reveal the corrupt embezzlement of a small fortune by two former presidents of state-owned companies. In this case, the corruption was apparent, but the flow of money was not. The important differences between the two journalists’ approaches reveals a great deal about how investigative journalism works.

The following stories are examples of the anxieties of influence and possible manipulation as experienced by investigative journalists during the reporting process. As such, they are the “story behind the story,” in which I will explain both how journalists access the information they need to write a specific story and how they end up writing the story. But in dealing with what Bloom has called the “anxiety of influence,” these case
studies also explain how journalists grapple with the influence of the tipsters, leakers, and informants who offer information to journalists. How do journalists overcome these anxieties or do they?

Both of these stories exemplify the logic by which journalists triangulate their object of study: corruption. In doing so, they reveal how appearances gave way to reality, formerly upright politicians were exposed as corrupt criminals or suspected corruption was exposed as an intricate system of money transfers and third-party schemes. They represent different paths towards discovery, but both case studies follow suspicions through a skeptical form of reason. Through explaining this skeptical reason, these case studies posit investigative journalists as paranoid subjects, claiming a subject position which represents a specific way of looking at the world. These journalists rarely take accepted facts at face value, but feel compelled to dig deeper and follow their stories toward potentially corrupt ends. They consistently question the motives of their objects of study, as well as those who offer them information. They always focus on the multiple layers of interests at stake in any situation.

In one sense, the productive quality of the anxiety of influence is the desire to subvert or overcome the private interests of the story’s original informant. The journalist tries to channel the story to serve a public interest, even when the journalists may have their own interests or others may accuse them of having interests such as personal fame or journalistic identity. But is there always an interest at stake that guides information flows? Or rather, are the motivating interests behind information flows the most productive manner in which to analyze information access? Furthermore, is knowledge always produced with an interest behind it?
If public knowledge is as much a product of a time and a place which institutionally arranges the parameters of the possibly true and possibly published, then even “interests” must be subsumed under those conditions. That is why I have preceded this chapter with a description of the historical emergence of investigative journalism, its newfound importance and impact. In a context where writers and audiences trust in the integrity and credibility of investigative journalism, reporters are allowed to take liberties, especially in terms of accessing information, which would be unacceptable in moments when investigative journalism lacks credibility. This was the case, for example, in U.S. investigative journalism beginning in the late 1970’s. In Poland, we can only begin to imagine what would happen if journalists only allowed themselves to produce their corruption stories using information gathered through legal avenues. Simply, they would not publish the stories depicted in the following case studies. The following stories and others like them are written in spite of the laws on information flows, not with the help of those laws.

These are not “interests” at stake, but larger trends and waves of journalistic credibility generally and investigative journalism more particularly. The larger waves of journalistic credibility – themselves part of a bigger picture of regimes of truth which brought about the triple emergence of anti-corruption policies, the information access law, as well as investigative journalism – play a foundational role in determining the parameters of possible interests. To place faith in an analysis based on interests, as the journalists and anti-corruption experts do, suggests that an individual or a small clique could somehow manipulate history. At certain critical junctures, this is certainly possible, but the surge of influence is greatly exaggerated in these cases by an
overwhelming anxiety and paranoia, hyperbolic in nature. The following case studies are best understood in light of these historical trends outlined in the rest of this dissertation.

**Story Behind the Story: Newsweek Polska Investigates Public Prosecutor Jerzy Hop**

"This is the subject of our investigation," the reporter tells me, placing a headshot in front of me on the table.

The subject of investigation is Jerzy Hop, head appeals prosecutor in Katowice. There are only ten such prosecutors in all of Poland and in the hierarchy of the criminal justice system, Hop is one of the most powerful men in the country.

The reporter is Michal Karnowski of Newsweek Polska, who mainly writes about Polish politics, but also works on dziennikarstwo śledztwo when appropriate. The place, chosen by Karnowski, is a café across the street from the offices of Axel Springer, the German company which owns Newsweek Polska, on the edge of Warsaw. The café is inside, of all places, a new, modern shopping mall.

In 2002, Newsweek Polska published its article on Hop entitled "Pani Minister Młczy" ("Ms. Minister Remains Silent") by Michal Karnowski and Andrzej Rafał Potocki. The article alleges that Hop had developed a corrupt scheme to demand money from local companies under his prosecutorial jurisdiction and funnel this money through a company called American Computer Services, Inc. The story pivots on an anonymous source, "the chief of a large Silesian\(^2\) company", who describes a meeting in Hop's office in which Hop requested that this company purchase "office materials" for the

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\(^2\) Silesia is a region in southern Poland.
prosecutor’s supposedly cash-strapped office. While each invoice only cost around 1000 Euros, the process was repeated many times.

At our meeting, Karnowski presented me with a dossier of the Hop investigation while I drank coffee. The many files included procedural documents outlining the strategy for the investigation, transcripts of various interviews with Hop and his associates, legal texts highlighted by Newsweek lawyers explaining which laws Hop had transgressed, photocopies of key documents that support the article, and several email messages, including the original tip that set off the investigation. From the dossier and our discussion, along with the article text, I could piece together the story behind the story. Karnowski, also fascinated by this process, told me that at some point, he also hoped to write a book that would recount the story behind the story of the Hop case and many of the other stories he had investigated.

The article begins with provocative details: “In this story, like in a sensational film, there appears luxury cars, expensive homes, and wallets full of cash, secret couriers and treasures hidden in secret accounts. In the background, phony invoices circulate. Secret firms, anonymous witnesses, and a prosecutors beyond the law come and go. This is perfect material for the setting of an American action movie. The problem is that it is not fiction and the protagonist is one of the most powerful people in the Polish justice system. Someone with so much influence, that even Minister of Justice Barbara Piwnik decided to keep her mouth shut.”

From here, the article follows the story offered in the tipster email, taking note of the Hop family’s properties and luxury cars. Apparently, such highly visible properties provoked a Ministry of Justice investigation into Hop’s finances in 2001, just months
before Minister Barbara Piwnik replaced Minister Lech Kaczynski as the Minister of Justice. Piwnik soon dropped the investigation, accepting the same alibi that Hop would offer to *Newsweek*. By simply adding up Hop’s properties and subtracting his income, including his wife’s modest income as a schoolteacher, a large discrepancy became obvious. Hop’s alibi was his debt, combined with a large inheritance from his mother-in-law’s family in England. Hop presented *Newsweek* with an official statement from the mother-in-law, a document which the reporters later refuted with the help of Hop’s mother-in-law. The complex in-law tale begins when Hop’s grandfather on his wife’s side fought in World War II and then immigrated to London. After he died in 1968, Hop alleges that two men came to the Hop household in 1969, having liquidated the estate, with 260 thousand dollars US. The family then deposited this money into a secret account, Hop refused to say where, before withdrawing the cash in 1984. But the official statement from the mother-in-law fails to account for about half of the property-income discrepancy and while all of the inheritance money changed hands, Hop did not have one receipt to account for any of it. Nor did he pay taxes on this money.

The reporters, having located a company in Silesia through which Hop essentially requested bribe money, proceeded to document the mechanism of corruption. Hop would ask that the company purchase office supplies and materials, such as printers and desks, for the prosecutor’s office, using invoices from American Computer Services (ACS). ACS was owned by Hop’s brother, also a prosecutor, as well as some of his old school friends. From the *Krajowy Rejestr Sadowy* (National Register Court), the reporters obtained documentation about ACS. But on reaching the supposed office building, they learned that ACS had vacated the building in 1992. Visiting the president of ACS, they
were told that the firm closed in 1992, but had yet to liquidate because it would cost too much. Although Hop distanced himself from ACS during their interview, the president admitted they were old friends.

The majority of the remainder of the article focuses on Hop’s status as an “untouchable” politician. The former mayor of Hop’s hometown asserts that even the police in Silesia are afraid of him. In one such instance – a case study on Hop, of sorts – Hop arrived at an accident scene in which his friend was found driving drunk. After Hop made his presence known, the police cleared up the issue while Hop denied ever intervening in the problem. The former mayor called Hop a “scandalous example of demoralization and feeble local government,” while the reporters extend the scope of Hop’s corruption to a national scale, noting his influence in the Ministry of Justice, Treasury, and Internal Affairs. How the extension of his corrupt influence operates in these high places remains nothing more than ambiguous speculation however. In the end, the article offers us a question from Hop himself: “There are prosecutors that have better homes than me – said Hop. – Why do you only question me? We should question others, too.”

The email tip that led Karnowski and Potocki to begin their investigation came from a lawyer in Warsaw employed at a large multi-national firm that deals specially with corporate clients and foreign investors. In total, the email presents four tips, all of them concerning the same company, presumably one of the firm’s clients. Karnowski explained that the first two tips failed to lead anywhere, but the second set constituted the basis for the Hop investigation. Tip numbers one and two dealt with the same company that was extorted in tips three and four, but those tips involved an entirely different
business matter\textsuperscript{22}. Tip number three raises the question of Hop’s luxury cars and Hop’s wife’s occupation as a schoolteacher, asking “From where does the prosecutor have such money?” Then, referencing a meeting between Hop and “the director of a large Silesian firm,” the lawyer explains what the reporters call in their notes the “mechanism of corruption,” outlined above. In reading through the reporter notes, it becomes obvious that “the director of a large Silesian firm” is also the victim of other problems outlined in tips one and two of the email, suggesting that the lawyer/tipster also represents this large Silesian firm.

The Hop story demonstrates the dynamic relationship between the larger parameters of the possibly true or the possibly publishable, the potential political entanglements of information flow relationships, and the manner in which the journalists triangulate their object of study to overcome the influence of or potential interests behind the original tip.

Upon closer examination, we find that the reporters never completely confirm Hop’s crime. They create the context for the possibility of corruption, they effectively show how Hop’s income fails to account for his properties, and they suggest a mechanism of corruption that could account for these missing funds. But they never explicitly demonstrate that Hop took money from bribery and spent it to buy his properties, nor do they explain whether all of the bribery money went to Hop or some other source. They use an anonymous source to explain the mechanism of corruption and the mayor of Hop’s hometown who claims that Hop is not an upright politician. But the reporters were never there to witness the corruption, nor do they have multiple

\textsuperscript{22} And for the purposes of this chapter, there is no need to elaborate on tips one and two.
anonymous sources to back the story. Further, they supplement their story with images of guilt, noting the sweat dripping down the faces of Hop and his accomplice, the president of ACS. In a follow-up story, they assert that the story is only the "tip of the iceberg." This may be the case, but the metaphor reveals a great deal about how investigative reporting operates. It touches upon clues of a bigger story, but cannot quite see through the water to ascertain the size of the whole story. Nonetheless, a lack of complete documentation is not a failure, the suggestion of the iceberg's existence is itself the tropological goal.

Without an established tradition of investigative journalism in Poland, perhaps it is understandable that state officials are antagonistic to journalism that nails down its object, but not in a full-proof manner. While the article faults prosecutors in the Ministry of Justice for failing to investigate Hop, the reporters also fail to take the arguments of those inside the state, the Ministry of Justice spokesperson for example, seriously. I spoke with several state employees, including the spokesperson quoted in the article, concerning the Hop case and similar cases. They reiterated not simply that Hop is innocent, but that the accusations were unfair because the evidence was inconclusive.

The journalists were fully aware of the lawyer's potential interests at stake, but they were less aware or concerned about those parameters of the possibly true. Rather, the possibility that they could fail to publish the story because of a lack of evidence fueled the investigation to more closely scrutinize Hop.

Although journalists were aware of potential manipulation by their sources, they were less aware of the larger institutional fields in which their sources played a role. For example, many investigative journalists argued that only journalists and not anti-
corruption policymakers or NGOs make an impact in the fight against corruption.
Karnowski’s informant is significant because he was an anti-corruption policy advocate.
The lawyer was formerly the head of a foreign investment agency – owned in part by the
government and fulfilling many governmental functions – before joining the law firm.
As such, he worked closely in allaying potential fears of foreign investors concerning
corruption in Poland by ensuring that state-corporate relations complied with OECD
standards, including those rules regarding corruption. In their notes, the reporters
document the Silesian firm’s unwillingness to garner publicity in relationship to a
corruption case: “the opinion of the lawyer is that his company does not want to enter
into relationships with such shady guys, because of the Western capital.” The Silesian
firm, it turns out, has a majority stakeholder from a Western country.

These details about the tipster/lawyer are further significant for several reasons.
First, they establish another concrete linkage between the rather separate spheres of anti-
corruption policy and investigative journalism. This case suggests one manner in which
those who have worked with policy and legal structures may step out of that realm and
play a role in politics through investigative journalism. It is a recognition that the lawyer
could manipulate journalism, but it is not proof that the lawyer really wants to do so. We
cannot understand the lawyer’s motivations. The actual report erased any linkage to the
sources of the story by instead documenting the corruption story as it happened.

Second, the lawyer offered four tips, a virtual laundry list of corrupt acts. This
might suggest a familiarity and openness of information flows between lawyers and
journalists. Journalists talked about having consistent sources and these were sometimes
instrumental in investigative pieces. At the same time, they were uniformly weary of
trusting a single source and the lawyer seemed to recognize this in his email. The lawyer suggested stories and routes of inquiry, but made no demands on the journalists.

Third, that a lawyer representing a client would rather pursue a journalist than legal avenues suggests a complicated relationship between a potentially corrupt legal system, the potential impact of investigative journalism, and the problematic nature of negative press images. On one hand, because the state and legal arenas appeared as thriving environments for corruption, journalism appeared to be a viable option. It is unclear what course the lawyer would have taken in an environment of less corruption, but we might surmise that the lawyer’s company might have preferred to take direct action against the prosecutor had the legal system been less corrupt. At the same time, a court case would have created publicity and the lawyer specifically wanted to stay away from public information about his client company for fear of Western investor reaction. Suddenly, the larger context of western development seems to play an important role in the lawyer’s decision to bring his tip to the investigative journalist. After all, even if we agree that the journalists managed to overcome the direct influence of the tipster, the investigative article would not have been possible without the tipster.

**Story Behind the Story: Revealing the PZU Corruption Case**

On the 13th of October, 2003, the headline of *Rzeczpospolita* read “Tajne konta bylych szefow PZU” (Secret account of the former chiefs of PZU). The investigative journalist Bertold Kittel had uncovered yet another corruption scandal for the paper. Władysław Jamroży, president of PZU from 1997 to 2000, Poland’s largest insurance company which was formerly state-controlled and still owned in part by the state, and
Grzegorz Wieczerzak, president of PZU Zycie from 1998 to 2001, a life insurance subsidiary of PZU, had already been in prison for a couple years as a result of corruption charges concerning misappropriated funds during their tenures at PZU. Everyone knew that they had stolen the money, but no one, not the public prosecutors or any journalist, could figure out where the money was located or how it got there.

Who is Andrzej Perczynski? Who is Andrew Northen?

The article, following its title and Rzecpospolita’s brief summary paragraph, begins, “The key role in directing the money was played by businessman Andrzej Perczynski.” The article further alleges that Perczynski helped organize the corrupt fortune of Jamrozy and Wieczerzak into a complex web of consultant companies, private firms, and investment funds. Still on page one, Kittel writes:

Perczynski is a very secreitive figure. In his home in Vienna, he held all of the documents concerning the accounts of both presidents. Still several years earlier he was a French businessman with a Canadian passport and he was named Andrew Northen. In the past, he was involved with international drug trafficking.

Continuing the story on page 4, Kittel explains Perczynski’s involvement in “Polish interests” during the 1990’s and his role as “one of the biggest intermediaries in foreign contracts for PZU.” Yet, Kittel does not attempt to explain how the documents held by Perczynski in Vienna came into his possession.

Near the end of his investigatory article, Kittel mentions Perczynski’s ex-wife Sharlane La Rocque who, until 2001, was the beneficiary of a key trust fund in the corrupt network. As a result of entangled divorce proceedings, La Rocque and Perczynski had sued one another. In the middle of the dispute rests their share of the corrupt fortune.
Rzeczpospolita journalist Bertold Kittel already knew the case quite well. He had written a set of articles in 2001 and 2002 about the PZU scandal, including an article nominated for best investigative journalism by the Polish trade magazine Press. Kittel is a stubby young man with short spiky hair and glasses too small. He speaks quite softly, often with jovial sarcasm, but more commonly employs a tone of extreme gravity. It seems that his appearance makes him unsuspecting and he was fond of telling me in jest, in the middle of recounting a short story about a corruption case he revealed, “it was too simple. So, I thought, I’m wrong. It’s not possible. I’m not an economist or a lawyer. I’m a guy from the mountains.” Behind all of this, Kittel is an intelligent analyst, a skeptical critic, and, perhaps most important to his success, a diligent researcher. He has won multiple awards for his journalistic achievement from his fellow journalists, as well as anti-corruption organizations.

Kittel began his investigation into the corrupt dealings of Jamrozy and Wieczerzak in 2001 after the two had already resigned their positions and suspicions of wrongdoing were public. Kittel and others helped solidify the public’s understandings of how PZU and PZU Zycie operated, along with subsidiary companies, to defraud customers and business associates.

“I began my research by finding people who opposed, they were enemies of Jamrozy and Wieczerzak. So I got inside—these were people actually working for PZU. And with these connections, I could read documents for the cases,” he said.

With access to PZU files and the help of PZU employees upset with the corruption of their former leadership, Kittel launched a series of investigations into the purchase of properties by PZU and connections between PZU and certain Polish
politicians. These sources allowed Kittel to better understand the complexities of the corrupt deals.

All of this happened years before Kittel learned of Andrzej Perczynski’s precise role, but he was already aware of a mysterious figure and his potential involvement in channeling Jamrozy and Wieczerzak’s stolen fortune out of the country and into secure foreign bank accounts.

As it turned out, all of the information Kittel needed to put the pieces of the puzzle together lay in front of his eyes, particularly in the form of a PZU audit carried out by Deloitte & Touche. Following Jamrozy’s departure in 2001, PZU hired Zygmunt Kostkiewicz to root out suspected corruption and make the company operate in a more transparent manner, a task at which most business and news observers felt he was successful. One of his first pursuits involved commissioning Deloitte & Touche to carry out its audit on behalf of a Polish company which lost a bid contract to one of Perczynski’s companies. The audit, known as the “Cobra Report,” was a company-confidential document.

Kittel obtained the document through the same insider PZU sources that allowed him access to PZU documents leading to the initial investigatory pieces. “Oh, that’s funny,” he told me. “It’s actually my 7th [Cobra] report because I got many copies. I complied with many people and I borrowed some to make copies and didn’t give them back. It’s very funny. Other journalists also got the report, so it’s not so secret… I even had a very early version that was signed. But the owner of this report is PZU, so when you have connections very deep inside of PZU, you can get it. But many reporters got this report from the prosecutor.”
While the Deloitte & Touche audit described the nature of PZU fraud, neither auditors nor prosecutors could complete the mystery of precisely where the money went.

Kittel explained that the investigation ran into a wall, literally and metaphorically:

So you saw, for example, that the money was sent to Dublin. But you didn’t know what was going on. What’s after Dublin? or Denmark? You knew that something is wrong. It’s like a wall, if you built a wall in the street. You can see the first part, what’s in front of you, but you can’t see what’s beyond. The whole mystery is one part and you know only a little bit of it. And those documents from the Perczynski file were the key and then it was completely clear. Because you can find the agreements there and you can find the transfers of money in the Perczynski files, where the money went. To Vienna, to Dublin, to the fund.

So, for two years, between the time that allegations against Jamrozy and Wieczerezak surfaced until the discovery of Perczynski’s documents, the complete story remained obscure to investigators. The most difficult aspect for discovery and progress, according to Kittel, was the increasing complexity and scale of the case, “if you find something new in that case, you don’t know if it is new, what everybody already knew before.”

Poland Monthly *Gets the Perczynski Files*

According to Preston Smith of *Poland Monthly*, Sharlane La Rocque, Perczynski’s ex-wife, had shopped the documents around to several major Polish newspapers before she came to *Poland Monthly*. But Kittel told a different story, as he was previously unaware of these documents. Apparently inspired by a cover story Smith had undertaken several months earlier, in which he attempted a risky investigation to infiltrate an Eastern European prostitution smuggling ring in Macedonia, she brought Smith the documents and he agreed to investigate the story. But the documents and La Rocque’s motivations were questionable. In addition to divorce proceedings, La Rocque was more interested in regaining full custody of her children from Perczynski. Even
before the divorce, La Rocque had grown suspicious of her husband, prompting her to make copies of her husband’s documents from his home office in Vienna in early 2000.

Smith knew that the investigation would be difficult, challenging his journalistic connections, as well as his financial and legal capacities, so he recruited the help of Rzeczpospolita journalist Bertold Kittel. Smith described the partnership as an example of journalistic “solidarity,” each media outlet, in theory, protecting the other by softening the threats of repercussion, whether in the form of legal, political, financial, or bodily harm threats. In reality, Smith probably wanted the protection and notoriety of Rzeczpospolita on his side. And although Smith was fully aware of the PZU corruption case, having lived in Eastern Europe for at least a decade, he had not covered the story before and did not have the same intimate connections with PZU as Kittel. Poland Monthly, founded in 2002, did not exist when the PZU story erupted.

Preston Smith, as the name might imply, is not from Poland. He is a middle-aged expatriate with salt-and-pepper hair and a distinctly Texan accent. Speaking with a certain amount of bravado about his experiences in Polish journalism, as well as his even earlier experiences in small-town journalism in America, Smith is an outsider to the world of Polish journalism. Corruption scholars I spoke with, for example, first learned of his magazine in reference to the Perczynski story, not because his magazine sells widely outside of the expatriate community23 or because he co-authored the Rzeczpospolita article, but because he received a brief attribution at the end of Kittel’s article: “[Rzeczpospolita] worked together with Preston Smith ‘Poland Monthly.’” Smith is both lead journalist and editor-in-chief of Poland Monthly, whose entire staff consists

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23 Smith told me that Poland Monthly has a small, but influential audience that includes foreign investors, embassies in Poland, and even top offices in the Polish government.
of around two dozen individuals. Preston’s brother Craig runs the business side of the magazine. The writing is full of clichés and even unqualified references, while the general tone is pessimistic, edging on cynical, resulting, for example, in Smith entitling his article after Perczynski, “The Third Man.” In editorials, Smith feels he must justify his skeptical perspective as an outsider criticizing Polish corruption by reinforcing his identity as a universal journalist who “cannot relate to the criminally rich” and as a universal “man” who, “regardless of where a man lives, he has a responsibility to society to point out a wrongdoing” (2003: 4).

**Comparing the Articles**

The two articles generally tell the same story, but from a careful analytic perspective, Smith’s *Poland Monthly* article differs from Kittel’s *Rzeczpospolita* article in important ways. Smith’s title directly refers to Perczynski, “The Third Man,” while Kittel turns his focus to the ongoing subject of his investigations, “Secret Account of Former Presidents of PZU.” After a brief introduction, in which the the Jamrozy-Wieczerzak story is alluded to but never summarized, Smith sets up a tale of intrigue suitable to a cheap spy novel:

*There is no question that the money is gone. Few believe that it simply went missing on its own. There had to be a plan, and there had to be some help from the outside. In short, there had to be a third man* (2003: 13)

Sharlane La Rocque, Perczynski’s ex-wife, is mentioned in paragraph three and the first section following the introduction is entitled “The story behind the story…” in which Smith describes the personal and family life of Perczynski and La Rocque in great detail. Here, he writes that, spurred by suspicions of her husband’s shady business dealings, advice from his sister, and her own personal concern that Perczynski refused to return
from Europe to their native home of Canada, "La Rocque copied every single document that passed across her husband’s desk in Vienna—without his knowledge" (2003: 14).

As a side article below the main investigatory piece, Smith wrote a description of La Rocque and her custody fight entitled, "Hell Hath No Fury…" in which he describes the mother’s story, which "rings like something out of a John Le Carré novel" (2003: 23).

Following details of Perczynski’s personal life, Smith takes us through a set of confusing accounts about business deals and financial arrangements, accompanied by multiple maps and charts which obscure more than they uncover. The strong suit of the article rests in the description of Perczynski’s “consulting” companies and intermediary payment company which either accepted contracts from PZU for consultant work never undertaken or dishonestly funneled money from PZU intended to pay for the construction or purchase of PZU properties, including a high-rise tower in downtown Warsaw.

Kittel took a different approach to the composition of his story, though he still begins with the shady figure of Andrzej Perczynski. Instead of focusing on Perczynski’s private life, he concentrates on the secret “Portland Trust” fund set up illegally by Jamrozy and controlled by Wierczzerzak. Perczynski facilitated movement of funds from PZU to these private accounts in the Jersey islands. While the state prosecutors were aware that Jamrozy and Wierczzerzak had stolen a great deal of money, their search for the money was ultimately unsuccessful because they did not know about the Jamrozy trust or the full scope of Perczynski’s involvement. As Kittel writes, "Obtaining official information on the subject of Perczynski’s collaboration with the giant, national insurance [company] is practically impossible today" (2003: A4). Either the corrupt trio did not create official documentation of their financial arrangement or they were savvy
enough to destroy the potentially incriminating files before they left PZU. A PZU spokesperson could only confirm that the PZU-Perczynski relationship was “robust,” but remained uncertain of its extent. Fortunately for Kittel, Kostkiewicz, Jamrozy’s replacement as president of PZU, attempted to root out the “secretive atmosphere” by commissioning the Deloitte & Touche audit. In the article, Kittel quotes Kostkiewicz and other financial experts, as well as referencing facts from the audit, to establish the unprofitable nature of the business agreements between Perczynski and PZU. The lynchpin for establishing the link between PZU operations and Perczynski, as well as Perczynski’s family trust fund and those of Jamrozy and Wierzczek, rests in “documents” obtained from his home in Vienna. The article never attempts to explain how Kittel obtained those documents. Kittel only mentions Sharlane La Rocque at the very end of his article and only to offer her statement that Perczynski was, in fact, a close associate of Jamrozy and Wierzczek and that they had frequently visited the Perczynski residence. At the same time, Kittel notes that La Rocque was a beneficiary of the Perczynski family trust until 2001 when their marriage ended and that currently, the divorced couple has filed suit against one another, in the middle of which lies a great fortune.

Unlike Smith, who immediately classified the documents given to him by La Rocque as the investigation’s key, Kittel writes and conceives of the story in an almost opposite manner, highlighting the subject matter of established knowledge from earlier sources and investigations, particularly information gathered from the Deloitte & Touche audit, before moving on to the new information offered in Perczynski’s personal documents. And instead of highlighting the source of the documents as Smith did, Kittel
only wrote about the content of the documents. For Kittel, the La Rocque-Perczynski relationship, and especially their child custody battle, was irrelevant to the public interest of the corrupt millions stolen from the former state-owned insurance company.

Receiving the many stacks of documents from La Rocque was the easy part of the investigation for him. He spent the following weeks confirming the veracity of these documents through official and unofficial sources, such as the Krajowy Rejestr Sadowy (National Court Register) which allows reporters access to documents concerning public and private companies, as well as many of their financial transactions:

When I was involved in that story, it was very complicated, the lady was complicated. Her husband—well, I’m in fact not interested in the family story with Perczynski. There’s no worth in that, the children. Because it’s a private case, not important for the PZU story. But from the day I first saw the documents to publishing, it was about 4 weeks. Because I had to check all the documents with, for example, business registration, because some of the companies were registered in Poland. So there are sides of the same people, times – anyways I take the documents, went to the court and tried to find something that wasn’t okay with the documents. But all of them were good: signed and stamped documents, letters, names. All of it unfolded like a puzzle.

At the same time, Kittel stressed that the La Rocque documents, while important, were not as shocking as Smith’s article suggested. They merely tied together what was already in front of their eyes, at least for Kittel who had worked on the story for several years already:

When it was leaked, the general feeling of Deloitte & Touche was that the price of these transactions are much more than what they should really be.

*And that was stressed in your article.*

That’s an important point because I want to stress for you that any documents delivered by Sharlane [La Rocque]; that was information we already knew. We knew much more than half of the case. But with only the light from the hole in the door, we couldn’t figure out what was going on with the whole case. Then, when we saw these papers from Perczynski – it was like, oh god. Then we knew everything.
At this point, Kittel effectively undermines La Rocque's importance for the case by emphasizing that she did not author or manipulate the story, that she was probably unaware of what had happened and what the documents in her possession really meant.

From this realization, we can better contextualize this story in terms of a larger frame of legal, institutional and professional contexts impinging upon the possibility of publishing the article. More important than stressing that La Rocque herself was not the source for the story, Kittel's sense of a public interest takes on dimensions of professional responsibility and potential legal repercussions. Kittel felt that if he could possibly avoid describing the context in which La Rocque passed along the documents and her motivations for doing so, then he would steer clear of it completely. And by further confirming the quality of the documents through official institutions and with experts in the case, Kittel effectively minimized the significance of this private affair:

I got suggestions about this because I only ended up writing this part about the lady out; how they were separated and about the children. I didn't want to write a big story about that. The most important part of the case is that the funds went from Warsaw to Jersey. The case with the children wasn't important from my point of view. But when they take us to court, I could lose because of those private things; because you can't write about the private life of Perczynski or his children — only if it's important to the public interest... I wrote about the marital conflict, but I didn't want to write too much information about their personal life because they would accuse me of—

Dobry osobisty (personal goods), that you're invading privacy?

Yeah. And I think they would be right. And we asked a lawyer what to do with the story about the children and that conflict. We talked about the risk of losing in court.

Kittel and his newspaper explicitly recognized their legal context and although it played a role in their decision-making, they went ahead with the story anyway.
It would be imprecise to state that the threat of a civil lawsuit constituted the sole force preventing Kittel from describing the nature of the Perczynski-La Rocque relationship or the sticky context from which he received the information that fueled his investigative breakthrough. Rather, he felt that the child custody battle was irrelevant to the corruption story. Perczynski was not suspicious because of his fathering skills, but because of his dualistic, shifting identities and his shady business relationship to PZU. In addition, he immediately recognized that if he described Perczynski’s personal relationships, that would make his journalism vulnerable to attack. When Perczynski’s lawyers argued to Kittel that he could not trust Ms. La Rocque — “She’s a very unbelievable person,” they told him — Kittel responded, “I don’t care because I didn’t cooperate with her. She’s not my source...and after that I think [Perczynski] realized that we knew everything about him and the documents.”

Following publication, Perczynski sued both Kittel and Smith for violation of his 

_**doby osobisty**_, as expected. The judge in the case almost immediately applied a gag order, preventing either media outlet from reporting further on the case. In response, Smith entitled his cover story in February of the next year “Shutting Up the Press.” There he referenced his own case, as well as the stories of other investigative journalists, including Kittel, concerning gag orders and court decisions forcing journalists to reveal their anonymous sources.

24 The articles elicited reaction from international press freedom organizations, such as the International Freedom of Express Exchange (IFEX). IFEX, a conglomeration of local and international freedom of the press organizations, publishes the latest news on abuses to press freedoms throughout the world, including alerts concerning specific cases. In December 2003, it published an alert entitled, “IFJ [International Federation of Journalists] condemns gag order on two independent publications.” The alert described the _Poland Monthly_ article, adding that _Rzeczpospolita_, "published a story entitled, ‘Jamroz and Wieczerski’s Secret Account – The Anatomy of A Fraud’, an article based on a similar premise to the facts outlined in ‘The Third Man’.” Not only did the IFEX alert fail to correctly translate the _Rzeczpospolita_ article, it also fails to distinguish the differences between the two articles. Further, the IFEX alert neglects to describe the nature of Perczynski’s charges, referring to his “civil law suit” rather than the _doby osobisty_ charge, what that charge implies, or how it fails to translate precisely to the legal terminology.
The significance of this story is highlighted in comparing Kittel and Smith: what they focused on in their articles, how they conceptualized the significance of the documents, and how they articulated their relationship to La Rocque. This comparison is especially important in distinguishing Polish journalism apart from American journalism, or perhaps we could call Smith a cosmopolitan journalist. In any case, Kittel focused solely on the money that flowed through corrupt avenues, while all other private relationships were made superfluous. Smith gave a large amount of attention to those relationships, relationships that Kittel would later call into question as a potential breach of privacy. Kittel focused solely on the content of the documents, while Smith gave attention to the source of the documents. And while Kittel understood the documents as an important piece of the puzzle that tied the story together, Smith described the documents as the most crucial aspect of the story. “What could only be considered a wealth of documents is backed by a key witness – none other than Perczynski’s estranged wife – Sharlane La Rocque,” he writes. Kittel, on the other hand, viewed La Rocque as a liability, not a viable witness or key supporting argument.

of other nations. This distinction is particularly important because of the different forms and subject matter of the two articles.

In April of 2005, IFEX published another alert, this one entitled “Reporter for ‘Poland Monthly’ magazine target of judicial harassment campaign.” This alert describes a press release from the World Press Freedom Committee (WPFC) concerning a “Fund Against Censorship” grant that the WPFC offered to “Poland-based US journalist Preston Smith... who is the target of a campaign of judicial harassment, including a gag order, several civil and criminal defamation suits and physical intimidation.” While the courts found the gag order unconstitutional in January of 2005, Smith has been charged with three “criminal libel and defamation suits.” In Polish law, dobrze osobisty is not just a civil case, but also a criminal offense. The alert goes on, “One of the laws used to indict him is a Communist-era statute that requires a journalist to ask permission from a subject before writing about him/her in the press.” However, the alert fails to mention that the law in question is the Press Law of 1984, which has been amended repeatedly since 1989. Although many journalists dislike the law and plans are underway by various parties to enact a new press law, most journalists still find the act acceptable. Additionally, the press law demands only permission from a subject directly quoted within an article. This law was not utilized during the Communist era for censorship purposes, but to ensure that journalist subjects were aware of how they would be portrayed prior to publication, offering them the possibility to amend or clarify their position. In practice today, journalist subjects may use this regulation to stall publication as they pretend to examine the article in question for extended periods. After a limited amount of time, two weeks at a maximum, but more frequently a day or two, journalists have found that they can legally publish the story without confirmation of review. This second IFEX alert makes no mention of Kittel or Rzeczpospolita.
These differences clearly demonstrate very different types of anxieties of influence at work. Kittel is almost obsessed with taking the informant out of the story, while Smith seems equally obsessed with highlighting her presence. And this appears to represent different goals of the two journalists. Kittel, sharing the goals of professional Polish journalism, sought to write a story purely in the public interest, while Smith was striving to present all sides of the story, both public and private.

Kittel’s article functions more effectively inside the context of Polish law concerning journalistic integrity, as well as its more general attitude towards the public-private divide. Issues such as divorce and child custody are not only private matters with little impact on matters of public funds, but they could also open up Kittel to a critical environment that has pitted the state against the journalists. Kittel needs to focus on public funds, only delving into private lives when it is directly relevant to corruption – after all, corruption is the use of public office for private gain, so intermingling necessarily occurs – because if he inappropriately or unnecessarily describes private lives, he is not only open to lawsuits, but also to diminishing his credibility, as well as the credibility of investigative journalism, more generally. If an investigative journalism appears manipulated by private interests, such as that of La Rocque, such a story could potentially initiate a falling out for investigative journalism. While such large-scale trends are not immediately obvious, the sense of journalistic integrity is certainly strong in Kittel’s thinking on the case.
Concluding

These two stories offer important insights and a more coherent portrait of how investigative journalism in Poland gets its work of uncovering corruption accomplished. The two stories differ in many respects. The PZU story is much better documented by its journalists. Printed copies of receipts and transaction documents could be found in the Perczynski files, some of which were reproduced in media outlets. As such, the PZU stories get much closer to their object of study than the Hop case. But despite the proximity, none of these journalists ever actually witnessed the corrupt acts they write about. Both stories resulted from a process of triangulation, reducing any possibilities other than the story offered by the journalists.

The two examples also differ in the journalist’s relationship with their key informants. For Karnowski, his lawyer informant has been and probably continues to be an important information contact point. The relationship is difficult to fix because although the possibility for manipulation exists, it might also be considered a more honest relationship than that with a one-time informant who has less to lose in providing bad information, purposely misleading, or manipulating a journalist. Kittel’s relationship with La Rocque and his use of her as a source for information is probably more important than he feels comfortable with, but that does not completely discount his claim that he had successfully excised her from the story.

Above all, what links these stories together and what, more generally, orients Polish investigative journalists, as well as many anti-corruption experts and advocates, is a shared logic of skepticism and a paranoid subject position.
Kittel demonstrates the paranoid subject position through his metaphors in the investigation process story. He talks about the case as a puzzle in front of his eyes, its solution ambiguous until he received the documents. Or as a wall in the middle of a road, an obstacle he must surmount or circumvent. Later, he calls his lack of information similar to looking through a keyhole, trying to figure out a way through the door. All of these metaphors speak to a certainty that as he moves through an investigation, a bigger picture will reveal itself. That he could envision an investigation as a puzzle is itself telling.

For Karnowski, the investigation was also fueled by suspicion. He scrutinized Hop’s history for discrepancy, always expecting corruption. Like Kittel, Karnowski expected to find something: a bigger story, a corrupt story. The investigation necessarily delves into obscure and darkened territory, the journalist needing to enlighten, reveal, solve the puzzle.

The end result was never implausible, but it was farfetched. Farfetched, that is, before the investigation began. Just as observers may have speculated on Hop’s corruption, others may have had theories of where the PZU ex-presidents stored their corrupt fortunes. But until the investigators offered a well-researched and documented article, these were only rumor or conspiracy theory, existing outside of the parameters of certainly true or possibly publishable. Without a paranoid subject to imagine and even expect possible scenarios, as well as a skeptical logic to guide them through their investigations, those farfetched stories could not transform themselves into the obvious truth of the matter.
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