

INSTITUTIONAL CHANGE IN RUSSIA:
THE CASE OF URBAN LAND RIGHTS, 1990-2013

By

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Abstract

Institutional Change in Russia: The Case of Urban Land Rights, 1990-2013

Why, when, and how do institutions change? The dissertation contributes to theory-building on these questions by examining variation in urban land rights in Russia after seven decades of state ownership. Urban land privatization is taken as a proxy for institutional change.

Using inductive methods to identify patterns of urban land privatization, three cities are selected to represent institutional change that is either rapid (Kazan), incremental (St. Petersburg), or in stasis (Moscow). Case studies test the hypothesis that the motivation for institutional change will be a function of the revenue-maximizing incentives of political authorities. Consistent with Levi's (1988) theory of predatory rule, at a given time, political authorities will opt for the highest-yielding and most feasible revenue sources that strengthen their hold on power and security in office. *Why* and *when* land was privatized correlated with these factors in the case study cities.

How institutions change is hypothesized to vary according to consistency in policy actions by political authorities and the bureaucracy (explanatory variables), with public engagement in decision-making as an intervening variable. The variables are compared in the three case study cities in the 1990s and 2000s, using a land governance model to simplify the change process. Based on qualitative and quantitative indicators, the pace of land privatization (dependent variable) was found to be rapid only when political authorities, the bureaucracy and society were aligned on policy actions. Such alignment was rare.

In all case study cities, administrative barriers to privatization declined sharply following the transformation of the land rights registration agency into a rule-bound bureaucracy, and public engagement contributed to institutional change.

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Preface and Acknowledgements

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Lectures at the World Bank by leading scholars such as Daron Acemoglu, Douglass C. North, Elinor Ostrom, James Robinson, Dani Rodrik and John Wallis stimulated my interest in the New Institutional Economics, as did coursework at SAIS taught by Francis Fukuyama and Dorothee Heisenberg. I was inspired to explore the interlinkages of urban land and political economy in Russia by a thoughtful mimeo written by Leonid Limonov, Director-General of the Leontief Institute (St. Petersburg, Russia), on *Power and Land Ownership in Russia: To the Question of Reliance on Path Dependency (Vlast' i sobstvennost' na zemliu v Rossii: k voprosu o zavisimosti ot traektorii predshestvuiushchego razvitiia)*. His insights and assistance in Russia were invaluable for this project, as was his perception that the New Institutional Economics offered the best conceptual framework for analysis of land relations in Russian history.

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Chapter One: Introduction

How do countries acquire institutions favorable to growth and prosperity? For development policy analysts and practitioners, this is the singular puzzle underlying the divergence in living standards between developed and developing nations.

Institutions are rules and shared beliefs that influence the behavior of public and private actors. A large literature is devoted to examining institutions as a critical if not the primary explanatory variable in economic and political development.¹ Buoyed by several Noble prize-winners of diverse disciplines,² research in the field of the New Institutional Economics (NIE) is advancing the search for solutions to the puzzle of divergence in wealth among nations.

Yet a generalizable theory to predict the path and pace of institutional change remains elusive.³ The term “institution” is highly elastic and used differently among the social science disciplines; even official publications of the World Bank apply divergent definitions. This confusion complicates the research agenda in an otherwise promising field of inquiry.

The dissertation contributes to theory-building by taking a narrow interpretation of institutions and providing empirical content through the aperture of urban land privatization in the Russian Federation. The 1993 Constitution recognizes and guarantees the right of private property, including in land, thus reversing seven decades of state ownership under the Soviet Union. To date, urban land privatization in Russia for both firms and citizens has not received

¹ For an excellent overview of the literature on institutions and practical applications, see Brian Levy, *Working with the Grain: Integrating Governance and Growth in Development Strategies*, (Oxford University Press, 2014).

² Leading theorists of the NIE who received Nobel prizes are Douglass C. North, Elinor Ostrom, Herbert Simon, Ronald Coase, and Oliver Williamson. Levy, *Working with the Grain*, 19.

³ As Oliver Williamson noted, “The new institutional economics is a boiling cauldron of ideas. Not only are there many institutional research programs in progress, but there are competing ideas within most of them.” Oliver E. Williamson, “The New Institutional Economics: Taking Stock, Looking Ahead,” *Journal of Economic Literature*, Vol. 38, No. 3 (Sept 2000), 610. According to Fukuyama, we lack a theory of institutional change that can be generalized and applied as policy guidance. Francis Fukuyama, *State-Building: Governance and World Order in the 21st Century*, (New York: Cornell University Press, 2004), 22-23.

scholarly attention. It merits investigation as a self-standing case because it represents a radical institutional change in a country without a history of predominant private land ownership.⁴ Moreover, private urban land ownership holds the potential to transform Russia spatially, economically and politically. Yet in contrast to the rapid pace of enterprise privatization in the 1990s, the sale of municipal land to citizens and firms is proceeding slowly, with significant variance in rates of privatization. The puzzle is this: why are some cities privatizing land while others are not? What is driving the difference among cities in private land ownership?

Using urban land privatization as a proxy for institutional change, the dissertation hypothesizes that the property rights regime will be a function of the revenue-maximizing incentives of ruling elites. *Why* and *when* institutional change occurs will depend on a policy decision by political authorities at a given time to privatize, lease, or seize privatized land. Following the theory of predatory rule (Levi 1988), political authorities will opt for the highest-yielding and most feasible revenue sources that strengthen their hold on power and security in office. Put simply, the choice for political authorities is to own land and collect rents, or to sell land and collect property taxes. This choice determines whether or not private land rights are established. The dependent variable is the outcome: it measures urban land privatization, i.e. the share of urban land transferred from state to private hands.

How institutional change transpires is determined by state organizations, which represent the explanatory variables. The dissertation hypothesizes that the pace of land privatization is a function of the consistency of policies and actions by political authorities and bureaucrats. If both resist privatization, institutional change will be in stasis; if both promote it, the pace will be rapid.

⁴ Leonid Limonov, *Vlast' i sobstvennost' na zemliu v Rossii: k voprosu o zavisimosti ot traektorii predshestvuiushchego razvitiia*, (Mimeo, 2010).

Inconsistent policies and actions will result in institutional change that is incremental. Society, discussed in a later section, can influence the pace of change by taking an active or passive position.

The research methodology for this understudied case of institutional change offers several innovations to the NIE literature. First, it shifts from a macro-historical perspective, spanning centuries, to a micro-analytical study in a modern post-communist economy, covering two decades. Second, it examines diverse cases within one large federal country rather than across multiple countries. Third, it treats institutional change as the *dependent variable* and thus, as the outcome rather than the input to development. Let us consider each of these innovations in turn.

First, to increase the relevance of the findings for development practitioners, the dissertation examines factors that influenced the path and pace of institutional change in Russia from 1990 to 2013. Several excellent analyses at the macro-historical level explore the evolution of institutions over centuries, including Greif's *Institutions and the Path to the Modern Economy* (2005), Acemoglu and Robinson's *Why Nations Fail* (2012), and North, Wallis and Weingast's *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History* (2009).⁵ These give useful insights into the forces shaping the evolution of institutions. Indeed, the authors' intention is to explain economic and political development as a long-term process of incremental institutional change. However, for governments facing contemporary policy dilemmas, an exclusively historical approach lacks a relevant counterfactual to inform the

⁵ Other examples in this tradition are Anvar Greif, "Contract Enforceability and Economic Institutions in Early Trade: The Maghribi Traders' Coalition," *American Economic Review* 83(3):525–48 and Douglass C. North, *Structure and Change in Economic History*, (New York: W.W. Norton, 1971).

efficiency of design choices. The dissertation takes a different approach by examining whether meaningful institutional change can be implemented within a generation.⁶

Second, to control for variation in country conditions, the study compares diverse cases *within* rather than across multiple countries. Due to their design, studies using multivariate econometric analysis or indexes to compare country institutional performance exclude distinctive national historical, social and political factors that may influence institutions.⁷ The introduction of private land rights in a country that lacked market and democratic experience offers a rare laboratory to test core concepts on whether the existing institutional order can be reversed.

To take the point further, advanced economies represent an exceptional historical case in that they permitted private ownership and transactions in urban land.⁸ In much of Western Europe and the United States, private property rights became a foundation for investment and wealth as well as a source of political influence as legislative bodies defended the sanctity of private property.⁹ Over the course of five centuries in England, for example, land privileges of the monarch and barons evolved to become land rights for society at large. In the process, the monarch and landowners secured their own property rights while accepting the constraints of an impersonal rule of law.¹⁰

⁶ Using the same logic, Levy examines entry points for governance reforms that can be implemented within a decade. See Levy, *Working with the Grain*, 8.

⁷ Several multi-country econometric analyses have explored factors that drive institutional change. These employ indicators that generalize from subjective judgments on country performance. See Martin Raiser, Maria L. Di Tommaso, and Melvyn Weeks, “The Measurements and Determinants of Institutional Change: Evidence from Transition Economies,” (EBRD Working Paper No. 60, 2001).

⁸ Andro Linklater, *Owning the Earth: The Transforming History of Land Ownership*, (New York: Bloomsbury, 2013). The book traces the global history of land ownership, noting that Western patterns of widespread private ownership are exceptional. Chapter 19 argues that US-instituted land reform after World War II in Japan, South Korea and Taiwan, contributed to their success as Asian Tigers.

⁹ Douglass C. North and Barry R. Weingast, “Constitutions and Commitment: The evolution of institutions governing public choice in 17th Century England” *Journal of Economic History* 49, (1989): 803-832.

¹⁰ Douglass C. North, John Wallis, and Barry Weingast, *Violence and Social Orders*, (New York: Cambridge University Press, 2009), Chapter 3.

In contrast, Russia represents the more common historical case where state and communal land ownership predominated. Beginning with Peter the Great, land ownership was a privilege bestowed by the tsar in return for service in the state bureaucracy or military. Wealth, power and prestige derived from imperial service rather than land ownership.¹¹ Private property received legal sanctity under Catherine the Great, and was gradually expanding in the late 19th century until the Russian Revolution, when land was nationalized violently. Soviet constitutions banned the purchase and sale of land.¹² When the 1993 constitution restored private land rights in Russia, millions of businesses and citizens could own land for the first time in nearly a century. Nevertheless, land privatization at the outset was a politically contested and socially painful process. Soviet-era legal concepts and land allocation practices lingered after the USSR fell. Under these circumstances, why do some cities in Russia promote land privatization while others resist it? What are the development outcomes in cities where institutional change has been rapid? The question is relevant to cities in Russia with lagging privatization rates as well as to transition and developing countries where the state also dominates land ownership.¹³

Third, to unpack inter-related processes, the research isolates a single but significant instance of institutional change as an outcome. Urban land is of particular interest for the examination of institutions because it is the foundation of real estate that comprises a high share of wealth in developed and developing countries.¹⁴ Cities are also engines of growth. In advanced economies, major cities contribute from 30 to 50% of GDP and the output of metropolitan areas is

¹¹ Max Weber, *Economy and Society*, (Berkeley and Los Angeles: University of California Press, 1978) 1064-68.

¹² W. E. Butler, *Russian Law* (Oxford: Oxford University Press, 2009), 388-390.

¹³ Gershon Feder and David Feeny, "Land Tenure and Property Rights: Theory and Implications for Development Policy," *The World Bank Economic Review*, Vol. 5, No. 1 (1991), 135-36.

¹⁴ Real property comprises from one-half to two-thirds of the economic wealth of countries around the world. Kenneth Dam, *Land, Law, and Economic Development*, (Brookings Institution, 2006), 1. A home or dwelling is generally the single most valuable asset of families.

http://www.brookings.edu/~media/research/files/papers/2006/1/01trade%20dam/200601dam_2.pdf.

often higher than national growth rates.¹⁵ Land markets contribute to the productivity of cities by increasing spatial and economic efficiency. In the absence of land markets, Soviet planners put people on the periphery and factories in the city center, creating highly inefficient spatial density.¹⁶

Aside from the economic importance of urban land, the evolution of more secure land rights is correlated with political constraints on rulers to expropriate property.¹⁷ European medieval city-communes were founded on private urban land, self-management of civic affairs, and municipal finance including property taxes. These “bourgeois” features were found only in the West. Like all other regions of the world, Russia lacked a tradition of self-governing cities where land formed a basis for personal wealth and municipal finance.¹⁸ Can institutional change in urban land rights lay the basis for these developments in Russia?

Finally, the management of private urban land in a market economy entails a complex set of supporting institutions, organizations and systems. The most critical are: “(i) clear and tradable property rights; (ii) efficient market-oriented information systems; (iii) a taxation system consistent with efficient land use; and (iv) the publicity and contestability of urban planning decisions.”¹⁹ The dissertation reviews each as a factor in the formation of urban land rights, and examines how political authorities, the bureaucracy, and society at large contribute to the process.

¹⁵ Large cities (or metropolitan regions) in OECD countries generate from 30% (Paris, London, Stockholm, Tokyo) to nearly half of national GDP (Budapest, Seoul, Copenhagen, Helsinki). Provincial capital cities in Canada (Toronto, Montreal and Vancouver) also generate half or more of their respective provinces’ output. Most OECD metro-regions have a higher GDP per capita than their national average (66 out of 78 metro-regions), and a higher labor productivity level (65 out of 78 metro-regions), and many of them tend to have faster growth rates than their countries. OECD (2006), “Executive Summary”, in OECD, *Competitive Cities in the Global Economy*, OECD Publishing. DOI: [10.1787/9789264027091-2-en](https://doi.org/10.1787/9789264027091-2-en), 13-27.

¹⁶ Alain Bertaud, “The development of Russian cities: Impact of reforms on spatial development,” (Mimeo, March 13, 2010), 6-10, 14.

¹⁷ North and Weingast, “Constitutions and Commitment,” and Douglass C. North, *Institutions, Institutional Change and Economic Performance*, (Cambridge: Cambridge University Press, 1990), 139.

¹⁸ Weber, *Economy and Society*, 1220-1227.

¹⁹ Alain Bertaud and Bertrand Renaud, *Cities without Land Markets: Lessons of the Failed Socialist Experiment*, Discussion Paper No. 227, (Washington, D.C., World Bank), 48.

Defining key terms: institutions and organizations

A principal question for the dissertation is how to define institutions. The full definition used by North, Wallis and Weingast (2009) includes “formal rules, written laws, formal social conventions, informal norms of behavior, and shared beliefs about the world, as well as the means of enforcement.”²⁰ While this may already appear broad, Avnar Greif takes the concept one step further by including organizations. For Greif, organizations also function on the basis of internal rules, norms, and beliefs. Hence, human behavior is constrained by the actions and incentives of organizations as well as individuals. However, Greif restricts beliefs to those that are compatible with the incentive framework set by institutions. North, Wallis, Weingast (2009) differ from this approach by explicitly removing organizations and by treating beliefs more generally.²¹ Roland (2004) adds a further dimension by distinguishing “slow-moving institutions” such as cultural values that evolve in the same way as technology or scientific knowledge.²²

To focus the analysis, the dissertation applies the relatively more restrictive approach of North, Wallis, Weingast (2009) and North (1990). Succinctly, institutions are humanly-devised rules and shared beliefs that guide human conduct.²³ These serve three primary functions. Formal political rules define the hierarchical and decision-making structure of a polity, including election rules. Formal economic rules define how the stream of benefits from property rights may be used or allocated. Contracts specify the terms of an agreement or exchange of property rights.²⁴ Institutions differ in form, but if efficiently designed, they should perform the function of reducing

²⁰ North et al, *Violence and Social Orders*, 15.

²¹ Beliefs are “resulting from cultural, educational, and religious organizations.” North et al, *Violence and Social Orders*, 29, 259.

²² Gerard Roland, “Understanding Institutional Change: Fast-Moving and Slow-Moving Institutions,” *Studies in Comparative International Development* 38 no. 4 (2004), 111-112. Roland provides a helpful classification of institutions.

²³ Rules comprise both formal and informal constraints. Examples of the latter are codes of conduct, customs, or other social conventions that enable cooperative behavior. North, *Institutions*, 36-45.

²⁴ North, *Institutions*, 46-53.

risk and transaction costs, thus facilitating markets (political and economic) and cooperative human endeavor.²⁵

Institutions are rules; organizations enforce them. Organizations are “specific groups of individuals pursuing a mix of common and individual goals through partially coordinated behavior.”²⁶ The interaction of institutions and organizations leads to a two-way causality that shapes the evolution of institutions.²⁷ For example, private land rights (an economic institution) require state agencies to measure, monitor, and enforce the contracts that govern ownership. Private land rights also stimulate new private organizations, such as housing associations, mortgage bankers, real estate agencies and law firms, and appraisers that shape property rights institutions. Following North, Wallis and Weingast (2009), multiple organizations comprise the state, both vertically (federal, regional, municipal) and horizontally (across executive and civil service agencies). The state is thus not one but a bundle of independent variables that defines and enforces the rules on property ownership.²⁸

The interaction of governance and institutions

The term governance is often used interchangeably with institutions in the development literature. To complicate matters, governance is used differently in the NIE literature, depending

²⁵ Transaction costs are treated differently in the literature on institutions, but seek to answer the question why it is costly to transact. Neoclassical economic models exclude transaction costs. Distinguish Williamson (2000, p. 599) and North (1990, p. 28), who states that they are “...defining, protecting, and enforcing the property rights to goods (the right to use, the right to derive income from the use of, the right to exclude, and the right to exchange).”

²⁶ North et al, *Violence and Social Orders*, 15.

²⁷ North, *Institutions*, 6-7.

²⁸ North et al, *Violence and Social Orders*, link the development of organizations to the development of the state (pp 7, 73-74). They differentiate between adherent organizations, which are personalized, and contractual organizations, which are impersonal and require third-party enforcement (pp 16, 259-260). For example, a bank can operate either as an adherent or contractual organization depending on whether it lends to related parties or according to impersonal rules. This distinction is not central to the dissertation. On the state as an organization of organizations, see pp 16-17.

on whether the application is macro or micro-analytic. For conceptual clarity it is important to disentangle these terms.

In a broad definition used by development practitioners, governance comprises “the traditions and institutions by which authority is exercised in a country.” This definition “includes the *process* by which governments are selected, monitored, and replaced; the *capacity* of the government to effectively formulate and implement sound policies; and the *respect* of citizens and the state for the institutions that govern economic and social interactions among them (italics added).”²⁹ Institutions are thus an input to the governance of the polity. Good governance comprises “a strong rule of law, capable bureaucracies, low corruption, and accountability of politicians and public officials to citizens.”³⁰

A narrow definition used at the micro-analytic level forms the basis for transaction cost economics (a branch of NIE). As defined by Williamson, economic institutions are an input to the governance of contractual relations between economic units. If the rules governing contracts reduce risk, and if there is a “credible commitment” that the “rules of play” will obtain in the future, the result will be a greater number of more productive investments. A technocratic bureaucracy that adheres to rules and routine is important for secure property rights. In this understanding, Williamson puts governance at the level of the contract, not the polity.³¹

In both the macro and micro definitions, institutions are inputs to governance. Confusion arises, as well as a tautology, when institutions are not clearly delineated from organizations. The actions of political authorities and the bureaucracy (two forms of government organization) are

²⁹Daniel Kaufmann, Aart Kraay and Massimo Mastruzzi, *Governance Matters VIII: Aggregate and Individual Governance Indicators, 1996-2008*, (World Bank: Policy Research Working Papers 4978, 2009), 5.

³⁰ Levy, *Working with the Grain*, xiii.

³¹ Oliver Williamson, “Institutions and Economic Organization: The Governance Perspective,” (Paper presented at Annual Bank Conference on Development Economics, Washington, D.C., April 28-29, 1994), 9, 23-26, 30.

distinct from the rules. How state agencies implement the rules – *de facto* rather than *de jure* – will determine the governance of property rights. The dissertation distinguishes institutions from organizations and employs the more narrow reasoning of Williamson to remove the confusion and the tautology.

Defining property rights

Urban land privatization in a formerly communist country raises questions of political philosophy. What are private property rights? How do they become more efficient? The answers are not straightforward. The following brief review is intended to clarify how the dependent variable will be operationalized.

Two classic authors of the property rights literature, Alchian and Demsetz,³² observe that common speech about “ownership” obscures the complex social relationships underlying property rights. A property right is not a physical possession; rather, what is owned is the right to use a resource for a defined purpose. Rights are always subject to constraints. Ownership rights to land may be defined to allow a house to be built on it, but not necessarily a nuclear plant. Moreover, there is not one property right but a “bundle of rights” that are divisible among different users, both public and private. Succinctly, “what are owned are socially recognized rights of action.”³³

Of particular relevance to the dissertation, the authors note that:

There can and does exist much confusion about whether a resource or "property" is state or privately owned. Some rights to some uses of the resource may be state owned and others privately owned. While it is true that the degree of private control is increased when additional rights of use become privately owned, it is somewhat arbitrary to pass judgment on when the conversion to private control can be said to change the ownership of the bundle of rights from public to private.³⁴

³² The definition in this paragraph is based on Armen Alchian and Harold Demsetz, “The Property Rights Paradigm,” *Journal of Economic History* 33, no. 1 (1973): 16–27.

³³ Alchian and Demsetz, “The Property Rights Paradigm,” 17.

³⁴ Alchian and Demsetz, “The Property Rights Paradigm,” 18-19.

How property rights are defined and distributed will impact power structures, social relations, and the potential for economic development.³⁵ Buying and selling of land use rights will increase efficiency if the purchaser can use the land more productively. Tenure security increases investments in land that can underpin growth. The state can make land rights more secure if transactions are transparently documented and enforced.³⁶ However, these positive outcomes are highly dependent on the governance of property rights. The state can undermine security and economic development if land rights are conferred only to powerful elites, as is the case in many developing countries.³⁷

Property rights and legal systems first emerge when ruling elites seek to secure privileges over scarce land, according to North, Wallis and Weingast (2009). Land rights evolve as the state matures politically from a fragile natural state to an open access order typical of modern market democracies. In early stages of state development (fragile natural states), land is redistributed among the ruling coalition. Later, in basic natural states, landownership stabilizes but the state largely controls land resources. Finally, in mature natural states, landownership moves beyond the direct control of the state and ruling elites and may become increasingly subject to impersonal institutions. In this framework, elites will first consolidate property rights within the ruling coalition before allowing others to share those rights. “Clear property rights make land more valuable, but they may also reduce the ability to use land as a tool to structure elite relationships in natural states. As a result, elites have conflicting interests in making land rights more secure.”³⁸

³⁵ Klaus Deininger and Gershon Feder, *Land Registration, Governance, and Development: Evidence and Implications for Policy* (World Bank: Oxford University Press, 2009), 237.

³⁶ Deininger and Feder, *Land Registration, Governance, and Development*, 235-236.

³⁷ Deininger and Feder note that “the state’s monopoly on the exercise of legitimate power, which is a precondition for the functioning of advanced societies and securing property rights, may be abused to appropriate property or to assist in the unfair acquisition of land by elites, thus undermining the security of property rights in a number of respects.” *Land Registration, Governance, and Development*, 238.

³⁸ North et al, *Violence and Social Orders*, 177-78.

The starting point for the dissertation is the Soviet Union in 1990, when land use was largely under the control of central planners and the Communist Party of the Soviet Union (CPSU), not the people living within the territorial borders of Russia. Boris Yeltsin's initial privatization effort transferred de facto land privileges within Russia into de jure rights for the political elites who would assume authority under the new Russian state. The main beneficiaries in terms of urban land were municipal officials. The dissertation examines whether and how urban land moves outside the direct control of the state and becomes increasingly subject to impersonal institutions.

The role of society in urban land use and development

Every major urban development project contains a clash of interests. Should a church be built inside a city park? Can private developers remove an iconic cultural object to build a hotel? Can the city tear down homes to expropriate land for an unknown purpose? Such questions give rise to the publicity and contestability of decisions over urban land use in advanced economies. City councils, community organizations, and neighborhood groups, each representing local taxpayers, demand a voice in investments that carry long-term implications for property values and lifestyles.³⁹ This weaving of economic imperatives and social objectives creates the institutional fabric of property rights in a market society.⁴⁰ Yet when each of these precise questions arose in Moscow, St. Petersburg and Kazan in the 2000s, the primary recourse for citizens was to watch the house or cultural object come down and take to the streets and protest.

Intrinsic to contestable urban land use decisions in advanced economies is a characteristic not yet found in Russia and the former Soviet Union: a dense network of organizations, representing diverse social interests, which can provide a meaningful counter-balance to state or

³⁹ Bertaud and Renaud, *Cities without Land Markets*.

⁴⁰ Roy J. Burroughs, "Should Urban Land be Publicly Owned?" *Land Economics*. 42, no. 1 (February 1966):11-20. Board of Regents of the University of Wisconsin System. <http://www.jstor.org/stable/3145490>.

big business interests. Fukuyama argued that social capital based on the proliferation of organizations and voluntary organizational interactions was the barometer of a healthy capitalist democracy.⁴¹ North, Wallis and Weingast (2009) built on this insight but deviated by observing that organizations “function with the explicit support of the state.”⁴² North et al perceived that the thickness and sophistication of organizations in society, both political and economic, depend on the evolution of the state into an open access order. The number of organizations per capita rises with per capita income; liberal democracies are thus rich in organizational density and capacity, not only because of their wealth, but because the state permits diversity and creativity in the formation of organizations.⁴³ In contrast, the concept of a civil society comprised of diverse organizations did not exist in Marxism-Leninism, and in the Soviet Union, it was absorbed into political society as represented by the Communist Party and the state.⁴⁴

Empirically, Howard demonstrated that countries in transition from communist or authoritarian regimes have lower organizational density than advanced democracies.⁴⁵ Citizens are likely to be “disengaged from the public sphere” because disillusionment and a sense of being cheated by the new system has increased demobilization and withdrawal from public activities. Howard believes broad-based growth that raises living standards will foster more civil society organizations; in the meantime, opportunities to practice democratic skills in small groups and

⁴¹ Francis Fukuyama, *Trust: The Social Virtues and the Creation of Prosperity*, (Penguin Putnam, 1995), 10, quoted in North, Wallis and Weingast, *Violence and Social Orders*, 7.

⁴² North, Wallis, Weingast, *Violence and Social Orders*, 7.

⁴³ North, Wallis, Weingast, *Violence and Social Orders*, 7-9.

⁴⁴ I am grateful to Bruce Parrott for this observation.

⁴⁵ Marc Morje Howard, “The Weakness of Postcommunist Civil Society,” *Journal of Democracy*, 13, no. 1 (January 2002). Based on a quantitative analysis from the World Values Survey in 1995-97, the postcommunist mean of 0.91 organizational memberships per capita was exactly half of the post authoritarian mean of 1.82 and well below the 2.39 of advanced democracies. Prior regime type was the most statistically significant indicator in differentiating membership in organizations.

popular leverage on the political process through interest aggregation of civil organizations may not protect citizens from potentially unjust laws.⁴⁶

In light of the limited density of organizations in Russia, and the conflation of political society with civil society in the Soviet period, the role of citizens in urban land use planning requires careful specification. If we define the explanatory variable using Western concepts of civil society or “the public,”⁴⁷ it may confuse the analysis with value-laden judgments on the quality of democracy, which is not the focus of this study. Likewise, while social movement theory may be highly relevant to the fragmentation of public discourse in Russia, where protest has become a primary form of political expression, the political, social, and fiscal significance of private urban land ownership is insufficiently appreciated in Russia for it to become the basis for broad-based collective action. Indeed, it could be argued that, from the perspective of property rights, civil society has not consolidated in Russia, rendering it all the more inappropriate as a variable.⁴⁸

⁴⁶ Howard, “Postcommunist Civil Society,” 164-65.

⁴⁷ This term does not have the same meaning in English and Russian. Public is understood in English as a separate sphere from the state, whereas in Russian, *narodnyi* (of the people), *obshchestvennyi* (of society) and *publichnyi* (of the public) are indistinguishable from each other and from the interest of the state. Hence finding a balance between public and private interests, as would be revealed through public hearings, is not salient in Russia since the government and private investor determine what is in the public interest. Tatiana Vlasova, Interview, St. Petersburg, Russia, August 1, 2013.

⁴⁸ Greene uses social movement theory, drawing on Charles Kurzman, to investigate why the consolidation of civil society has been inhibited in Russia. For Greene, civil society is more than the existence of non-governmental organizations, which confuses the ends with the means. Rather, the “public good’ at the heart of the concept of civil society is generated by an iterative process of action and interaction between the state (as represented by the ruling elite and/or more consolidated institutions of power) and society (as represented by civic initiatives.)” Following social movement theory, he argues that the nature of the state’s intervention (coherent or incoherent) into society’s private sphere will determine whether society can respond with collective action. The consolidation of civil society occurs after state-society interactions become institutionalized. His thesis does not depend on the mobilization of interests based on private property, as in de Toqueville, or on the accountability of the state to society, as in Locke, but in arrangements to achieve the *subordination* of government to the public, as in Rousseau. Samuel A. Greene, *Moscow in Movement: Power and Opposition in Putin’s Russia*. (Stanford, California: Stanford University Press, 2014), Kindle version, location 400-570.

Rather than taking the broader concept of social movement or the narrower one of civil society, the study aims to understand if *society* was a salient factor in shaping the *formation* of property rights. Street protests or lawsuits in defense of one's home or favorite park are a cry for the same legal protections accorded to the property rights of ruling elites. For society to serve as an intervening variable, however, a sufficient number of groups must be able to identify unique self-interests apart from those of the state.⁴⁹ After extremely large social protests to decry manipulation of the 2011 parliamentary elections, Kramer and Shevtsova perceived society emerging as a broad-based movement of the middle class and intellectuals who were coalescing into a collectivity. "For the first time in Russian history," they said, "it is society, not the elite and leadership, which is striving for change. They represent an independent force that is able to do a better job than incompetent, corrupt bureaucrats."⁵⁰ Given the historical connotation of political and civil society in the Soviet period, the dissertation further borrows from Michael Urban's understanding of political society as "that interactive 'space' in which the affairs of state and the concerns of citizens are publicly mediated."⁵¹

To summarize, this study uses society as an intervening variable that may shape the direction of institutional change either for or against private urban land rights. Society is used interchangeably with civic organizations (public-minded groups) and the public (as a sphere separate from government) but not with civil society. Conceived in this manner, the channels for interest articulation are broadened considerably -- from elected deputies to lawsuits to housing

⁴⁹ More precisely, according to Bruce Parrott, society is a "collectivity which has an interest or interests distinct from the interests of the state." Lecture notes, Political Theory and Civil Society, Spring 2007.

⁵⁰ David Kramer and Lilia Shevtsova, "Civil Society Is the Kremlin's Worst Nightmare," *The Moscow Times*, July 23, 2012.

⁵¹ Michael Urban, Vyacheslav Igrunov, and Sergei Mitrokhin, *The Rebirth of Politics in Russia*, (Cambridge University Press, 1997), xii.

associations to street protests – to capture the contestability inherent in the formation of property rights.

Structure of the study

Chapter Two introduces the key institutional changes that accompanied land privatization in Russia and presents the theoretical framework, research design, hypotheses, and methodology for analysis. I develop a land governance model to simplify the process of institutional change. Three case study cities are selected on the basis of quantitative analysis of land privatization outcomes that represent different patterns of institutional change.

Chapter Three explores historical precedents of urban land rights in Russian history. Chapter Four applies the land governance model at the national level and compares the post-Soviet struggle for urban land rights prior to and after adoption of the Land Code in 2001. Chapters Five, Six and Seven apply the land governance model to the three case study cities. Chapter Eight compares the case study cities using qualitative and quantitative indicators, including land market transactions, fiscal revenues and property mortgages.

Chapter 2 Analytical Framework and Research Design

Why, when, and how do institutions change? The literature offers a “boiling cauldron of ideas”¹ that both frustrates and inspires the search for answers. Competing interpretations in the social sciences of what institutions are and how they function frustrate the researcher. Yet inspiration comes from the potential to apply an institutional lens to solving the most intractable dilemmas in the field of development. The dissertation addresses one of these: the conversion of privileges for elites into secure property rights for the population.

The first section of the chapter explains why the case of urban land privatization in Russia offers an exceptional opportunity to study institutional change. According to the United Nations Economic Commission on Europe, “No country in the world has ever experienced s[uch] radical, large-scale changes in land tenure patterns as the Russian Federation did in the end of the twentieth century.”² Yet progress is mixed. Some municipalities are leading institutional reforms, while many others are lagging. The share of state and municipal land ownership in urban areas is declining but remains high at 86 percent in 2014.³ How can this regional variation and low overall rate of privatization be explained? For students of institutional change, the introduction of private land rights in a country that lacked market and democratic experience offers a rare laboratory to test core concepts. The chapter argues that the case of Russian urban land rights contributes to

¹ Oliver E. Williamson, “The New Institutional Economics: Taking Stock, Looking Ahead,” *Journal of Economic Literature*, Vol. 38, No. 3 (Sept 2000), 610.

² United Nations Economic Commission for Europe, *Land Administration Review: Russian Federation*, HBP/WP.7/2003/, (May 17, 2003), 8.

³ Rosreestr, *Federal'naia sluzhba gosudarstvennoi registatsii, kadastra i kartografii, Gosudarstvennyi doklad o sostoianii i ispol'zovanii zemel' v rossiiskoi federatsii v 2014 godu*. Moscow: Ministry of Economic Development and the Federal Service for State Registration, Cadastre and Cartography, (Moskva, 2015), 17, 63.

theory-building on institutional change, offers insights on the role of the state in promoting land privatization to citizens and firms, and highlights the importance of the public bureaucracy in establishing secure property rights.

The second section reviews the literature for explanatory power and concludes that the new institutional economics (NIE) offers the most appropriate conceptual framework to predict why, when and how urban land institutions change. North, Wallis and Weingast (2009)⁴ provide steps in the process, starting with the conversion of elite privileges to elite rights. Margaret Levi's (1988)⁵ theory of predatory rule predicts that rulers will relinquish their privileges when such action maximizes long-term revenues. However, this decision depends on trade-offs that serve to increase the bargaining power and office security of the ruler, while reducing the transaction costs of raising revenues. Absent a theory of bureaucracy, the dissertation posits that establishment of secure land rights depends on the conversion of the land administration bureaucracy from a rent-seeking to a rule-bound organization.

The final section presents the research design and working hypotheses. The research methodology for institutional analysis follows Grief (2006).⁶ It includes a deductive model, inductive use of quantitative data, and context-specific case studies (including qualitative interviews). Put simply, the choice for political authorities is to own land and collect rents, or to sell land and collect property taxes. This choice determines the path of change. Based on divergent rates of land privatization, the cities of Moscow,

⁴ Douglass C. North, John Wallis, and Barry Weingast, *Violence and Social Orders*, (New York: Cambridge University Press, 2009).

⁵ Margaret Levi, *Of Rule and Revenue*, (Berkeley: University of California Press, 1988).

⁶ Avner Greif, *Institutions and the Path to the Modern Economy: Lessons from Medieval Trade*. (New York: Cambridge University Press, 2006).

St. Petersburg, and Kazan are selected for examination as case studies of institutional change that is in stasis, incremental, or rapid.

1. Rationale

Land is a foundation of wealth in every society. As a basis for wealth creation, citizens and firms must have access to land, and land tenure rights must be secure and transferrable. Whether property is fully private or subject to long-term lease, whether held individually or collectively, the security and transferability of these rights will determine credit and investment decisions that lead to economic growth.⁷ These principles are as valid for urban land as for agricultural land.

In the Soviet period, Russian citizens were spatially dispersed both across the country and within cities, leaving the economy less efficient and competitive than it would have been under market economy conditions.⁸ The reasons are twofold. First, cities were created in inhospitable climatic zones that were far from global markets, dispersing rather than concentrating economic geography. To compare countries with similar climatic conditions, two out of three Australians and Canadians live in the three largest cities; in Russia, only one out of three lives in Moscow, St. Petersburg or in Nizhny Novgorod.⁹ Second, there were no markets within cities to allocate land according to economic criteria. The result was lack of spatial concentration and economic diversification: urban development patterns misallocated enterprise land and separated people from their place of work. The absence of land markets also contributed to insufficient housing construction,

⁷ *Russia: Reshaping Economic Geography*, World Bank, Report No. 62905-RU,(2011), 114-115.

⁸ This paragraph is based on World Bank, *Reshaping Economic Geography*.

⁹ World Bank, *Reshaping Economic Geography*, 26-27.

restricting the mobility of Russians in work and lifestyle choices. Mobility is a critical factor in economic efficiency: Americans, for example, are ten times more mobile than Russians.¹⁰ These Soviet-era spatial distortions raised production and transportation costs and constrained economic growth.¹¹

Soviet-era General Plans that dictated land use in urban areas also contributed to spatial and economic inefficiency.¹² Under the Soviets, mechanisms for the planning, allocation and development of land were well developed and broadly dispersed. An elaborate General Plan, approved in secret by the Communist Party Central Committee, detailed what could be constructed and for what purpose on every land parcel in every large municipality. A labyrinth of state agencies, land committees, and state-owned construction companies allocated and developed each parcel. The more powerful or influential the ministry or industry, the more desirable was the location of the land plot it received for development. Soviet planning created a highly distorted urban landscape, giving rise to the unique spatial density of a ‘socialist city.’¹³

The privatization of land in the 1993 Constitution did not lead to immediate changes in the urban planning process. Land privatization conferred new rights to citizens and firms, but it also conferred new roles to municipal authorities.¹⁴ The decentralization of control over land management in the 1990s turned municipalities into monopoly landlords, giving them power to influence land acquisition and use by private parties.

¹⁰ World Bank, *Reshaping Economic Geography*, 10.

¹¹ World Bank, *Reshaping Economic Geography*, 8.

¹² World Bank, *Reshaping Economic Geography*, 27.

¹³ Alain Bertaud, “The development of Russian cities: Impact of reforms on spatial development,” (Mimeo, March 13, 2010), 6-10, 14.

¹⁴ Max Weber, *Economy and Society* (Berkeley and Los Angeles: University of California Press 1978), 957-993. Weber observed that permissive rights that allow an action give the bearer power of control. Thus property ownership is a source of power that changes relationships in a community.

At the outset of the privatization process, federal authorities did not fully consider the need for institutions and organizations that would support land markets. Privatization entails more than passing a law conferring ownership rights to property. Rights must be clearly defined and enforced. Information on land transactions must be recorded in a publicly-accessible register. Tax policy must be considered to provide incentives for efficient land use and revenues for the state. Finally, public engagement in urban planning is necessary to increase land values and improve spatial efficiency. This broad agenda, involving myriad laws, regulations, and investments, constitutes the transaction costs for establishing private land rights. In the 1990s, the Federal Government was too weak to implement a land privatization program of this complexity.¹⁵

In the absence of market-based institutions and organizations, inherited Soviet land administration mechanisms continued to function as Russian firms and citizens sought to convert Soviet-era land privileges into rights. Soviet-era constitutions outlawed the right to private ownership but permitted ‘personal’ urban and rural land plots for dachas and family gardening. Privileges included lifetime use and hereditary succession. Detached houses for ‘personal’ use could be constructed in cities with fewer than 100,000 residents. In addition, enterprises held the privilege to use land under their buildings in perpetuity. This was a reversal of the market concept that ownership of land comes first as the basis for rights to objects on the surface (*superficies solo cedit*).¹⁶ While no individual or enterprise held title to a private plot of land that could be traded or sold, the constitutional

¹⁵ Michael McFaul, “State Power, Institutional Change, and the Politics of Privatization in Russia,” *World Politics*, Vol. 47, No. 2 (Jan., 1995), p. 238 <http://www.jstor.org/stable/2950651> . McFaul’s argument regarding the weakness of the state pertains to the privatization of industrial assets. However, it is equally germane to land privatization.

¹⁶ W. E. Butler, *Russian Law* (Oxford: Oxford University Press, 2009), PAGE. William Pyle, “The Ownership of Industrial Land in Russian Cities: Explaining Patterns of Privatization across Regions and Firms,” NCEEER Working Paper, 2011, p. 4.

concepts of ‘personal’ and ‘perpetual’ use bestowed land privileges (rather than rights) to nearly 500,000 enterprises and an estimated 30 percent of the population by 1990.¹⁷ The conversion of these claims to private ownership would carry far-reaching social and economic implications when the Soviet Union collapsed.

The Yeltsin (1991-99), Putin (2000-2008) and Medvedev (2008-2012) administrations employed different political and fiscal tactics, but each president pursued a strategic policy of promoting land privatization, both urban and rural. Under President Yeltsin, 77 decrees, resolutions and laws were issued to advance land and property rights.¹⁸ Due to a highly polarized political environment, he was unable to pass a Land Code that would fully legalize the purchase and sale of land.¹⁹ The 1993 Constitution and presidential decrees had established rights of ownership and alienation in principle only. In the absence of a national code, regions²⁰ and municipalities had wide latitude to adopt diverse legislation. Only 50 of Russia’s 89 regions had adopted laws allowing private landownership by 1999.²¹

With less political polarization generally and greater personal bargaining power,²² President Putin succeeded in getting the Duma to approve a Land Code in 2001 that established the national legal framework for private urban land rights and transactions .

¹⁷ Vera Matusевич, “Land Reform in the Russian Federation: Why it was Not That Efficient,” (Mimeo, 2011).

¹⁸ Vera Matusевич, “Land reform in the Russian Federation.”

¹⁹ Timothy M. Frye, *Building States and Markets After Communism: The Perils of Polarized Democracy*, (New York: Cambridge University Press, 2010), Kindle location 2277-2309. Matusевич, “Land Reform in the Russian Federation.”

²⁰ “Region” is used collectively to refer to Russia’s 89 Subjects of the Federation, which include republics, oblasts, krais, and two municipalities, Moscow and St. Petersburg. It is the administrative level between the federal government and municipalities. The dissertation treats Moscow and St. Petersburg as cities.

²¹ Stephen K. Wegrán, *Land Reform in Russia: Institutional Design and Behavioral Responses*, (New Haven and London: Yale University Press, 2009), 62-63.

²² Frye, *Building States and Markets*, Kindle location 2499. Frye does not reference the Land Code specifically, but observes that the decline in polarization contributed to passage of numerous acts that had been stalled from the Yeltsin period.

Together with passage of the Civil Code in 2002, the Land Code replaced a decade of decrees that had authorized land sales but with contradictory and restrictive provisions.²³ The Code widened access to property rights by authorizing the sale of land under privatized buildings in urban areas, which had previously remained in state ownership.²⁴ Urban land became fully and legally marketable.

The municipal response to these institutional changes at the national level varied greatly. A “patchwork quilt” of enterprise land privatization patterns²⁵ reduced the economic potential of land privatization. Surveys of businesses conducted by the Foreign Investment Advisory Service (FIAS) in 2004 revealed that private land sales were highest in regions that adopted favorable pricing policy and administrative requirements, while corruption, bureaucratic hassles and high prices deterred businesses from purchasing land in other regions. Such administrative barriers enabled municipal authorities to keep land rents high and grant access to land to favored firms.²⁶ Pyle confirms these findings using business surveys in 2009, noting that the highest rates of land privatization occurred in cities where the economic and political costs to the local authorities were lowest, i.e., where land values were lower and the industrial lobby more influential. Both municipalities and enterprises were motivated to own land in order to secure rents.²⁷ In 2008, firms in Russia

²³ Stephen K. Wegran, Stephen K., *Land Reform in Russia: Institutional Design and Behavioral Responses*, (New Haven and London: Yale University Press, 2009), 16, 24-27.

²⁴ William Pomeranz, *Whither Russian Property Rights?* Center for International Private Enterprise, 2004. www.cipe.org.

²⁵ William Pyle, “The Ownership of Industrial Land in Russian Cities: Explaining Patterns of Privatization Across Regions and Firms,” (National Council for Eurasian and East European Research, 2011), 2. <http://www.nceer.org>.

²⁶ Gregory Kisunko and Jacqueline Coolidge, *Survey of Land and Real Estate Transactions in the Russian Federation*, (World Bank Policy Research Working Paper 4115, 2007), 1-4.

²⁷ Pyle, “The Ownership of Industrial Land,” 9-11, 23.

reported having more difficulty in accessing land for business expansion than firms in all other regions of Europe and Central Asia (ECA) (Table 1).

Table 1: Obstacles to Land Access in Europe and Central Asia in 2008²⁸

	Russian Federation	ECA with Turkey	EU-10 - European Union Countries	Northern Former Soviet Union	Southern Former Soviet Union	South Eastern Europe 2008
No obstacle	36.56	55.05	62.52	35.14	49.02	58.67
Minor obstacle	4.67	10.77	10.21	9.92	7.19	15.66
Moderate obstacle	10.87	12.07	11.41	13.22	12.56	12.51
Major obstacle	20.22	12.10	8.18	21.99	17.28	8.22
Very severe obstacle	27.67	10.00	7.67	19.73	13.95	4.94

The absence of a national system to survey and register property contributed to local administrative barriers and also limited transactions in the sale and purchase of land. Despite reforms in the legal and regulatory framework, the bureaucracy dealing with real property continued to operate largely as it had since the early 1990s, constraining government revenues and economic growth.²⁹

To reduce administrative barriers at the local level and enhance the economic potential of land and property, the government invested massively to improve bureaucratic organization and performance (Federal Targeted Program 2006-2011). Starting in 2008, Russia installed federal offices in major municipalities for property registration and

²⁸ Customized report prepared from EBRD-World Bank Business Enterprise Environment Surveys (BEEPS) for 2009. Data is available at <http://www.enterprisesurveys.org/>.

²⁹ World Bank, *Implementation Completion and Results Report on a Loan in the Amount of US\$100 million to the Russian Federation for a Cadastre Development Project*, Report No. ICR2038, (Washington, D.C., December 13, 2011), 11

cadastral surveys and reduced and standardized the time, cost, and number of procedures. By 2011, the average time to complete transactions in immovable property declined from 80 to 19.5 business days and the time spent by clients in cadastral offices was reduced by more than half to 48 minutes.³⁰ Russia became a world leader in ease of property registration. Following these improvements, 65 percent of the firms surveyed in 2011 reported no obstacle to land access compared to 37 percent in 2008.³¹

Despite the strong economic logic and federal investment in liberalization of land markets, aggregate improvement in access to land at the national level was not mirrored in all regions. In 2011, private land ownership by citizens and firms ranged from an estimated 29% in Kazan to under 2 percent in Moscow city.³² Difficulties in access to land restrain business expansion by denying firms an asset to use as collateral for financing and “may slow enterprise restructuring given the potential for rent-seeking officials to translate control rights into opportunities to enrich themselves and/or pursue political objectives.”³³ Despite the federal push to improve bureaucratic organization and performance, the drag of local factors is inhibiting land privatization.

Once land is acquired, the lack of a credible commitment to secure property rights may also constrain business expansion. Using survey data, Frye demonstrates that constraints on state agents are necessary in Russia to strengthen the security of property

³⁰ World Bank, *Implementation Completion and Results Report on a Loan in the Amount of US\$100 million to the Russian Federation for a Cadastre Development Project*, Report No. ICR2038, (Washington, D.C., December 13, 2011), 7-8.

³¹ EBRD-World Bank Business Enterprise Environment Survey (BEEPS), 2011. Data is available at <http://www.enterprisesurveys.org/>.

³² Rosreestr, *Gosudarstvennyi doklad o sostoianii i ispol'zovanii zemel' v rossiiskoi federatsii v 2011 godu*, Moscow: Ministry of Economic Development and the Federal Service for State Registration, Cadastre and Cartography, 2012.

³³ Pyle, “Ownership of Industrial Land,” 2.

rights.³⁴ The more business managers believed their property rights would be protected in disputes against the regional government relative to competitors, the more they invested in business expansion.³⁵ This was true not only in general but with respect to land specifically. Firms with uncertainty over land titling were less likely to have received foreign financing for capital investment.³⁶ Political development was also a relevant factor. Scholars have found positive correlation between civic participation (membership in business associations) and security of property rights. Frye suggests that security may emerge through political struggle between state and private actors³⁷; Pyle finds that regions rating higher on regional democracy indexes also have higher private land ownership.³⁸

The regional variations and low overall level of urban land privatization in Russia pose fundamental questions. What motivates some sub-national authorities to promote land sales that contribute to economic development and increased revenues through land taxes, while others block them? How does the performance of the bureaucracy for land administration influence access to land and security of land rights? More broadly, to rephrase the questions of Douglass C. North, what determines the path and pace of institutional change? What motivates the ruling elites in some regions to give up land rents, and not in others? Can an inefficient institutional order be reversed?

To gain insight into these questions, the following chapters will explore political economy factors influencing land rights regimes in Russia by drawing on the conceptual

³⁴ Timothy Frye, "Credible Commitment and Property Rights: Evidence from Russia," *American Political Science Review*, Vol. 98, No. 3, (August 2004), 453-465.

³⁵ Timothy Frye, "Corruption and the Rule of Law," in Anders Aslund, Sergei Guriev and Andrew C. Kuchins, eds., *Russia After the Global Economic Crisis*, (Washington, DC: Peter G. Peterson Institute of International Economics, 2010).

³⁶ William Pyle, "Ownership and Allocation of Industrial Land in Russia," Bank of Finland Institute for Economies in Transition (BOFIT), Focus/Opinion 4/2009. www.bofit/bofit

³⁷ Frye, "Credible Commitment and Property Rights," 464.

³⁸ Pyle, "Ownership of Industrial Land," 10-11.

framework of the new institutional economics. Formal and informal rules governing urban (as opposed to rural) land rights are selected as a proxy for institutions. The expansion of freehold land rights is taken as a proxy for institutional change.

An expansive literature empirically demonstrates how secure property rights contribute to efficient resource allocation and economic growth. This scholarship does not, however, elucidate how property rights are established in countries where political authorities and government agencies have control rights over assets.³⁹ Likewise, there is a growing and important body of scholarship on property rights in transition economies, including Russia. The focus of this research is primarily the privatization of industrial enterprises rather than urban land. The few studies on land privatization, including Kisunko and Coolidge (2007) and Pyle (2009, 2011), are oriented to enterprises rather than citizens. A premise of the dissertation is that land ownership by citizens will lead to greater civic activism and engagement in urban planning decisions.

How are private urban land rights established? What motivates ruling elites to broaden access to private property? And what motivates state agents to make property rights more secure? These questions remain unexplored in the scholarly literature on Russia.⁴⁰

³⁹ Andrei Schleifer, "Establishing Property Rights," The World Bank: Annual Conference on Development Economics, Washington, D.C. April 28-29, 1994, pp 1-4. Among numerous leading scholars on property rights, Schleifer refers to Harold Demsetz, "Towards a Theory of Property Rights," *American Economic Review* 57: 347-359, 1967; Douglass C. North and Robert P. Thomas, *The Rise of the Western World: a New Economic History*, Cambridge, UK: University Press, 1973; and Yoram Barzel, *Economic Analysis of Property Rights*, Cambridge, UK: University Press, 1989.

⁴⁰ The most exhaustive treatment of land rights in Russia is Stephen K. Wegran, *Land Reform in Russia: Institutional Design and Behavioral Responses*, (New Haven and London: Yale University Press, 2009). However, his focus is exclusively on rural agricultural land. Timothy Frye explores the factors that contribute to more secure property rights but his study pertains to enterprise rather than land privatization and it assumes that ownership rights are already acquired. See Timothy Frye, "Credible Commitment and Property Rights: Evidence from Russia." *American Political Science Review*, Vol. 98, No. 3, (August 2004), 453-465. The expansive privatization literature reviewed in Estrin et al (2009) deals exclusively with enterprise privatization. See Saul Estrin, Jan Hanousek, Evžen Kocenda and Jan Svejnar, "Effects of

A state-centered political economy analysis of land rights in Russia is of interest for three reasons. First, it will enlighten the debate over theories of institutional change. North and other institutional scholars illustrate the contribution of institutions to growth through the economic history of advanced capitalist (principally Western) countries, in which private property rights were critical to economic development, and where political and economic organizations evolved concurrently (North and Weingast, 1989; North, 1990, Acemoglu and Robinson 2006, North, Wallis and Weingast 2009). Russia presents a distinct case, having created capitalism in the early 1990s in the absence of private property, democratic political organizations, regulatory bodies, an active civil society, and the rule of law.⁴¹ Can private property rights develop, and if so, how?

Second, for scholars of state-centered approaches, the state is of interest as the sponsor of private property in 1993. McFaul has argued that a strong state is “paradoxically” a precondition to “extract the state from the economy.” State power is defined as the autonomy to set policy preferences and the capacity to implement them.⁴² Applying this definition, he found that the new state, under Boris Yeltsin, was too weak to prevent insiders from acquiring state industrial assets during the large-scale privatization of the early 1990s. Generally speaking, enterprise directors retained the control rights over industrial assets that they held during the Soviet period.⁴³ However, after privatization,

Privatization and Ownership in Transition Economies,” Policy Research Working Paper 4811, (Washington, D.C.: The World Bank, Development Economics Department Research Support Unit, January 2009).

⁴¹ Peter Rutland, “Business and Civil Society in Russia,” in Peter Reddaway and Robert W. Ortung, eds., *The Dynamics of Russian Politics: Putin's Reform of Federal-Regional Relations, Vol. II*. (Lanham: Rowman & Littlefield, 2005).

⁴² Autonomy implies sufficient consensus within the state to act independently of strong economic interest groups while capacity depends on the effectiveness and cohesiveness of government agencies. Michael McFaul, “State Power, Institutional Change, and the Politics of Privatization in Russia,” *World Politics*, Vol. 47, No. 2 (Jan., 1995), 214-216. <http://www.jstor.org/stable/2950651>.

⁴³ McFaul, “State Power, Institutional Change, and the Politics of Privatization in Russia,” 238.

some of these rights turned out to be politically contingent. A decade later, widespread public perception that state assets were acquired dishonestly undermined the legitimacy of property rights and provided political justification for renationalization.⁴⁴ However, a similar analysis about the role of the state in urban land privatization has not been conducted. Is the state strong enough to ‘extract the state’ from land ownership and make a credible commitment to respect property rights? Or is it too strong and thus at liberty to violate them? How does state action in a decentralized environment affect the path and pace of institutional change?

An unexplored factor in the establishment of secure property rights is the role played by the bureaucracy at all levels of government. The cadastral mapping and formal registration of land rights is a technically complex task in a country the size of Russia. Academic research on property rights in transition countries tends to ignore the administrative investments required to establish, monitor, and enforce new institutions. Yet these actions are a precondition for property rights to be secure. Formalizing land titles has been criticized as a top-down approach without substantiation of benefits. There is also little systematic analysis of the value of land administration investments.⁴⁵ This is true in general, and in the Russian case specifically.⁴⁶ Given the paucity of evidence, is state capacity an explanatory factor in the establishment and security of land rights?

2. *Theoretical Framework*

⁴⁴ Timothy Frye, “Original Sin, Good Works, and Property Rights in Russia,” (Cambridge University Press: *World Politics*, Vol. 58, No. 4 (Jul., 2006), 483, 500. Stable URL: <http://www.jstor.org/stable/40060147>.

⁴⁵ Klaus Deininger and Gershon Feder, *Land Registration, Governance, and Development: Evidence and Implications for Policy*, (Oxford University Press: The World Bank, 2009), 233-234.

⁴⁶ The primary studies dealing with urban land privatization, by Kisunko and Coolidge (2007) and Pyle (2009, 2011) do not discuss land administration.

To answer these questions, we would ideally draw on a theory of institutional change. However, the elasticity of the term *institution* has contributed to “chaos” in the field of development studies, according to Fukuyama.⁴⁷ This is partly due to different scholarly approaches to institutional analysis by political scientists and economists. For example, Michael McFaul states “The invisible hand is aided by visible institutions” such as banks and courts, while Douglass C. North says “we cannot see, feel, touch, or even measure institutions; they are constructs of the human mind.”⁴⁸

From a political science perspective, political institutions derive from “state power, authority, and sanctions to enforce prescribed behavior.”⁴⁹ There are three analytical approaches to institutions in political science. The rational choice-based approach argues that the design of political institutions is the determining factor that shapes the behavior of political actors. For example, Przeworski (1996) argues that in post-communist societies, democratic quality and stability depend on institutional (constitutional) design. In the cultural (or sociological) institutionalist approach, deep-seated cultural beliefs frame behavior. For example, Uriel Procaccia (2007) attributes the failure of market reforms in post-Soviet Russia to values and beliefs, such as philosophy and religion, that divide Russia and the West. Finally, scholars in the comparative-historical school treat political institutions as organizations that evolve from social structures and history. Such organizations are actors that behave according to formal rules and informal, historically-derived behaviors. In applying this approach to Russia, for example, analysts would

⁴⁷ Francis Fukuyama, *State-Building: Governance and World Order in the 21st Century*. New York: Cornell University Press Fukuyama 2004, 22-23.

⁴⁸ McFaul, “State Power, Institutional Change,” 235; North, *Institutions*, 107.

⁴⁹ James A. Caporaso and David P. Levine, *Theories of Political Economy*, (Cambridge University Press, [1992] 2009), 149.

“conceive of the executive as a grouping of historically determined organizations defined both by formal and informal rules.”⁵⁰

While a political science perspective is important in understanding how control structures influence the definition of property rights, it falls short in analyzing the structure of property rights from the standpoint of efficiency. Hence, an economic perspective is also vital.

Neoclassical economists using rational choice-based theories seek to understand the contribution of institutions to market efficiency. A market is a “system of voluntary transactions between independent property owners pursuing their self-interest.” Property rights are thus key institutions for economists. However, neoclassical economic theory assumes that actors possess full information to make correct choices and that the market is free of imperfections (such as incentives to cheat). Institutions are important in the long run; in the short term, institutions tend not to vary and so are disregarded as a factor in the way markets allocate property. They are outside of the neoclassical economic model.⁵¹

For the purposes of the dissertation, an economic perspective is necessary but insufficient since it ignores the role of the state in establishing and influencing the structure of property rights regimes.⁵²

Theorists in the school of the New Institutional Economics (NIE) such as Douglass C. North, Barry Weingast, Mancur Olson, Margaret Levi, Oliver Williamson, Elinor Ostrom, and Robert Bates seek to integrate institutions into a dynamic theory of long-run economic development. Institutions are intrinsic to political decisions and economic

⁵⁰ This section is based on Samuel Charap, *The Executive Branch and Foreign Economic Policy in Post-Soviet Russia*, Doctoral Dissertation, St. Antony’s College, Oxford University, 2009, pp. 21-30 and 53-58.

⁵¹ Caporaso and Levine, *Theories of Political Economy*, 86-87.

⁵² McFaul, “State Power, Institutional Change,” 219.

performance by defining rules for coordination and cooperative endeavor among human beings. For institutional economists, the competitive, frictionless model of markets assumed by neoclassical economics does not exist; in reality, markets are obstructed by power imbalances, information asymmetries, and transaction costs. Under these conditions, the potential gains from market exchange are not realized, and efficient outcomes that maximize wealth for all parties are prevented.⁵³

The logic of the new institutional economics (NIE) originates in political rules. In demonstrating the contribution of property rights to economic growth, North assumes the state comes first; it precedes the development of economic institutions.⁵⁴ The state must a priori design the institutions to allow private exclusive rights to property that can be bought and sold in markets. To establish rights, the state “will attempt to act like a discriminating monopolist, separating groups of constituents and devising property rights for each so as to maximize state revenue.”⁵⁵ Historically land has been a major source of state revenue.⁵⁶ Once property rights are defined, the security of those rights must be established through a credible commitment by the state to property owners that rights will obtain in the future. Yet even with radical changes in the legal framework, as occurred in Russia, North argues that there may be a continuation of informal constraints that became embedded as

⁵³ Douglass C. North, *Institutions, Institutional Change and Economic Performance*, (Cambridge: Cambridge University Press, 1990), 11, Chapter 4, “A transaction cost theory of exchange,” and Chapter 12, “Institutions, economic theory, and economic performance.” Oliver E. Williamson, “The New Institutional Economics: Taking Stock, Looking Ahead,” *Journal of Economic Literature*, Vol. 38, No. 3 (Sept 2000). Williamson applies NIE concept to evaluate the Russian mass privatization program, pp. 608-610.

⁵⁴ North, *Institutions*, 48-52.

⁵⁵ Douglass C. North, *Structure and Change in Economic History*, New York: Norton, 1981, p. 23

⁵⁶ Robert H. Bates and Da-Hsiang Donald Lien, “A Note on Taxation, Representative Government and Development,” Sage Publications: *Politics and Society* 14:53, 1985, p. 55. The authors note that land taxes proved insufficient to finance the war efforts of England and France, which led to taxes on immoveable property. Margaret Levi, *Of Rule and Revenue*, (Berkeley: University of California Press, 1988), Chapter 2. Levi discusses tax farming during the Roman Empire for which the basis was land and property.

extensions of rules in the previous regime. Fundamental institutional change that alters the long-run economic development trajectory of a country is thus slow and rare.⁵⁷

Of the various institutional approaches, the NIE is most relevant to the dissertation because it weaves economic and political logic into explication of the structure of property rights. The state in all countries is the primary independent variable in defining rules governing access to property and in providing security through enforcement of the rules. A given property rights regime is the outcome of a process – i.e. the dependent variable – and historical factors influence the development of political and economic institutions that define property rights.

3. *Sources of institutional change*

To paraphrase Roland, there are by now as many interpretations of the bible of institutional change as there are Protestant churches.⁵⁸ It is a tribute to Douglass C. North that he has written and revised many of these sacred texts, publicly acknowledging misconceptions as his thinking evolved on the sources of institutional change. This section briefly reviews North's primary concepts and weighs the utility of applying to the dissertation either path dependence or the transition from personal privileges to impersonal rights that he presented with co-authors Wallis and Weingast in *Violence and Social Orders* (2009).

⁵⁷ North, *Institutions*, 86-91.

⁵⁸ Gerard Roland, "Understanding Institutional Change: Fast-Moving and Slow-Moving Institutions," *Studies in Comparative International Development*, 38, 4 (2004), 110.

Throughout his intellectual evolution, North sought to explain why and how institutions change. In 1973, he defined institutions as the determinant of economic growth. Relative price changes were the source of institutional change.⁵⁹ He later discarded this theory because it could not explain the persistence of inefficient property rights that satisfied the short-term fiscal needs of rulers at the expense of growth and social welfare. By 1981, North determined that the self-interest of rulers, not the desire for efficiency, defined institutions. Due to transaction costs from state and market imperfections, inefficient property rights would persist that did not support economic growth.⁶⁰ But if better models existed, he asked, why did political leaders of stagnating countries not adopt the policies of more successful economies?

North solved the puzzle of persisting inefficiency in property rights with the theory of path dependence.⁶¹ In *Institutions, Institutional Change and Economic Performance* (1990), North distinguished institutions from organizations and argued that their interaction created a lag effect that made fundamental institutional change slow and rare. Opportunities in society were determined by standard economic theory (e.g. relative price changes, scarcity, competition) plus institutions that created the incentive for new political and economic organizations to emerge. These new organizations took advantage of incentives provided by the existing institutional environment. The source of incremental change was the investments made by these organizations in skill and knowledge to enhance

⁵⁹ Douglass C. North and Robert P. Thomas, *The Rise of the Western World: A New Economic History*, (Cambridge: Cambridge University Press, 1973).

⁶⁰ Douglass C. North, *Structure and Change in Economic History*, (New York: Norton, 1981).

⁶¹ North credits an article by Paul David in 1985 (“Clio and the Economics of QWERTY”) for raising the attention of economic historians to path dependence. Small changes in technology can lead one choice to prevail over others, even if the choice may not be the most efficient. *Institutions, Institutional Change and Economic Performance*, 93.

their objectives. Once organizations became dominant, in either the political or economic sphere, they were difficult to dislodge due to the benefits of a monopolistic position. The path of institutional change was shaped by the increasing returns to these organizations.⁶² In addition, transaction costs from incomplete information led organizations to rely on historically-derived models. To preserve their position, organizations then influenced the path of institutional change. In summary:

Path dependence is the key to an analytical understanding of long-run economic change. The promise of this approach is that it extends the most constructive building blocks of neo-classical theory – both the scarcity/competition postulate and incentives as the driving force – but modifies that theory by incorporating incomplete information and subjective models of *reality* and the increasing returns characteristic of institutions....Path dependence comes from the increasing returns mechanisms that reinforce the direction once on a given path. Alterations in the path come from unanticipated consequences of choices, external effects, and sometimes forces exogenous to the analytical framework. Reversal of paths (from stagnation to growth or vice versa) may come from the above-described sources of path alteration, but will typically occur through changes in the polity.⁶³

To simplify his thesis, North distinguished two paths: one was productivity-enhancing, the other was not. An example of the first was the 1787 Northwest Ordinance in the United States. Among other institutions, it provided political rules for westward expansion and economic rules for secure property rights (fee-simple ownership of land, inheritance, contract enforcement) that facilitated efficient land transactions. Together with newly-created political organizations in the Western states, the Ordinance gave birth to myriad banks, farms, shipping firms, etc. that later shaped the evolution of land policy over the following century. Despite some policies that created profits through inefficiency (e.g.

⁶² In North, *Institutions, Institutional Change and Economic Performance* 1990, p. 4, he attributes the concept of increasing returns to the work of W. Brian Arthur, “Self-Reinforcing Mechanisms in Economics,” *The Economy as an Evolving Complex System*,” (1988). Arthur postulates that one technology will win out over competitors and remain dominant due to four self-reinforcing mechanisms: i) high fixed costs to start an operation; ii) improvements through learning; iii) benefits from adhering to the same technology as other agents; and iv) expectations that the adopted technology will prevail.

⁶³ North, *Institutions*, 112

tariffs, monopolies), on balance, the incentives in this institutional matrix led organizations to pursue productive activity that sustained economic growth. Common law, which is precedent-based, also illustrated this pattern because organizations continuously and incrementally modified the institutional framework by bringing cases to courts.⁶⁴

The centralized monarchy and bureaucracy of 16-17th-century Spain illustrated a contrasting institutional matrix that was economically destructive rather than growth-enhancing. Onerous and excessive decrees aimed primarily at furthering the interests of the crown. Unable to meet the costs of empire and war, Spain extracted higher taxes and confiscated property, leading the economy into a downward spiral. The response to fiscal crisis created insecure property rights. The increasing returns to the institutional structure prevented the monarchy and bureaucracy from implementing numerous reforms that would reverse the path, despite widespread understanding that the situation was dire. From a position as the most powerful empire since Rome, Spain went into decline.⁶⁵

Institutional change that reverses an order is rare. Even in extreme events such as the breakdown of the Soviet Union, North would argue that continuity of informal institutions and bureaucratic organizations from the previous regime is likely to place a brake on radical change. Societies can become locked into a “path dependent” trajectory that is sub-optimal for economic efficiency and growth, leading to stagnation. For example, when revolutions in Latin America created countries independent of Spain in the 18th to 19th centuries, they imported U.S. and British political institutions. However, these institutions were alien to countries long accustomed to political and economic control by a

⁶⁴ North, *Institutions*, 6-10, 92-100.

⁶⁵ North, *Institutions*, 113-117.

centralized bureaucracy. Hence, according to North, the countries gradually reverted to the more familiar pattern of bureaucratic control in the 19th to 20th centuries.⁶⁶ In contrast, institutions embedded from British colonial rule remained in the US after independence. Based on their institutional legacy, countries such as the US, England and France offer a “consistent story of incremental change induced by the private gains to be realized by productivity-raising organizational and institutional changes.”⁶⁷ A specific path cannot be foreseen in the short term because policy choices provide opportunities to change course. However, “the overall direction in the long run is both more predictable and more difficult to reverse.”⁶⁸

History, as a story of institutional evolution, is central to path dependence. However, it should not be used for ex-post rationalization to fit an institutional perspective. While Pierson argues that path dependence is a critically important concept for political science, he warns that it must be applied narrowly, beyond the simple assumption that “history matters.” Unlike economic theory, which assumes that self-regulating market mechanisms will correct for inefficiency, there is no single, predictable outcome in political science that is optimal.⁶⁹ Given conditions of increasing returns, multiple outcomes are possible, with the path unknown.⁷⁰ To understand the direction of change, the concept of path dependence “can be greatly strengthened by more systematic attention to the ways in

⁶⁶ North, *Institutions*, 101-103.

⁶⁷ North, *Institutions*, 130.

⁶⁸ North, *Institutions*, 104.

⁶⁹ Paul Pierson, “Increasing Returns, Path Dependence, and the Study of Politics,” *The American Political Science Review*, (Vol. 94, No. 2, June 2000), 252-253.

⁷⁰ Following Arthur, Pierson notes four consequences of self-reinforcing mechanisms: i) *unpredictability* (presence of multiple potential outcomes, with the end-state unclear); ii) *inflexibility* (once on a path, it is difficult to shift to another); iii) *nonergodicity* (accidental events early in a process will feed into future choices); and iv) *potential path inefficiency* (possibility of sub-optimal outcomes over the long term relative to other choices). Pierson, “Increasing Returns, Path Dependence, and the Study of Politics,” pp. 253-254.

which institutional arrangements that are in place for an extended period can structure the conditions for their own revision.”⁷¹ In this view, the “path” is set by critical junctures that lead to institutional evolution rather than intervals of abrupt change. It is *not* driven by “skilled social actors” and “losers” or “institutional reformers” but by, in North’s words, an “interdependent web” of formal political institutions and informal rules that condition the behavior of actors.⁷²

Path dependence is appealing as a conceptual basis for scholarship on contemporary Russian institutions. Evidence of continuity abounds.⁷³ For example, McFaul’s conclusion on why insider privatization transpired in the early 1990s is consistent with a path-dependent interpretation. The state was not strong enough to replace Communist-era institutions with market-supporting ones, so the rules of the game from the late Gorbachev period carried over, allowing enterprise managers to privatize what they had already appropriated.⁷⁴ Specifically with respect to land, there has never been a period in Russian history when the property rights regime was predominantly private.⁷⁵ Rules from the Soviet era governing urban land planning through the General Plan continue to frustrate emergence of land markets.⁷⁶ Given the continuing high level of state land ownership after

⁷¹ Paul Pierson, *Politics in Time: History, Institutions, and Social Analysis*, (Princeton and Oxford: Princeton University Press, 2004), 134.

⁷² North *Institutions*, 95, cited in Pierson “Increasing Returns, 150.

⁷³ The renationalization of industries privatized in the 1990s is discussed in Timothy Frye, “Original Sin, Good Works, and Property Rights in Russia,” (Cambridge University Press: *World Politics*, Vol. 58, No. 4 July 2006), pp. 479-504 Stable URL: <http://www.jstor.org/stable/40060147>. For an excellent example of how ruling elites in personalized states organize the economic system to suit their interests, see Jo Becker and Steven Lee Myers, “Putin’s Friend Profits in Purge of Schoolbooks,” *The New York Times*, November 3, 2014, p. 1.

⁷⁴ McFaul 1995, 216, fn 25.

⁷⁵ Leonid Limonov, *Vlast’ i sobstvennost’ na zemliu v Rossii: k voprosu o zavisimosti ot traektorii predshestvuiushchego razvitiia*. (Mimeo, 2007).

⁷⁶ World Bank, *Russia: Reshaping Economic Geography*. Report No. 62905-RU, 2001, p. 27. Alain Bertaud, “The development of Russian cities: Impact of reforms on spatial development.” March 13, 2010, Mimeo, pp. 14-24.

two decades and stagnation in investment due to incomplete institutional reform more generally,⁷⁷ path dependence might explain why resistance to land privatization is part of a broader pattern.

On the other hand, path dependence is a deterministic theory that predicts the long-run evolutionary path in terms of historical institutional patterns. It would not have identified the key turning points in South Korea's transition from authoritarianism to democratic and economic institutions that uphold the rule of law. In Russia, it would not predict executive branch advocacy for urban land privatization under Presidents Yeltsin and Putin against the resistance of municipal landlords. When critical junctures open historical turning points, there are real policy choices for ruling coalitions that rest on political, economic and social dynamics. Within those choices, Williamson's injunction to meet the "remediableness criterion" (test of feasibility) bears repeating. If a superior feasible alternative cannot be affordably implemented it will deter institutional reform, even if the institution is inefficient.⁷⁸ Is institutional "stickiness" the result of path-dependent trajectories or of factors that are unexplored? Path dependence explains institutional *continuity* with minimal specification and lacks explanatory precision altogether for institutional *change*.

More recent scholarship from an interdisciplinary perspective departs from the determinism of path dependency. In *Violence and Social Orders* (2009), the central insight of North, Wallis and Weingast is that institutions perform differently depending on whether

⁷⁷ *The Moscow Times*, "Russian Investment Falls Again, Confirming Weak Economic Outlook" October 17, 2014. Russia's weak institutional framework was cited by the World Economic Forum as a key obstacle to growth. Russia was rated at the bottom decile in the world for the burden of government regulation and inconsistent application of laws. World Bank and IFC, *Doing Business Subnational: Doing Business in Russia 2012*, p. 1.

⁷⁸ Williamson 2000 p 601.

they are, at one extreme, *personalized*, that is, informal and implemented through repeated interactions with known individuals, or *impersonal*, that is, codified into law and impartially implemented by legal persons.⁷⁹ There is an intermediary condition where state agencies may implement formal rules, but in a personalized or arbitrary manner.⁸⁰

Weber describes the intermediary condition, in which institutions are personalized, as one where the legal order is characterized by laws that the political authorities choose to enforce. In countries with a patrimonial heritage such as Russia, authority tends to be exercised arbitrarily, according to the prerogative of rulers and the compromises they make with individual power-holders. Such a legal order contrasts with one where systemic law is implemented by a modern, rule-bound bureaucracy that separates public official activity from private life. In modern bureaucratic management, be it in the private or public sector, officials hold office as a vocation in exchange for income security. Officials serve functional objectives rather than rulers. No agency is entitled to act on individual cases; general regulations may be issued only on abstract principles. In contrast, Weber notes, the dominant pattern in patrimonialism is to issue decisions according to favors and personal privileges.⁸¹ The degree of personalization of institutions and implementing

⁷⁹ Douglass C. North, John Wallis, and Barry Weingast, *Violence and Social Orders*, (New York: Cambridge University Press, 2009). The degree of personalization of institutions tends to correspond with the nature of a political regime and how it uses rents. Economic rents provide financial returns greater than the best alternative use of capital. In regimes dominated by a single leader or party, where institutions are personalized, ruling elites “manipulate[s] the economic system to produce rents that then secure political order,” p. 18. Impersonal institutions are associated with impersonal organizational forms, which are legal entities that exist independently of the identities of their individual members. Such organizations appeared only in the last five centuries. They are limited in societies dominated by a single leader or powerful elites, who want to control economic rents and political order. In contrast, competitive political and economic systems are founded on impersonal institutions implemented by impersonal organizations. (pp. 22-25). Also see Levy 2014, pp. 19-22. When institutions are impersonal, the quest for rents drives innovators to introduce new products or political solutions (Levy 2014, p. 23).

⁸⁰ Levy 2014, pp 20-21,62-63.

⁸¹ Weber, 1978, pp. 957-993

organizations influences the credibility of commitment and the risk of arbitrary expropriation by the state and thus is critical to the security of property rights. The less deterministic approach of North, Wallis and Weingast (2009) suggests that institutional change is not teleological. In contrast to path dependence, these scholars suggest that “the transition from personalized to impersonal rules of the game tends to be cumulative, incremental”⁸² while not necessarily linear or inevitable. ⁸³

Under what conditions do impersonal institutions and organizations arise that are critical to the formation and security of property rights? Drawing on Western models, North, Wallis and Weingast (2009) argue that the transition to impersonal institutions can occur in two stages. First, elites in the state’s dominant political coalition are motivated to pass laws that will transform their personal privileges into impersonal rights. Second, so long as impersonal rights continue to serve the interests of political rulers, they are extended to the broader population. How does rule of law emerge? When elite privileges are transformed into rights, the state transforms into a set of perpetually-lived organizations that in turn “transform the identity of the ruler from a powerful individual with a unique social persona into an impersonal office.” The new institutions and organizations are binding on future leaders, who fall under the larger identity of the state. “It is the state that comes under the rule of law.” ⁸⁴ The capacity of the state is thus critical to the transformation process and the sustainability of impersonal institutions that constitute the

⁸² Levy 2014, p. 24.

⁸³ North, Wallis, Weingast 2009 p. 49, pp. 150-51.

⁸⁴ North, Wallis, Weingast 2009, pp. 148-151.

rule of law.⁸⁵ But “because rule of law cannot be improved by fiat – which is too easily undone – many attempts to enhance and extend the rule of law fail.”⁸⁶

The strength of this argument is that it provides a causal chain of actions rooted in the incentives of ruling elites. The weakness is that it does not provide sufficient granularity to predict why or when ruling elites would give up the rents from land privileges and instill a rule of law in property rights. To explain changes in property rights, we need a theory grounded in the incentives of rulers.

4. *Theory of predatory rule*

Margaret Levi’s theory of predatory rule (*Of Rule and Revenue*, 1988) frames the motivations of rulers in terms of maximizing revenues to the state. This is pertinent to a decision by the state to sell land and collect a land tax, or lease land and receive rents. Levi predicts that rulers will choose according to three constraints: bargaining power with bureaucratic agents and constituents, transaction costs related to negotiating and implementing policies, and security of tenure in office (the discount rate). The more rulers are uncertain about the future (high discount rate), the more they seek returns in the short-term. In contrast, the greater their security (low discount rate), the more they are likely to build stable sources of revenues for the long-term.⁸⁷ “The major implication of the theory

⁸⁵ North, Wallis, Weingast 2009, pp. 248-250.

⁸⁶ North, Wallis, Weingast 2009, p. 74.

⁸⁷ Margaret Levi, *Of Rule and Revenue*, Berkeley and Los Angeles: University of California Press, 1988. Levi assumes that rulers are predatory (as distinct from exploitative) because they seek to increase their advantage in meeting personal objectives. Levi models the ruler as a head of state who represents a ruling coalition. To secure the reins of power and be successful in maintaining it, a ruling coalition must concede authority to a ruler who coordinates the group. The ruler must expend considerable resources to manage rivalry within the coalition and with outside contenders. Depending on the form of government (e.g. tyranny, oligarchy, democracy), the ruler can either be a principal or an agent of others. Ruling and maintaining rule require resources, so raising revenue is the first priority after securing a monopoly of

of predatory rule,” according to Levi, “is that rulers will devise and formalize structures that increase their bargaining power, reduce their transaction costs, and lower their discount rate so as to better capture gains from exchanges of politics.”⁸⁸ In other words, among a set of alternatives at a given time, rulers will opt for the highest-yielding and most feasible revenue sources that strengthen their hold on power and security in office.

Given the benefits of land to rulers as both a political and an economic resource, Levi’s theory would initially predict that rulers would not give up state land privileges. Politically, a ruler who controls urban land will have greater bargaining power over constituents who need land for businesses or housing. Economically, monopoly rights to land give rulers market power to set and manipulate rents, particularly if leases are not fully marketable or of relatively short duration. The more that urban land ownership serves political interests, the less urban land will serve economic purposes.⁸⁹ Levi’s theory predicts that rulers who rely on income from rents more than taxes from the local base will become more predatory and less accountable over time.⁹⁰

How do institutions change if the benefits to rulers of control rights over land are so great? Levi notes that rulers initially design institutions that are most efficient in serving their interests, but “as relative prices change, institutions that once facilitated exchange may begin to hinder exchange or reduce return. Rulers will then try to redesign state structures and rewrite state policies.”⁹¹ Rulers may also revise institutions in response to

violence. But rulers cannot predate with impunity. To maintain power they need to control resources to keep members in the dominant group and fend off rivals while bargaining with agents in the bureaucracy and constituents. These take the form of contracts in a political market. See pp. 10-16, 45-47. A political scientist, Levi is in the micro-analytic branch of NIE.

⁸⁸ Levi, *Of Rule and Revenue*, 16.

⁸⁹ North, et al, *Violence and Social Orders*, 157.

⁹⁰ Levi, *Of Rule and Revenue*, Chapter 4.

⁹¹ Levi, *Of Rule and Revenue*, 16.

changes in their bargaining power, transaction costs or discount rate. The decision by municipalities to rely more on land rents or land taxes will influence the share of state land ownership and the definition and distribution of property rights.

Several studies explore the relationship between institutional reform and the fiscal incentives and constraints of rulers. Myerson, using mechanism theory, found that an autocratic ruler would provide political guarantees for property rights that lead to a higher tax base, even if it meant giving up some power. However, with a high natural resource base, the same ruler would lack the incentive to reform, even if it reduced investment needed for long-term growth.⁹² Desai, Goldberg and Freinkman validate this finding based on the impact of local revenue sources on reforms in Russian regions in the 1990s. Those that relied on rents, either from oil extraction or federal subsidies, reformed the least; regions with a high share of local revenues and moderate natural resource rents went further with economic reforms to stimulate business development and investment.⁹³ Similarly, Zhuravskaya found that local authorities in Russia lacked fiscal incentives to raise local revenue due to federal revenue-sharing policies that offset any additional revenues by requiring higher transfers to federal authorities.⁹⁴ This in turn reduced the incentive of local officials to develop the private sector as a source of local taxes.⁹⁵ In China, political centralization through the state-party nexus maintained a check on lower levels of

⁹² Roger B. Myerson, "Perspectives on Mechanism Design in Economic Theory," Nobel Prize Lecture, December 8, 2007,

http://www.nobelprize.org/nobel_prizes/economicosciences/laureates/2007/myerson_lecture.pdf.

⁹³ Desai, Raj M., Lev Frienkman, and Itzhak Goldberg, "Fiscal federalism in rentier regions: Evidence from Russia," *Journal of Comparative Economics* No. 33 (2005): 814-834. www.elsevier.com/locate/jce

⁹⁴ In Russia, intergovernmental relations in the 1990s were characterized by political decentralization and bargaining over tax-sharing and budget allocation. The result was greater regional political autonomy but also dependence on budget transfers due to lack of local authority over revenue sources.

⁹⁵ Ekaterina V. Zhuravskaya, "Incentives to provide local public goods: fiscal federalism, Russian style," *Journal of Public Economics* 76 (2000): 337-68. www.elsevier.nl/locate/econbase.

government even as local authorities were encouraged to develop a local tax base. As a result, local authorities in China fostered the growth of local enterprises to enhance their tax base; in Russia, enterprises became the targets of predation by revenue-hungry local officials.⁹⁶ In these cases, Levi's theory is pertinent in predicting that the revenue-maximizing incentives of local officials depended on their relative bargaining power with higher political authorities and the availability of rents that could replace local taxes. The choice of revenue system in turn influenced the security of property rights.

While the theory of predatory rule has application across political systems and historical epochs, there are some limitations that may restrict its applicability to transition economies. For example, the theory would suggest that rulers with greater security of tenure and thus, a low discount rate, would undertake more far-reaching institutional reforms to strengthen the tax base. In contrast, Hellman found that in post-communist countries in the 1990s, elected officials who faced ballot-box challenges from "losers" in the reform process were more likely to pursue comprehensive reforms than officials with security of tenure.⁹⁷ However, Hellman's partial reform model is consistent with Levi's theory in that short-term "winners" who benefited from rent-seeking opportunities early in the reform process, such as enterprise insiders and local officials, had an incentive to block long-term reform in order to keep a stream of rents. Reforms will remain incomplete if these winners have sufficient bargaining power to veto policy change. Another limitation arises from Frye's proposition that the degree of political polarization in society is the decisive factor in explaining variation in the pace of economic and institutional reform. In

⁹⁶ Desai, Frienkman, and Goldberg, "Fiscal Federalism," 829.

⁹⁷ Joel S. Hellman, "Winners Take All: The Politics of Partial Reform in Postcommunist Transitions," *World Politics* 50.2 (1998): 214-15. Helman notes the evidence cannot support a causal link between executive turnovers, government stability, and economic reform.

his model, the consistency and sequencing of reforms will influence the response of citizens and firms to economic and institutional changes. More polarization increases the risk of policy reversals and reduces the incentive of citizens and firms to invest.⁹⁸ This model exposes a lacuna in the new institutional economics more generally by increasing attention to political polarization in society that can shape institutional reforms. While the predatory ruler is subject to constraints that include making bargains with constituents, a more explicit integration of society into theories of institutional change may be warranted.

Finally, the theory of predatory rule is an “exercise in comparative statics”⁹⁹ that may insufficiently consider the temporal implications of institutional change. Both Hellman and Frye raise negative consequences specific to transition economies of the different time dimensions inherent in any bundle of institutional reforms. For example, if privatization of assets proceeds faster than development of governance mechanisms over those assets, the security of property rights may be jeopardized. A time dimension is critical because the distance required for fundamental institutional change in transition economies is particularly long, and “getting from here to there” is fraught with risks of reversal.¹⁰⁰ Pierson’s starting point is thus that “we need to think not just about moments of institutional selection and moments of institutional change, but of processes of institutional development unfolding over significant periods of time.”¹⁰¹ Levi notes her theory is static, with an initial policy based on an existing choice set, yet she argues that the rules are written today for application in the future. The theory becomes dynamic as

⁹⁸ Timothy M. Frye, *Building States and Markets After Communism: The Perils of Polarized Democracy* (New York: Cambridge University Press, 2010), Kindle version, location 102.

⁹⁹ Levi, *Of Rule and Revenue*,

¹⁰⁰ For this reason, Brian Levy advocates “working with the grain” in order to identify actions that can support a chosen trajectory over a time horizon of a decade or more. Levy, *Working with the Grain*, 9-10.

¹⁰¹ Paul Pierson, *Politics in Time: History, Institutions, and Social Analysis*, (Princeton and Oxford: Princeton University Press, 2004), 15.

rulers seek to ensure compliance over time through modifications in the original tax contract that build cooperation by society.¹⁰² This dynamic aspect will be important to assess in applying the theory to the puzzle of variation in land privatization in Russia.

5. *The State and the Bureaucracy as Explanatory Variables*

To apply the NIE literature to the dissertation, it is necessary to unpack the state as the independent variable. Following North, Wallis and Weingast (2009), the state is defined as an organization of organizations rather than as a single actor.¹⁰³ To rephrase Weingast, the ideal state is one that is strong enough to protect property rights but not so strong as to violate them.¹⁰⁴ The state needs to recognize that “...the ready exercise of administrative discretion is the source of contractual hazard,” for which effective governance mechanisms are the solution.¹⁰⁵ Such mechanisms can come from checks and balances within branches of government (executive, legislative, judicial), between the executive and government agencies (the bureaucracy), and across levels of government (federalism).

Because the state defines the political rules and controls governance mechanisms, NIE appears to assign both the problem and the solution to the same source. To narrow the

¹⁰² Levi, *Of Rule and Revenue*, Chapter 3, p. 70.

¹⁰³ Douglass C. North, John Wallis, and Barry Weingast, *Violence and Social Orders*, New York: Cambridge University Press, 2009, pp. 17-18. The authors choose this formulation to explain how ruling elites form a dominant coalition that forms the basis for a monopoly of violence and creation of other state organizations.

¹⁰⁴ Weingast 1993 p 287 stated that “The fundamental economic dilemma of a political system is this: a government strong enough to protect property and enforce contracts is also strong enough to confiscate the wealth of its citizens.” He is also quoted in Frye 2004 p. 453 and Oliver Williamson, “Institutions and Economic Organization: The Governance Perspective,” Annual Bank Conference on Development Economics, Washington, D.C., April 28-29, 1994, p. 21.

¹⁰⁵ Williamson 1994 p. 23

analysis and reduce the risk of tautology, it is important to distinguish between governance at the macro and micro levels.

Governance at the macro level analyzes the “rules of the game” including the legal order and government functions (executive, legislative, judicial, bureaucracy) that define and enforce property rights. Its limitation is the evolutionary nature of institutions, which are subject to major changes in design only during “defining moments” such as coups, crises or breakdowns.¹⁰⁶

Governance at the micro-level analyzes what Williamson terms the “play of the game,” that is, market transactions and related state regulatory actions. Scholars at this level¹⁰⁷ focus on the governance of contractual relations. Contracts are necessarily incomplete and can easily be broken; reversion to courts, while the ultimate recourse, is not costless. Hence, to improve the chances for cooperative human endeavor, governance structures should be designed to “craft *order*, thereby to mitigate *conflict* and realize *mutual gains*.”¹⁰⁸ Transaction cost economics argues that since markets and governments are both flawed, the most efficient governance structure is one where there is no feasible alternative that can be implemented. Corrections to regulatory structures in specific sectors (including

¹⁰⁶ Williamson includes Eastern Europe and the former Soviet Union in this category, observing that “the response to such opportunities is often one of ‘failure’” in part due to “primitive understanding” of how to design institutional environments. “Institutions and Economic Organization: The Governance Perspective,” pp 598-99.

¹⁰⁷ Williamson’s early contribution to the new economics of organization, a branch of NIE, describes how organizations reduce problems of information asymmetry and conflict of interest in contracting. Oliver Williamson, *Markets and Hierarchies: Analysis and Antitrust Implications*, New York: Free Press, 1975.

¹⁰⁸ Oliver E. Williamson, “The New Institutional Economics: Taking Stock, Looking Ahead,” *Journal of Economic Literature*, Vol. 38, No. 3, 2000, p. 599. The governance structure can take the form of an organization (firm or government bureau), regulating mechanism (spot markets, private arbitration bodies) or market safeguards (insurance).

land) can be realized within a decade, and thus are more easily subject to improvement using an institutional economic perspective.¹⁰⁹

The performance of state regulatory agencies -- the public bureaucracy -- will influence the process of institutional change by strengthening or undermining the credibility of the government's commitment to the rules. However, "bureaucracy remains a poorly understood condition, whatever lens is brought to bear."¹¹⁰ The ideal public agency as depicted by Max Weber in *Economy and Society* is rule-bound, rational, technocratic, and impersonal; it depends on a stable system of taxation for continuous functioning. A capitalist market economy "demands that the official business of public administration be discharged precisely, unambiguously, and with as much speed as possible."¹¹¹ Once these performance standards are met, bureaucracy becomes

*the means of transforming social action into rationally organized action. Therefore, as an instrument of rationally organizing authority relations, bureaucracy was and is a power instrument of the first order for one who controls the bureaucratic apparatus....When administration has been completely bureaucratized, the resulting system of domination is practically indestructible.*¹¹²

In the absence of the Weberian ideal, can public bureaucracy be transformed from "a patronage machine for conferring rents on political allies and clients to a rule-based organization committed to public service provision?"¹¹³ Levy examines this question from experience in the United States and developing countries and observes that political leaders need the incentive, capacity, and a long time horizon to introduce and consolidate a merit-based civil service system. Where these conditions prevail, bureaucratic transformation is

¹⁰⁹ Williamson 2000, p. 601.

¹¹⁰ Williamson, *New Institutional Economics*, 611.

¹¹¹ Weber, *Economy and Society*, 956-75, quote on 974.

¹¹² Weber, *Economy and Society*, 987.

¹¹³ Levy, *Working with the Grain*, 106.

generally initiated as a top-down, elite project. In developing countries with discretionary decision-making, the process is problematic; in the United States, the process was protracted but succeeded for three reasons. First, top-down reforms laid the basis for a professional civil service. Second, an emerging middle class and business sector demanded improved public services. And third, enlightened public entrepreneurs within federal agencies reached out to public constituencies on key issues of concern. These “islands of excellence” helped establish a professional reputation for agencies that were formerly dismissed as patronage and campaign machines for politicians.¹¹⁴ Given the difficulty of importing such experience into countries with discretionary decision-making, Levy advocates an incremental strategy of “public management lite” to increase adherence to rules. One such approach is to focus reforms on a specific sector or agency.¹¹⁵

Even if the Weberian ideal can be achieved, a question remains: who controls the bureaucratic apparatus? For Moe, the organization and performance of the bureaucracy is related to the logic and structure of politics of a given system. Citing American experience, Moe notes that the system of checks and balances provides incentives to the winning coalition to formalize a bureaucratic structure and make it rule-bound to ensure continuity of purpose against shifting political winds. At the same time, the losing coalition has incentives to impose restrictions on bureaucratic agencies so they are “designed to fail.” Due to conflicting political goals, bureaucratic effectiveness is thus “in the eye of the beholder”¹¹⁶ (the party in or out of power). For Weber, the bureaucracy can serve varied

¹¹⁴ Levy, *Working with the Grain*, 107-110.

¹¹⁵ Levy, *Working with the Grain*, 144-47.

¹¹⁶ Terry M. Moe, “Delegation, Control, and the Study of Public Bureaucracy” in Robert Gibbons and John Roberts, eds, *The Handbook of Organizational Economics*, Princeton and Oxford: Princeton University Press, 2013 p. 1158-59.

interests, political and economic; the direction the bureaucracy takes depends on the powers that instruct it. The political “master” whom the bureaucracy serves can either be the people, represented by an elected legislature, or head of state. In practice, the bureaucracy is “overtowering” in expertise and autonomous vis-à-vis the public and the ruler. The overarching and single loyalty of the bureaucracy, however autonomous, is to serve the objective “*raison d’etat*” (reason of state.)¹¹⁷

The NIE literature frames the relationship between political authorities and the bureaucracy as a principal-agent problem that must be analyzed according to the specific case.¹¹⁸ Levi sees the ruler as principal and the bureaucracy as agent that performs all the functions critical to implementation of institutions: measurement, monitoring, and enforcement. Historically, ensuring that the agent performed properly was a perennial problem. In modern bureaucracies, Levi notes that computerization can reduce agency problems but not entirely. Discretionary behavior, shirking, and conflict of interest are still possible. Moreover, the bureaucracy is a multi-faceted, multi-functional set of organizations that is not easily managed.¹¹⁹ The solution to these agency problems has often been the proliferation of rules. However, Williamson observes that the number of rules can serve two purposes: either slow decision-making and thus delay contracts or, by absence of flexibility, increase confidence that the commitment to a contract is credible¹²⁰ Since a credible commitment to the rules is central to the security of property rights, the answer to agency problems may lie in less flexibility, not more.

¹¹⁷ Weber, *Economy and Society*, 989-93, 978-980

¹¹⁸ For an overview, see Terry M. Moe “The New Economics of Organization,” *American Journal of Political Science*, Vol. 28, No. 4 (November 1984), 756-758, 765-773. <http://www.jstor.org/>.

¹¹⁹ Levi, *Of Rule and Revenue*, 32.

¹²⁰ Williamson 1994, p. 26.

To recap this section, the NIE literature offers a conceptual framework to predict why, when and how urban land institutions may change. North, Wallis and Weingast (2009) provide steps in the process, starting with the conversion of elite privileges to elite rights. Levi's theory of predatory rule, while aimed at revenue systems, is germane to why and when rulers would relinquish their privileges, establish property rights, and amend the institutional structure. The macro and micro levels in NIE analysis begin to answer how institutions change by conceptualizing the state as two explanatory variables: i) political authority and the legal order and ii) bureaucratic organization and performance. The term political authority is synonymous with ruling elites.¹²¹ Thus, the NIE opens an analytical window on the state's role in determining slow-moving 'rules of the game' as well as the more fast-paced 'play of the game' in land transactions. It does not sufficiently specify the role of society, except as constituents in the theory of predatory rule, or the time dimension of institutional change. These require specification in testing the conceptual framework in Russia.

6. Relevance of theory to urban land rights in Russia

The adoption of the constitutional right to own private property in 1993 was a critical juncture in Russian history after decades of state land ownership. It also represented the de jure transformation of state land privileges into impersonal property

¹²¹ North et al (2009) model a natural state as one where ruling elites respect each other's property rights. This gives them the incentive to cooperate. Ruling elites control the creation of state organizations and the privileges that distribute rents throughout the coalition. (pp. 17-20). For North et al, ruling elites are thus synonymous with a natural state.

rights. De facto, however, urban land remained in state ownership. The monopoly state owner became the monopoly municipality landlord.

The Yeltsin, Putin and Medvedev administrations pursued a strategic policy of urban land privatization but each president employed different political and fiscal tactics with respect to the regions. The primary differences between the Yeltsin period in the 1990s and the Putin-Medvedev periods in the 2000s relate to political decentralization and fiscal federalism. Yeltsin famously told regions to take all the power they could swallow, and 30 regions repaid this gesture by not remitting taxes to the center.¹²² In contrast, the Putin administration recentralized authority and reduced revenue-sharing to encourage greater reliance on local taxes.¹²³ The dissertation uses the conceptual framework presented in North, Wallis and Weingast (2009) and Levi (1988) to assess how these federal efforts affected the incentives of municipal officials to convert municipal land privileges into secure property rights.

The two levels of analysis in the NIE literature are relevant to the implementation of urban land privatization at the federal and subnational levels in Russia. At the macro level, federal political authorities determine the legal order for property rights, design and manage the land administration bureaucracy, and design and implement tax-sharing policies. At the micro level, the performance of the land administration bureaucracy influences contractual relations between the state and physical or juridical persons as buyers or tenants of state land. The decentralization of land administration functions raises

¹²² Lev Freinkman, Daniel Treisman, and Stepan Titov, *Subnational Budgeting in Russia: Pre-empting a Potential Crisis*, World Bank Technical Paper No. 452, (Washington D.C.: The World Bank: 1999).

¹²³ Migaro O. Da Silva, Galina Kurlyandskaya, Elena Andreeva, and Natalia Golovanova. *Intergovernmental Reforms in the Russian Federation: One Step Forward, Two Steps Back?* Washington, D.C.: The World Bank. 2009, pp. 84-85.

principal-agent problems because federal administration offices are subject to local and regional political pressures.¹²⁴

The performance of the land administration bureaucracy in Russia influenced the credibility of the government's commitment to urban land privatization, for several reasons. First, the formation of an appropriate land administration bureaucracy was a torturous process that contributed to poor public services. Second, at the national level, privatization of land rights was hotly contested and socially sensitive in the 1990s, putting the land administration bureaucracy between opposing forces in the executive branch and the Duma (legislature). Third, at local levels, the control rights of politicians and bureaucrats presented the greatest risk to land privatization, according to Shleiffer, because they actively blocked reforms.¹²⁵ Frye concurs, noting that better training and development of the public bureaucracy in this context could raise risks rather than lower them by giving bureaucrats better tools for rent-seeking.¹²⁶ Brian Levy's examination of the transformation of public bureaucracy into a depersonalized, Weberian prototype is relevant to Russian experience, particularly his focus on sector-specific interventions to raise the quality and efficiency of a given agency.

The societal and temporal factors that require strengthening in this theoretical framework will be addressed in the land governance model, discussed below.

¹²⁴ Andrei Shleifer, "Establishing Property Rights," Annual Bank Conference on Development Economics, Washington, D.C. April 28-29, 1994

¹²⁵ Andrei Shleifer, "Establishing Property Rights," Annual Bank Conference on Development Economics, Washington, D.C. April 28-29, 1994

¹²⁶ Frye 2004, pp. 463-464.

7. *Research Design and Working Hypotheses*

The research methodology for institutional analysis follows Grief (2006).¹²⁷ It includes a deductive model, inductive use of quantitative data, and context-specific case studies (including qualitative interviews).

I hypothesize that institutional change is a function of the revenue-maximizing incentives of ruling elites (political authorities). The policy decision by political authorities at a given time to privatize, lease, or seize privatized land will define the property rights regime. Consistent with the theory of predatory rule (Levi 1988), inputs to policy choice are constraints posed by the bargaining power of rulers, their security of tenure, and the transaction costs of implementation. The *pace* of institutional change, measured by the rate of land privatization, will depend on the alignment of policies and actions by political authorities and bureaucrats to either promote or retard land privatization.

Put simply, the choice for political authorities is to own land and collect rents, or to sell land and collect property taxes. This choice determines the path of change. The pace of change can be rapid, incremental, or in stasis.

The unit of analysis is municipal land registrations and transactions. The dependent variables measure institutional change according to indicators of private land ownership, land market activity, and land as a source of fiscal revenue and mortgage collateral. A higher share of private land ownership by citizens and firms and land market activity in a given location will represent a faster relative pace of institutional change.

¹²⁷ Avner Greif, *Institutions and the Path to the Modern Economy: Lessons from Medieval Trade*. (New York: Cambridge University Press, 2006).

To operationalize the hypotheses, I develop a land governance model based on NIE literature pertinent to the institutional environment and governance of property rights. Indicators in the model are specified according to World Bank Group operational experience in transition economies. The land governance model is comprised of three factors that are critical to the formation and planning of urban land rights: (i) political authority and legal order; (ii) bureaucratic organization and performance; and (iii) public engagement in decision-making.

The dissertation employs the land governance model to compare three municipalities with diverse land market outcomes over two periods. The first period, 1990–2001, begins with the first reference to private ownership of land in Russian Republic (RSFSR) law and ends with adoption of the Land Code and related Civil Code amendments. Passage of these laws represented a watershed federal achievement to promote privatization of urban land in regions of the Federation. The second period, 2002–2013, covers the implementation of the Land Code up to the roll-out of a nationally digitized property rights registration system. Case study municipalities have been selected according to quantitative measures of land ownership to illustrate diverse property rights regimes.

Each case study poses three analytical questions: why, when, and how do institutions change? *Why* and *when* rulers decide to privatize or lease state land will depend on their bargaining power, security of tenure, and the transaction costs of policy implementation. The answer will shed light on the dynamic processes that shape the revenue-maximizing incentives of political authorities. *How* institutions change is a process of interaction among political authorities, the bureaucracy, and society. This

process is captured in the land governance model and quantified in output indicators, discussed below.

8. *Why and When Institutions Change*

Before assessing the implications of a given policy choice, we need to understand *why* political authorities choose to follow a particular path. According to the theory of predatory rule, the choice of a given revenue-maximizing policy will depend on the constraints faced by rulers related to their bargaining power, security of tenure, and transaction costs of institutional change. These trade-offs vary at any point in time and thus, the outcome is not predetermined. Theory guides the prediction of outcomes.

Bargaining power is understood in Russia's federal system as autonomy of national and sub-national authorities to determine the land-rights regime in their respective jurisdictions. Following Levi, the more rulers control resources that are needed by others, the greater their bargaining power. Bargaining power will be a function of the economic and political resources at the disposal of local political authorities in relation to federal authorities and constituents. Ideology is also a political resource if it translates into policy action. Where political authorities have relatively more political and fiscal autonomy they will pursue the path most beneficial to their interests.¹²⁸ Trends in land values will influence the decision by political authorities to privatize. If these are high or rising, there

¹²⁸ Levi 1988, pp. 17-19.

will be greater likelihood that municipal authorities will manipulate the process to forestall privatization to keep control of land rents.¹²⁹

Transaction costs comprise the time and investments needed to negotiate, measure, monitor, and enforce a transparent property rights regime. Transaction costs will be a function of the cost of modernizing property registration and land planning systems versus continuing with the organizational structures inherited from the Soviet period. Rulers will seek the most feasible organizational structure and economize on the costs of each step.¹³⁰ If transaction costs are too high, the “remediableness” condition (test of feasibility) of Williamson will not be met, and existing institutions will dominate over more efficient ones. Included in transaction costs are negotiations among political authorities, bureaucrats, and the public to decide on a course of action. The higher the transaction costs, the slower will be the process of changing systems.

The discount rate affects the security in office of the ruler, which influences their revenue-maximizing incentives. Those with a longer time horizon are more inclined to invest in systems and reforms that will generate stable revenues. Those who are more uncertain about the future will maximize rents in the present, even at the expense of efficiency and growth.¹³¹ The appointment or election of governors and mayors will be a

¹²⁹ Empirically, this is the finding in Kisunko and Coolidge (2007) and Pyle (2011). North describes how a change in relative prices will lead parties to exchange to renegotiate the terms of contract. If the benefits are sufficiently great, the party that stands to benefit will invest resources to restructure a higher set of rules or violate a norm of behavior. North 1990, p. 86.

¹³⁰ Levi 1988, pp. 23-32.

¹³¹ Levi 1988, pp. 32-33.

factor of security in office.¹³² Length of tenure can affect relations with business organizations and collusive behavior.¹³³

The case studies will test the explanatory power of bargaining power, transaction costs, and discount rate in determining why and when rulers choose to own or privatize land. As noted earlier, empirical evidence from transition countries found that the discount rate of rulers may be counter to theory, that is, rulers with longer tenure in office tended to reform less than those subjected to periodic elections.¹³⁴ In addition, theory may not adequately account for the polarization of politics¹³⁵ or the role of society in constraining the bargaining power of rulers.¹³⁶ These factors will be examined in the case studies.

9. *How Institutions Change*

The land governance model explains the *pace* of institutional change by simplifying complex interactions among political authorities and bureaucratic organizations. Imagine two groups of players, politicians and bureaucrats, who can choose to promote or resist land privatization. A typology of four cases is postulated. In two cases, politicians favor land privatization while bureaucrats either hinder or support the process. In the other two

¹³² According to Weber (*Economy and Society*, 960), elected officials have greater autonomy because they derive their power from “below” rather than from “above.” As a consequence, an elected official has certainty of completing a term in office, raising both the security and bargaining power of the official. The opposite is the case for appointed officials who are subject to removal by higher authorities at any time. After winning several landslide elections, the dissertation argues that Mayor Luzhkov of Moscow lost bargaining power and security after his appointment by President Putin in 2006.

¹³³ Gulnaz Sharafutdinova and Gregory Kisunko, “Governors and Governing Institutions: A Comparative Study of State-Business Relations in Russia’s Regions,” Policy Research Working Paper 703, (Washington, D.C.: World Bank Group Governance Global Practice Group), 2014.

¹³⁴ Hellman, *Winners Take All*, 1998.

¹³⁵ Frye, *Building States and Markets*, 2010.

¹³⁶ Greene, *Moscow in Movement*, 2014.

cases, bureaucrats drive land rights reforms with active or passive resistance from political authorities. The cases are presented schematically below:

Figure I. Hypothesized Land Governance Model

<p style="text-align: center;">II.Incremental Change</p> <p>Political authorities oppose land privatization Bureaucrats implement policies effectively</p> <p>Society is passive or active</p>	<p style="text-align: center;">IV.Rapid Change</p> <p>Political authorities promote land privatization Bureaucrats implement policies effectively</p> <p>Society supports privatization</p>
<p style="text-align: center;">I.Stasis</p> <p>Political authorities oppose land privatization Bureaucrats resist implementation</p> <p>Society opposes privatization</p>	<p style="text-align: center;">III.Incremental Change</p> <p>Political authorities promote land privatization Bureaucrats resist implementation</p> <p>Society is passive or active</p>

The ability of political authorities to carry through on a particular policy depends on actions by bureaucratic units responsible for two functions: land registration (titles) and land use (zoning and construction permits). If all state organizations support land privatization, institutional change in land rights will be rapid (box IV). The outcome would be stasis in the absence of political leadership and bureaucratic support (box I). Such an outcome is also possible if political authorities and land developers collude to retain control of the most valuable land. Finally, change will be incremental if political authorities and the bureaucracy pursue inconsistent policy directions. This could occur if, for example, the chief architect’s office imposes restrictions on urban land use despite political support for privatization (box III). Another incremental outcome could occur if bureaucrats register

land effectively but sales benefit political insiders or state agencies expropriate property (box II).¹³⁷

Public engagement is an intervening variable that may influence the actions of political authorities and bureaucrats. The public may either be the principal or the agent of change in the theory of predatory rule; what is most critical is who sets the agenda, state or society. The premise of the dissertation is that the public in Russia does not set the policy agenda and is therefore not the principal directing the actions of agents in government. Nevertheless, public engagement may put pressure on political authorities and bureaucrats to open access to land and increase the security of land rights. Active public support or opposition to land privatization would reinforce a rapid pace of institutional change or stasis. A passive public role is likely to reinforce incremental institutional change. Given this intervening role, society is not a primary explanatory variable of institutional change.

While typologies do not mimic actual cases, as Weber noted, Russian history offers precedents that illustrate the influence of conflict or convergence among politicians, bureaucrats and the public on the substance and pace of institutional reforms. The land governance model is thus consistent with empirical evidence in Russian history.

Three contrasting cases illustrate how the presence or absence of alignment among the three levels of the land governance model (political authorities, bureaucracy, society) influenced institutional change in Imperial Russia. Beginning in the 18th century, Peter the Great and Catherine II aimed to instill *zakonnost'* (rule of law) among the citizenry and

¹³⁷ The stylized scenarios draw on Kisunko, Gregory and Jacqueline Coolidge, *Survey of Land and Real Estate Transactions in the Russian Federation*. (2007) World Bank Policy Research Working Paper 4115; Frye (2004); Pyle (2009); Pomeranz, William, *Whither Russian Property Rights?* Center for International Private Enterprise, www.cipe.org, March 11, 2004; Leonid Limonov, *Vlast' i sobstvennost' na zemliu v Rossii: k voprosu o zavisimosti ot traektorii predshestvuiushchego razvitiia*. Mimeo, 2010.

public administration. Yet *proizvol* (arbitrary rule) by administrative officials undermined tsarist reforms, while censorship and passivity muted the public's voice. Passive resistance also characterized bureaucrats. Fearful of tsarist surveillance, officials hid behind regulations and routines. Institutional change from the top suffered from the absence of support by the bureaucracy and society from below. In 1840, with three million decrees lying idle, several ministers initiated efforts to reform the civil service. By the mid-19th century, with the support of Tsar Alexander II, enlightened bureaucrats and educated society led the most significant reforms such as emancipation of the serfs. The confluence of actions by political authorities, civil servants, and educated society on the Great Reforms of 1857-64 "created a new role for citizens in national affairs and heralded the beginning of the greatest era of social and economic renovation to occur in Russia's history since the death of Peter the Great."¹³⁸ After the revolution of 1905, enlightened political leadership by Count Sergei Witte (Prime Minister, previously Finance Minister) and Prime Minister Peter Stolypin (1906-1911) instituted new political and economic institutions, including conversion of communally-held peasant land into private land rights. They were supported by a 'Great Reform' society of responsible social and professional groups that assumed a new role as the champion of transformation. Yet land reforms in particular faltered due to resistance by Tsar Nicholas II, the conservative land-owning nobility, and an ineffective bureaucracy: 60% of applications for land rights remained unprocessed as of the onset of World War I.¹³⁹

¹³⁸ W. Bruce Lincoln, *The Great Reforms: Autocracy, Bureaucracy and the Politics of Change in Imperial Russia*, Dekalb: Northern Illinois University Press, 1990, p. 62.

¹³⁹ W. Bruce Lincoln, *The Great Reforms: Autocracy, Bureaucracy and the Politics of Change in Imperial Russia*, Dekalb: Northern Illinois University Press, 1990, pp. 21-35 and Stephen F. Williams, *Liberal Reform in an Illiberal Regime: The Creation of Private Property in Russia 1906-1915*, Hoover Institution Press, 2006.

As these cases illustrate, major institutional change occurred when political authorities, civil servants and society were aligned on the direction of reforms. Institutional change was incremental or stalled in the absence of alignment. In the interest of brevity, the cases gloss over the acrimonious debate that accompanied each policy decision. Any major institutional change will create rival groups at each level of the land governance model. However, by simplifying a complex process, the value of the typology is to sharpen the distinction between political authorities and civil servants, and to highlight how the interface of these actors and society will determine the pace of institutional change over the course of a decade or more.

To review each category in the typology, land rights are expected to be most secure in municipalities where local political authorities favor land privatization and where the bureaucracy supports and implements organizational changes to improve land services to the public. In this case there would be a clear alignment of policy objectives and actions in favor of land privatization by political authorities and bureaucrats at the federal, regional and local levels. For reasons given by North et al on the difficulty of instituting the rule of law when property rights are contested, I expect these to be the exception.

At the other extreme, opposition to private land ownership at the municipal level by local political authorities and the bureaucracy will stall implementation of federal land privatization policies.¹⁴⁰ In these locations, institutional stasis would result, with land privatization relatively low and limited improvement in public land services. The intermediary category is incremental change. Land registration was federalized after

¹⁴⁰ As the unit of analysis is at the municipal level, this case would change if the federal government proposed to renationalize privatized land and outlaw further privatization. In such instance, there would again be full alignment between , and the

adoption of the Land Code in 2001. Thus, if local performance deviates significantly from federal priorities, it indicates that municipal authorities have greater bargaining power over the federal registration office in their jurisdiction than the federal government. This was the case in Moscow until President Medvedev replaced Mayor Luzhkov in 2011. I hypothesize that the more common cases are expected to be those of incremental change, where political authorities and the bureaucracy lack alignment on land policies.

The inputs to decision-making will enable us to understand the motivation of political authorities in pursuing a particular path of institutional change. To test the hypothesis, we also need an objective method to evaluate whether political authorities and bureaucrats are promoting or obstructing the implementation process. Output indicators in the land governance model will be used to compare the implementation capacity and performance of case study cities. These indicators will capture factors that influence the efficiency, quality and security of the land rights regime at the local level. Efficiency refers to procedures, time and cost to transfer property. Quality and security refer to the transparency of information, reliability of land parcel and property titles, geographic coverage, and existence and performance of dispute resolution systems.¹⁴¹

Output indicators for each level of the land governance model will be compared in Chapter 8 for the selected case study cities. Indicators for political authorities and the legal order may include the registration success rate (rejections per total registered), survey results on obstacles to land access, and the performance of a complaint or dispute resolution system. Indicators for bureaucratic organization and performance may include efficiency (improvement in time, cost and number of procedures to register land), client satisfaction

¹⁴¹ World Bank, *Doing Business 2015*, pp. 26-28

and corruption ratings. Public engagement in decision-making would be reflected in public information requests per capita, transparency and accessibility of information on land rights and land use planning, knowledge of citizens of their rights, and participation in public hearings on the city's General Plan and major development projects.

Implementation capacity and support by political authorities for more secure land rights would be reflected in higher land registration success rates, better enforcement of land rights (e.g. fewer cases referred to courts), and fewer obstacles in access to land. Greater efficiency and quality of public services by the bureaucracy would be evident in improving trends on registration processes, client satisfaction, and corruption.

Public engagement in land-related decision-making is difficult to assess given the power of the state on land issues. Historically, arbitration of property rights by the state through police and courts increased the dependence of constituents on rulers.¹⁴² “Property rights in land are sensitive everywhere due to the significant value of the asset for households and firms in relation to management of the asset by a monopoly state institution.” The implication is that there is a power imbalance between property owner and the state that affects the security and transaction costs of administering property rights.¹⁴³ For this reason, according to Transparency International, land administration is the third-highest sector subject to corruption after the police and the courts.

In Russia specifically, reliable information on civic activity is limited given the “normally placid surface of Russian political life”¹⁴⁴ and bias in reporting on public

¹⁴² Levi 1988, p. 19.

¹⁴³ Gavin Addlington, Principal Land Economist, World Bank, personal interview October 2, 2014.

¹⁴⁴ Lilia Shvetsova, “Implosion, Atrophy, or Revolution?”, *Journal of Democracy* 23, 3 (2012): 19-32 quoted in Tomila Lankina, “Daring to Protest: When, Why, and How Russia’s Citizens Engage in Street Protest,” PONARS Eurasia Policy Memo No. 333, August 2014, p. 1.

protests.¹⁴⁵ Nevertheless, a data set analyzed by Tomila Lankina reveals a consistent, relatively flat trend in civic protests related to legal, environmental and cultural concerns constituting 27% of all protests recorded from 2007 to 2013.¹⁴⁶ Many of these relate specifically to abuse of property rights and urban planning, such as the destruction of cultural monuments for development projects.¹⁴⁷

Following Lankina's observation of the formation of "constituencies for protest,"¹⁴⁸ the dissertation will examine whether protection of property rights may be a determinant of increasing civic engagement in land decisions and greater public outreach by local governments. This will be done more qualitatively, by examining local cases of protest, rather than quantitatively. Quantitative data on information requests is available but reporting on public hearings is patchy and unreliable.

10. Identifying Patterns of Institutional Change

There is currently no accepted diagnostic framework to quantify institutional change and benchmark municipalities accordingly. Hence, the dissertation examines several possible methods based on ease of property registration, as an explanatory variable, and share of private urban land ownership, as the key dependent variable of institutional change. Property registration is a local government responsibility that is subject to a national legal and regulatory framework. The selection of case study cities needs to be

¹⁴⁵ Lankina, *Protest*, 1.

¹⁴⁶ Other categories are political (38%), social (20%) and economic (15%). Lankina, *Protest*, 7.

¹⁴⁷ Lankina observes that after the severe crack-down on political protest following President Putin's re-election in 2012, there has been a rechanneling of public grievances into issues with more local content, including property issues. These include "...the corrupt municipal officials who enrich themselves by generating kickbacks from illegal construction projects on beautiful nature reserves; [and] the private companies that dupe citizens into paying for apartment blocks that never get completed, and then get away with it because of the complicity or inaction of municipal and regional officials..." Lankina, *Protest*, 3.

¹⁴⁸ Lankina, *Protest*, 4.

based on the *de facto* rather than *de jure* performance of municipalities. The *Doing Business Subnational Reports* for Russia in 2009 and 2012¹⁴⁹ provide a unique data set to examine municipal performance because the methodology examines laws and regulations as implemented rather than as promulgated.

The premise of *Doing Business* (DB) is that adherence to rules by local officials will reduce the regulatory burden and benefit business activity of small and medium enterprises. A particular focus is clarity of rules to establish property rights.¹⁵⁰ In 2009, ten municipalities agreed to an objective analysis of key regulations under their authority that influence the competitiveness of the environment for business activity, including property registration.¹⁵¹ In 2012, the analysis covered an additional twenty municipalities that were selected by the Ministry of Economic Development of the Russian Federation according to criteria that included population, level of economic activity, and geographic and political diversity.¹⁵² Hence, performance of municipalities in the two series is not directly comparable. Moreover, because the indicator for property registration measures the transfer of both land and buildings of previously privatized property, and the property is free of title disputes, it represents unencumbered transactions in the secondary property market rather than first-time privatization of land only. With these limitations, the data nevertheless enable an initial comparison of bureaucratic performance on the core function of property registration.

¹⁴⁹ World Bank and IFC, *Doing Business Subnational: Doing Business in Russia*, 2009, 2012.

<http://www.doingbusiness.org/russia>

¹⁵⁰ *Doing Business Subnational: Doing Business in Russia* 2012, p. 7.

¹⁵¹ This was the first study to compare business conditions at the local level in Russia. It was requested by the Ministry of Regional Development of the Russian Federation to the World Bank Group. A letter inviting expression of interest was sent to 19 economically significant regions. The first nine to respond were included in the study, in addition to Moscow. World Bank and IFC, *Doing Business Subnational in Russia* 2009.

¹⁵² *Doing Business Subnational: Doing Business in Russia* 2012, p. i.

Table 2. Ease of Property Registration in 30 Cities, 2012

Property Registration Easier	Property Registration More Difficult
Kaluga (1); Vladikavkaz (2); Vladivostok (3); Kazan, Omsk, Rostov-on-Don, Volgograd (4); Petrozavodsk, Samara, Saransk, Surgut, Tver, Ulyanovsk, Voronezh, Vyborg (8)	Yaroslavl (16); Khabarovsk (17); Irkutsk (18); Stavropol (19); Kirov, Yekaterinburg (20); Kaliningrad (22); Murmansk (23); Novosibirsk (24); Tomsk (25); Moscow (26); Perm, St. Petersburg (27); Kemerovo (29); Yakutsk (30)

Source: World Bank and IFC, Doing Business in Russia Subnational, 2012, p. 32.

By using their ranking on ease of property registration, we might hypothesize that municipalities which strive to facilitate property markets are more inclined to hasten the pace of land privatization and thus institutional change. Empirically, the longer the duration of the property registration procedure, the lower the rate of land privatization and higher the level of corruption.¹⁵³ In Table 2, the municipalities are divided into two categories: high (rank 1-15) and low (16-30)¹⁵⁴ according to performance of the land administration bureaucracy. By this measure, the cases of rapid institutional change might include Kazan and Rostov-on-Don, each ranked 4. At the other extreme, lower-ranked municipalities such as Moscow (26), St. Petersburg (27) and Perm (27) might represent

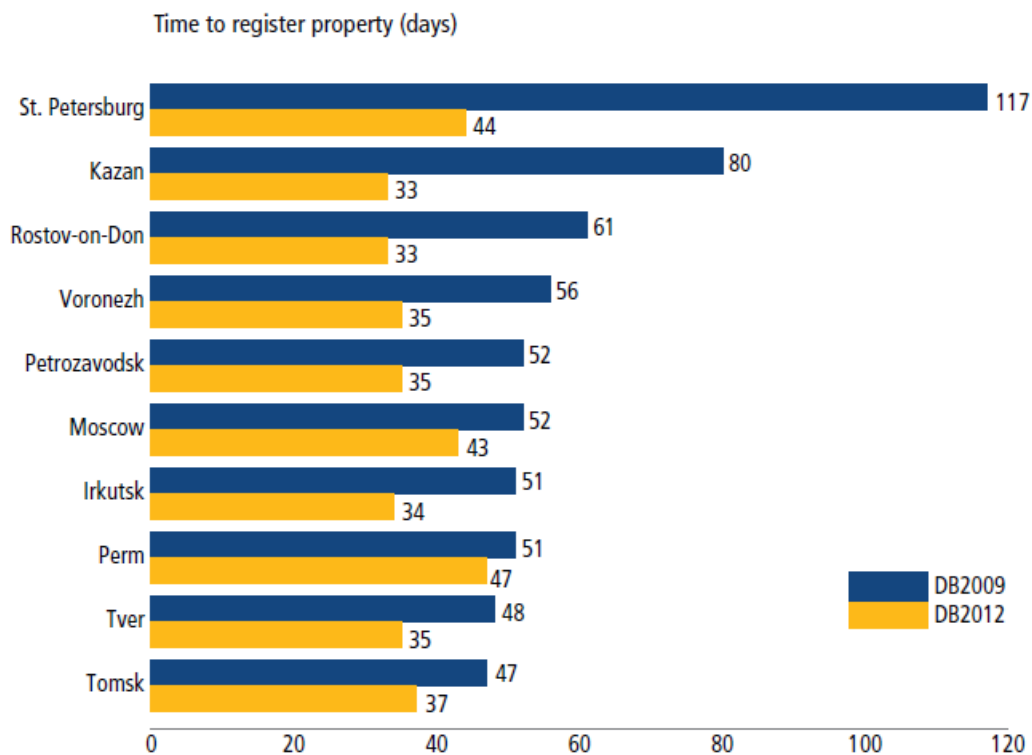
¹⁵³ Based on a survey of land and real estate transactions in 15 regions covering 1188 legal entities and sole proprietors in 2004, Kisunko and Coolidge found that a reduction of 30 days would increase the privatization rate by 11% per 100,000 residents. Gregory Kisunko and Jacqueline Coolidge, "Survey of Land and Real Estate Transactions in the Russian Federation," Policy Research Working Paper 4115, (Washington, D.C.: World Bank, 2007), 3.

¹⁵⁴ The ranking on property does not correlate with the overall aggregate ranking of municipalities based on four indicators: starting a business, dealing with construction permits, getting electricity, and property registration. This is because no city does equally well in all four categories. However, with a few exceptions, the top performers on property registration also tend to be in the top 15 aggregate rank on overall ease of doing business. The exceptions are Stavropol, Yaroslavl, Irkutsk, and Kirov. In addition, several cities share the same ranking because they have equivalent procedures in line with national legislation. Cities that do not follow national law have lower rankings. See *Doing Business in Russia Subnational 2012*, p. 2.

stasis. While a useful initial differentiation, one static indicator is an insufficient basis on which to draw meaningful conclusions on institutional development.

A complementary approach is to study trends over time. Comparing progress in the subset of ten municipalities that were ranked in 2008 and 2011 shows stronger initiative on the part of several municipalities to make property registration easier, as noted below. On this basis, St. Petersburg demonstrates the fastest relative improvement, while it remains the slowest in terms of days to register property, together with Perm and Moscow.

FIGURE 6.3 Property registration is faster in the 10 cities studied in 2008



Note: Only the 10 cities measured in *Doing Business in Russia 2009* are included in this figure.

Source: *Doing Business* database.

How does ease of business property registration correlate with share of enterprise land ownership? This is a potentially more useful comparative framework that describes how one dependent variable for the pace of institutional change – enterprise land ownership

– correlates with one explanatory variable -- bureaucratic performance on property registration. Data on land ownership are gradually improving following the establishment of unified records under Rosreestr (Russian land registration agency). Nevertheless, data by municipality are not available. As a close approximation, the dissertation uses data on land ownership by region in urban areas (*zemli gorodskikh naselyonnikh punktov*) rather than all population points, which include villages. Since the regional capital city generally represents the highest share of the urban population as well as the center of industrial activity, the data on urban land ownership will be taken to represent the regional capital.¹⁵⁵ By this definition, urban land in 2011¹⁵⁶ in principal municipalities totaled 8,040,800 hectares, of which citizens owned 697,400 hectares (9.6%), enterprises 291,800 hectares (3.35%), and municipal governments 7,051,600 hectares (87%).¹⁵⁷ Land owned by the federal and oblast governments is excluded as outside the control of authorities in the regional capital city.

While a focus on enterprise land ownership is important, it is incomplete. What is missing is a second dependent variable: ownership of urban land by citizens. Including citizen land ownership corrects for two limitations in the DB surveys. First, the secondary property market analyzed in DB concerns previously privatized property, both land and buildings, so the transaction cost of registering such trades does not represent the ease or difficulty of privatizing land in municipal ownership. Such land may be vacant or

¹⁵⁵ Population of the 30 DB municipalities in 2010 was 34,548,565, or 55% of the population of the regions (54,809,525). Excluding Moscow and St. Petersburg, which are technically categorized as regions, the capital cities constitute 36% of the regional population.

¹⁵⁶ The *Doing Business in Russia Subnational* report for 2009 is based on 2008 data; for 2012 it is based on 2011 data.

¹⁵⁷ Rosreestr, *Gosudarstvennyi doklad o sostoianii i ispol'zovanii zemel' v rossiiskoi federatsii v 2011 godu*, Ministry of Economic Development and the Federal Service for State Registration, Cadastre and Cartography, Moscow, 2012.

encumbered by a building that is privately or municipally owned. Business growth depends on getting access to new land that is unencumbered.¹⁵⁸ Hence, while the ease of registering property is an important indicator of government interest in supporting business development through faster property registration, it is silent on whether municipalities are inclined or disinclined to favor land privatization.

Second, a high relative share of private land ownership by enterprises does not, *ipso facto*, signify that municipalities are motivated to liberalize the economy and develop land as a long-term revenue source. While enterprises may advocate for more secure property rights in order to protect and leverage their investments, the circumstances by which enterprises acquired land can either promote or retard further expansion of private land ownership. These circumstances can range from transparent auctions in the best case, or in the worst, to insider networks or unofficial payments between enterprises and their former state ministry owners. Once enterprises acquire urban land they may also limit competition by colluding with state officials to exclude newcomers from purchase of land in lucrative locations. In either case institutional change will be stymied.

Hence, a broader indicator of the pace of change must include urban land ownership by citizens, held either for private uses (e.g. garden plot) or attached to homes, dachas, apartments, shops, or small (family or limited partnership) businesses. The premise of the dissertation is that, as citizens increasingly come to enjoy the fruits of land ownership, they

¹⁵⁸ According to Alan Bertaud, the Silicon Valley phenomenon was dependent on easily accessible land that enabled entrepreneurs to expand, both spatially for business development, but also competitively, by reducing transaction costs of non-core business operations. That is, management could concentrate on chip manufacturing rather than on cumbersome bureaucratic requirements to access land. Interviews January 24- February 10, 2010, Moscow.

will become a louder voice for the sanctity of property rights against the encroachment of the state, and become more interested in zoning laws and regulations.

To determine the correlation between the ranking of 30 municipalities in Subnational Doing Business in Russia in 2012 and the share of citizen and enterprise land ownership, I ran two simple econometric tests, using data for 2011. Table 3 presents land ownership data compared to municipality rank on ease of property registration. The correlation table follows. Based on Kisunko and Coolidge (2007), we would expect that enterprise ownership would be higher in municipalities that have improved the ease of property registration.¹⁵⁹

Table 3: Land Ownership in Russia in 2011 and Ease of Property Registration

Municipality	Citizen Share	Legal Entity Share	Ease of Registration Rank
Irkutsk	4.69	3.62	18
Kaliningrad	7.57	1.85	22
Kaluga	11.11	4.53	1
Kazan	10.89	14.98	4
Kemerovo	4.72	3.38	29
Khabarovsk	2.98	0.23	17
Kirov	6.44	3.22	20
Moscow	0.27	2.93	26
Murmansk	0.19	1.75	23
Novosibirsk	12.77	3.84	24
Omsk	13.95	3.02	4
Perm	6.85	3.10	27
Petrozavodsk	3.25	3.55	8
Rostov-on-Don	11.74	6.24	4

¹⁵⁹ See earlier reference to survey findings by Kisunko and Coolidge (2007).

Saint-Petersburg	4.42	13.33	27
Samara	7.49	6.91	8
Saransk	12.96	2.43	8
Stavropol	17.79	5.73	19
Surgut	1.80	0.44	8
Tomsk	4.55	1.85	25
Tver	9.29	2.99	8
Ulyanovsk	8.21	0.85	8
Vladikavkaz	5.29	0.79	2
Vladivostok	5.65	2.70	3
Volgograd	6.29	0.43	4
Voronezh	15.12	2.24	8
Vyborg	8.60	5.81	8
Yakutsk	1.82	1.14	30
Yaroslavl	8.74	5.63	16
Yekaterinburg	5.70	4.96	20

Correlation Table

	Citizen Share	Legal Entity Share	Rank
Citizen Share	1		
Legal Share	0.2556	1	
	.(0.1728)		
Rank	-0.3873	-0.0211	1
	.(0.0345)	.(0.9120)	

The results are surprising: against expectations, improvements in the ease of property registration have benefited citizens more than enterprises. As evidenced by the correlation table and the scatter diagrams (in Annex 1), the correlation between ease of property rank and *enterprise* land ownership is negative as expected (lower the rank, higher the enterprise share) but the relationship and statistical significance are very weak (p-value

of 0.91). In contrast, there is a moderate correlation between *citizen* ownership and ease of property registration that is statistically significant (p-value less than 0.05). There is a positive relationship of medium strength between enterprise share and citizen share, but the finding is not statistically significant (p-value of 0.17).

To understand why enterprise land privatization is anomalously unrelated to the ease of property registration, I analyzed the World Bank – EBRD Business Environment Enterprise Survey (BEEPS)¹⁶⁰ conducted in 2011 to determine the characteristics of businesses that reported obstacles in access to land. Following Kisunko and Coolidge (2007), we would expect firms that are renting land to have more difficulties than those that own land. To augment their analysis, bivariate and multivariate analyses were conducted to determine if there is a correlation between enterprises that report obstacles in access to land (privatize or lease) and the following enterprise characteristics:

- a. Size of firm
- b. Year operations initiated
- c. How the firm was established
- d. Whether a single individual owned more than 50% of the firm
- e. Whether the firm owns or leases land
- f. Bribe Tax: Expectation of informal payments to get things done

We would expect firms with ties to the state to have fewer obstacles in access to land. The nationally and regionally representative sample of firms is as follows:

How was the firm established?	Freq.	Percent	Cum.
Privatization of a state-owned firm	282	6.68	6.68
Originally private, from time of start	3,774	89.43	96.11
Private subsidiary of a formerly state-	86	2.04	98.15
Joint venture with foreign partner(s)	25	0.59	98.74
State-owned firm	19	0.45	99.19
Other	34	0.81	100
Total	4,220	100	

¹⁶⁰ EBRD-World Bank, Business Environment and Enterprise Performance Survey (BEEPs), 2013.

This sample is larger and more diversified in terms of enterprise size than previous enterprise surveys analyzed in the literature.¹⁶¹ To simplify the analysis, three indicator variables were created to combine firms with or without state ties. These are presented below as private, some government, and SOE (state-owned enterprise). The table below reports the significant (at 0.1 level) correlation coefficients between firms reporting obstacles to land and firm characteristics.

Characteristics of Firms Reporting Obstacles in Access to Land	
Firm Indicators	Obstacle land
firm_size	0.0702
Registration_year	
majority_owned	
land_own	
land_rent	0.0669
bribes_dummy	0.1936
some_government	-0.0406
SOE	-0.0352
Private	0.0485
state_ties	-0.0482

The results validate two propositions: i) it is easier for firms with state ties to access land; and ii) private firms and those that lease land face greater difficulties. Firms

¹⁶¹ Previous surveys tended to focus on privatized state-owned enterprises of different sizes. Pyle (2011) surveyed 359 large former state-owned enterprises in 2009; Frye (2004) surveyed 500 large enterprises in eight capital cities in 2000, of which two-thirds were former state-owned enterprises; he also reviewed surveys of 190 small business managers in 3 cities in 1998; Kisunko and Coolidge (2007) surveyed 1188 small and medium enterprises (SMEs) in 15 regions that had undertaken land and real estate transactions in 2004. An important feature of the survey was to understand the difficulties in privatizing land under buildings that were already privatized. Each contributes findings of relevance to the dissertation.

reporting obstacles also admitted to having paid bribes for public services. Finally, firm size is statistically significant, with larger firms encountering more difficulty than smaller firms. The reason is unclear and requires further analysis. There is no relationship between obstacles to land and the year the firm was established, majority ownership by one individual, or land ownership by the firm.

The findings from the bivariate analysis were further tested using a logistic regression (attached in Annex 2). The multivariate analysis confirms the bivariate results. Firm size, land leasing, and bribes are all significant and correlate positively with firms reporting obstacles to land. In addition, firms with state connections tend to have fewer obstacles to obtaining land (and private firms more).

Based on the statistical analysis, it is evident that enterprise land privatization is highly politicized. Municipalities do not treat all firms equally. Former state-owned firms are favored over larger private firms, and those that lease land are more likely to pay bribes. These findings raise questions about the motivations of political authorities and bureaucrats in denying property rights to some categories of firms, thus constraining their opportunity to expand and grow.

Citizen land ownership represents a less politicized indicator that also captures the attitudes of society on institutional change, distinct from enterprises with ties to the state. Surveys on citizen perceptions comparable to those for enterprises are not available. However, the correlation between ease of property registration and citizen land registration suggests that citizens have benefited more than enterprises from the reduction of administrative barriers to property registration. While more current information is not available, social surveys in seven oblasts in 2003 indicated that Russians who had adapted

to new post-Soviet social and economic conditions were eager to register property. These Russians generally had positive expectations about personal income, political stability and security of their legal rights; nevertheless, they remained anxious that arbitrary actions of federal and local authorities may undermine their rights. Those Russians who chose not to register property (apartments, dachas, land) generally had negative expectations overall.¹⁶² While there appear to be fewer barriers to property registration by citizens, the security of property rights may remain in question.

The premise of the dissertation is that by adopting the constitutional right to private land ownership, federal political authorities aimed to establish land rights equally, without bias, for both legal and physical persons. Hence, municipalities that have higher than average private ownership in both categories (enterprises and citizens) are defined as representing *rapid* institutional change; those with lower than the national average in either category are defined as cases of *incremental* change; those that fall below the national average in both categories are defined as cases of *stasis*.

Based on the foregoing, the dissertation proposes four categories according to the share of private urban land ownership by enterprises and citizens. Each of the 30 municipalities in *Doing Business in Russia Subnational 2012* is plotted on a 4-square diagram according to private ownership share by enterprises and citizens. The vertical axis represents ownership share by enterprises that is above or below the national average; the horizontal axis represents the same for citizens.

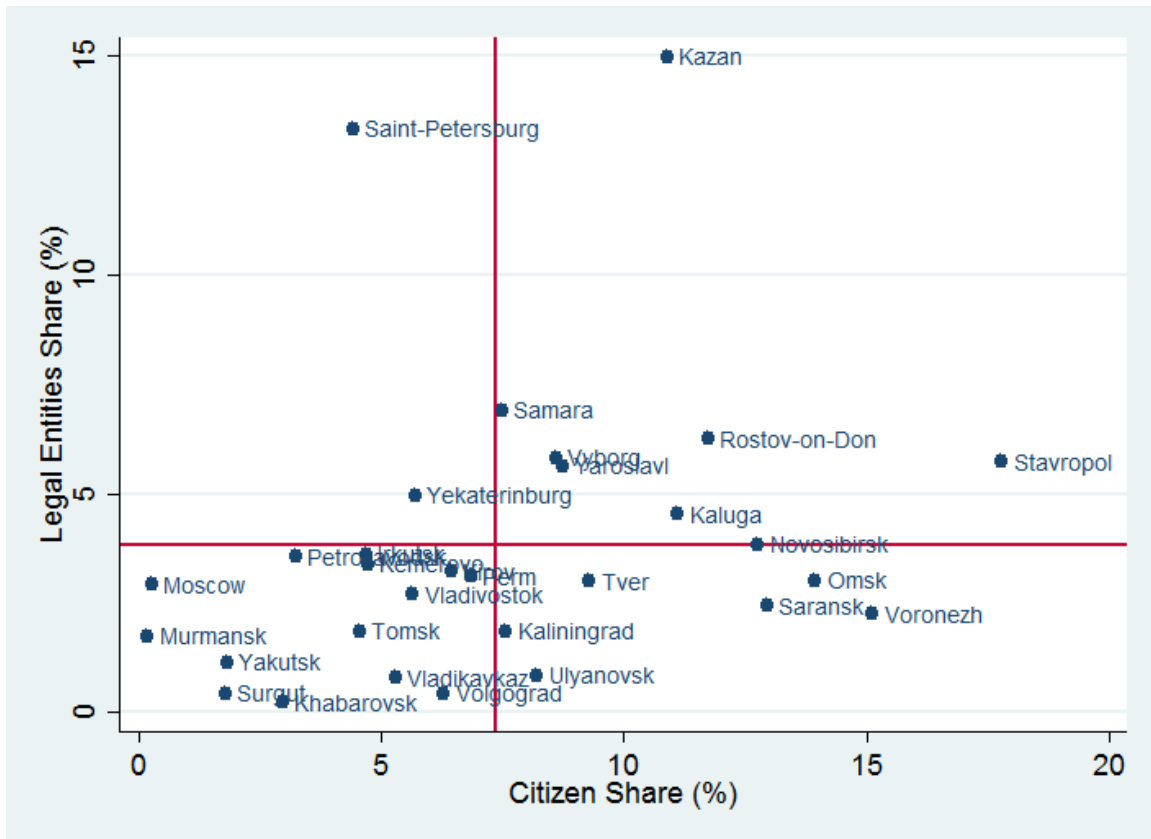
Using the rate of private ownership as a proxy for the path and pace of change, Diagram 1 demonstrates the dissertation's hypothesis that rapid institutional change is

¹⁶² Tsentr Politicheskoi Konjunktury Rossii, 2003.

relatively rare. The largest quantity of municipalities (14) falls into the quadrant of stasis. In the northeast quadrant with above-average private ownership, there are five municipalities (and two borderline), while the remaining nine fall into quadrants representing incremental change or stasis. The selection of municipalities was not random and cannot be taken as representative of the country.¹⁶³ Nevertheless, as a first approximation, it suggests that Russia remains deeply divided on private urban land ownership, twenty years after the adoption of a constitutional right to own land.

¹⁶³ The sample includes municipalities that volunteered and others that were designated by the Russian Government.

Diagram 1: Municipalities by Ownership Shares of Legal Entities and Firms



Differentiating municipalities by this method demonstrates the importance of local factors in institutional development and the need to complement quantitative analysis with qualitative case studies. The selection criteria for case study cities should include: i) high variation in pace of change and performance on property registration; and ii) similarity in industrial structures and demographics, to control for factors that may influence privatization. A growing or stable population and rising per capita income are particularly critical for land values and privatization incentives.

On the basis of the selection criteria, the dissertation will examine Moscow (institutional stasis), St. Petersburg (incremental change) and Kazan (rapid change). Moscow has one of the lowest rankings of municipalities in institutional stasis. Among rapid institutional reformers, Kazan commands the top position in private ownership and

was the second most aggressive reformer of property registration procedures (after St. Petersburg) from 2009 to 2012. St. Petersburg commands the highest position among incremental institutional reformers for enterprise private ownership. All three cities – Moscow, St. Petersburg and Kazan – contained large industrial sectors when the Soviet Union collapsed, and each has positive growth in population and per capita income in the period under investigation.

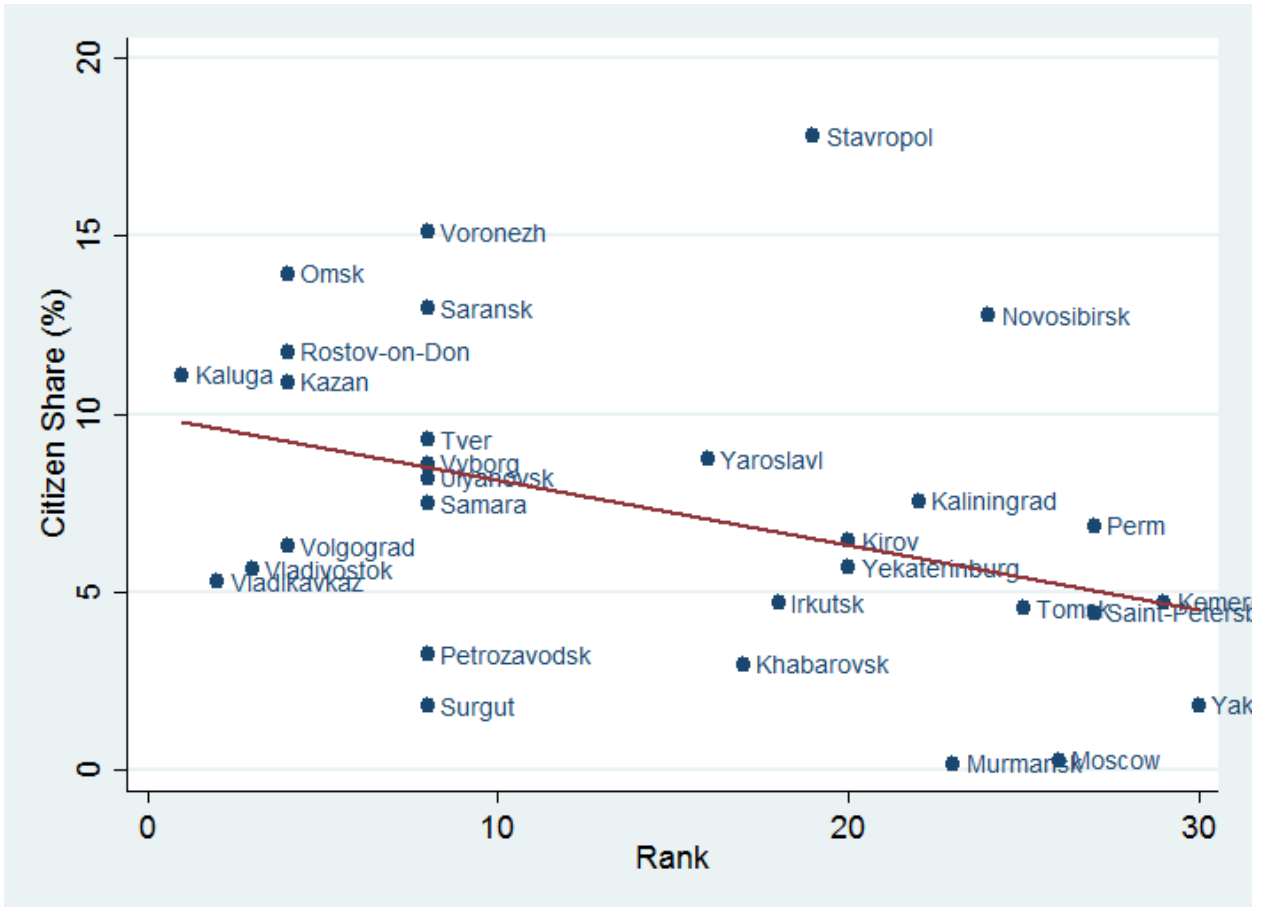
There are several benefits of this research design and methodology for the study of the path and pace of institutional change. First, inductive use of quantitative data enabled the identification of significant patterns for further examination. These include the puzzle of high regional variation in municipal land ownership nationally and shares of enterprise and citizen land ownership locally. Second, a deductive model provides a micro-foundation for analysis of complex inter-related institutions. The case studies employ quantitative indicators to explain empirical trends and qualitative field research to gain understanding of causal factors that may hinder or advance privatization.¹⁶⁴ Finally, the three case studies were selected according to Mill’s method of difference in order to compare divergence in the revenue-maximizing incentives of municipalities and the alignment of incentives of political authorities and actions of the bureaucracy. Taken together, the research methodology aims for analytic generalization, i.e., a “level two inference,” where theory is tested in cases and against rival theories.¹⁶⁵

¹⁶⁴ This distinction between explanation and understanding is in Robert E. Stake, *The Art of Case Study Research*, (Sage Publications, 1995), p. 37.

¹⁶⁵ Robert K. Yin, *Case Study Research: Design and Methods*, Applied Social Research Methods Series, Volume 5, Third Edition, (Sage Publications, 2003), p. 33.

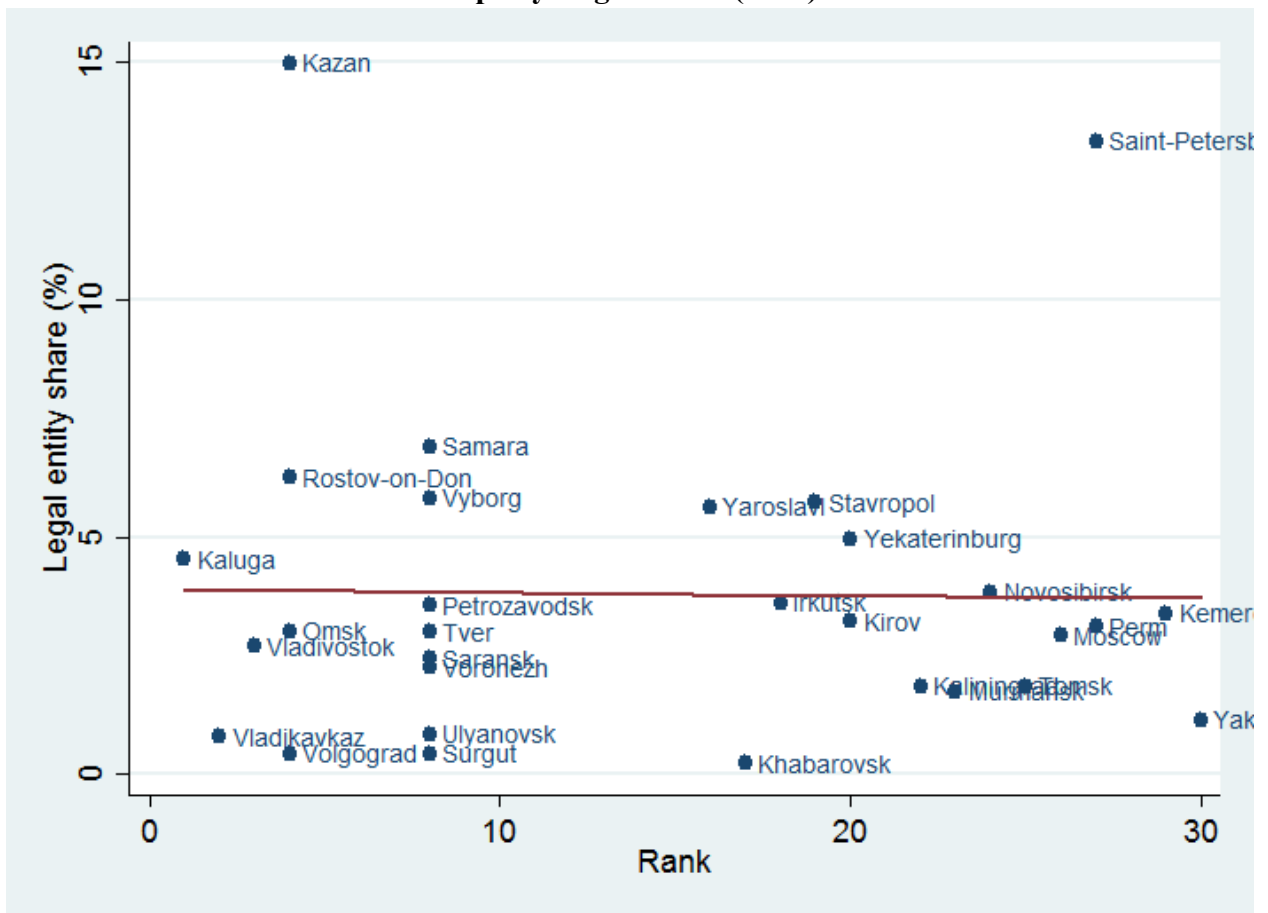
ANNEX 1

Correlation between Citizen Land Ownership and Municipal Rank on Ease of Property Registration (2011)

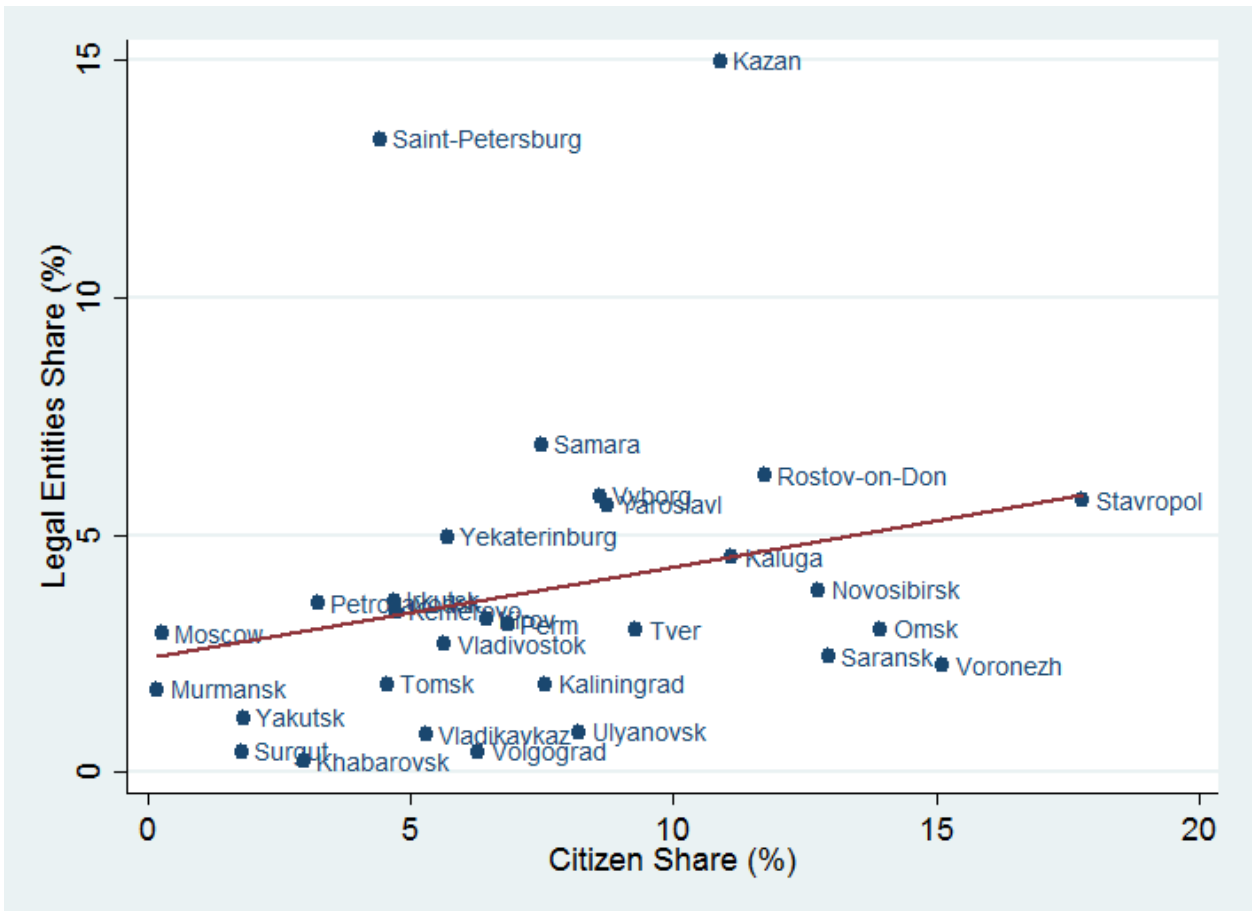


Data sources for Annex 1 are i) for rank on ease of property registration: World Bank-IFC, *Doing Business in Russia: Subnational Series*, 2012; ii) for urban land ownership by legal entities and citizens: Rosreestr, *Gosudarstvennyi doklad o sostoianii i ispol'zovanii zemel' v rossiiskoi federatsii v 2011 godu*. Ministry of Economic Development and the Federal Service for State Registration, Cadastre and Cartography, Moscow, 2012.

Correlation between Land Ownership by Legal Entities and Municipal Rank on Ease of Property Registration (2011)



Correlation between Land Ownership by Legal Entities and Citizens (2011)



ANNEX 2

Russia: Characteristics of Firms Reporting Obstacles in Access to Land in 2011

The logistic regressions report correlation coefficients using only the variables that are significant in the bivariate analysis. Those with a negative sign (SOE, Some Government, State Ties) indicate that access to land is not an obstacle for these firms. Firm size, land rent, and payment of bribes are all correlated with obstacles to land access. *Data source:* EBRD-World Bank, *Business Environment and Enterprise Performance (BEEPs) Survey*, 2013. <http://www.enterprisesurveys.org/>.

	obstacle	obstacle	obstacle	obstacle
firm_size	0.567 (3.78)***	0.528 (3.55)***	0.571 (3.81)***	0.576 (3.84)***
land_rent_dummy	0.342 (3.46)***	0.372 (3.80)***	0.335 (3.39)***	0.335 (3.40)***
bribes_dummy	0.846 (10.29)***	0.843 (10.25)***	0.844 (10.26)***	0.845 (10.27)***
some_government	-0.325 (2.23)**			
soe		-1.923 (1.83)*		
private			0.342 (2.48)**	
State ties				-0.384 (2.67)***
Constant	-1.370 (13.13)***	-1.413 (13.81)***	-1.700 (11.10)***	-1.358 (13.00)***
<i>N</i>	2,896	2,896	2,896	2,896

* $p < 0.1$; ** $p < 0.05$; *** $p < 0.01$

Chapter 3 Urban Land in Russian History

“Every man is more concerned with what belongs to him, than with what is another’s, and does not take care of that which he fears someone will take away from him.”

Catherine II, Empress of Russia, Article 296 of the Nakaz (Instruction), 1767

“Power follows property.”

John Adams, second president of the United States, 1776¹

In histories of land ownership in Tsarist Russia and the Soviet Union, the peasant is protagonist. When, on rare occasion, scholarly attention turns to urban land ownership, the page goes rather blank, much as it does in the literary works and archives of Russian scribes. Using the theoretical lens of the New Institutional Economics, this chapter looks at urban land ownership in the thousand-year span of the world’s largest country, from the first record of private property to the fall of the Soviet Union, within the limits of retrievable evidence. Given the expanse of time and territory, it is necessarily a cursory account.

In five centuries of Tsarist and Soviet rule, urban communities never acquired self-governing authority. Tsarist fiscal and political rules forced urban merchants to finance national needs ahead of local ones; political representation was not equated with taxation obligations. For most of the Imperial era, there was no incentive for commercial classes to own land, pay property taxes, or participate in civic affairs since nobles, who were tax-exempt, carried higher social and political status. Hence, private landed property failed to generate political power, and “taxation without representation” never became a rallying cry by citizens in defense of individual rights. During the Soviet period, when the state owned all land, central planners favored industry over consumers, leading to misallocation of urban land and underinvestment in housing. As a

¹ John Adams, May 26, 1776. Letter to James Sullivan. <http://historyquotes.org/john-adams-quotes/>.

consequence, cities that were at the center of political and economic development in Western Europe became like minor actors in an unpopular play in Russia.

The first section provides a survey of secondary sources on urban land in Tsarist and Soviet history. The second compares the impact of urban land rights on municipal autonomy in Russia and Western Europe. The third, fourth and fifth sections deepen the analysis by applying the land governance model to several periods in the Tsarist and Soviet eras. The sixth section concludes.

1. *Historiography on Urban Issues*

The historiography on urban issues in the Tsarist and Soviet periods is sparse. It is not surprising that the village takes precedence over the town both in the academic literature and Russian fiction; Russian society remained largely rural until the Stalin period. Hence, Russian urban history “looks paltry indeed, as poor in theoretical innovation as in titles in print” when compared to American or European studies; it is sufficiently understudied to represent a “blank spot” in our understanding of Imperial and Soviet Russia.² Moreover, the bulk of scholarship by publication date occurred before the collapse of the Soviet empire.³ As such, McReynolds argues, either the shadow of the 1917 revolution skewed scholarship to urban class consciousness, or else the focus was on urbanization themes, bypassing urbanism’s broader perspective on the interaction of human behavior and the political, economic and cultural environment.⁴

Within the urban development literature, urban land rights do not feature in Western or Russian scholarship prior to 1995.⁵ Writing in 1998, Richard Pipes observed that Russian scholars

² Louise McReynolds, “Urbanism as a Way of Russian Life,” *Journal of Urban History* 20:2 (1994): doi:[10.1177/009614429402000204](https://doi.org/10.1177/009614429402000204), 241.

³ An important and masterful exception is Timothy J. Colton, *Moscow: Governing the Socialist Metropolis*, (Cambridge: Harvard University Press, 1995).

⁴ McReynolds, “Urbanism as a Way of Russian Life,” 240-41, 250.

⁵ Michael F. Hamm, *The City in Late Imperial Russia* (Bloomington: Indiana University Press, 1986).

had not researched the country's history of private property to that point.⁶ This may partly be due to the paucity of data. Before 1917, urban land ownership was largely unregistered. After 1917, urban land privileges allocated by local land committees were not systematically reported in the otherwise copious statistical documentation of the Soviet Union. General Plans guiding urban development were classified as secret.

Descriptive profiles of Tsarist and Soviet cities by Western scholars provide useful context on municipal administration, urban planning and housing conditions.⁷ However, these do not analyze the origins or implications of property rights for political and economic development. Colton compared housing data between Russia and Western Europe, observing that only 4.1 percent of Muscovites lived in family-owned houses or apartments in 1912, far below levels in Western European or New World cities.⁸ He noted that the absence of private property in turn-of-the-century Moscow restrained civil society and contributed to the powerlessness of urbanites. However, he did not intend his "city biography" to examine why private ownership was minimal and Muscovites were treated as subjects of the tsar rather than as citizens of Russia.⁹

Michael F. Hamm, editor *The City in Russian History* (Lexington: Kentucky University Press, 1976).

Daniel R. Brower, *The Russian City between Tradition and Modernity, 1850-1900*. Berkeley and Los Angeles: University of California Press, 1990. <http://ark.cdlib.org/ark:/13030/ft4m3nb2mm/>.

⁶ Richard Pipes, "Private Property Comes to Russia: The Reign of Catherine II," *Harvard Ukrainian Studies* 22 (1998): 431-442. www.jstor.org/stable/41036751.

⁷See, for example, Daniel R. Brower, *The Russian City between Tradition and Modernity, 1850-1900*. Berkeley and Los Angeles: University of California Press, 1990. <http://ark.cdlib.org/ark:/13030/ft4m3nb2mm/>, Timothy J. Colton, *Moscow: Governing the Socialist Metropolis*, (Cambridge: Harvard University Press, 1995), and Blair A. Ruble, *Leningrad: Shaping a Soviet City* (Berkeley: University of California Press, 1989).

⁸ Timothy J. Colton, *Moscow: Governing the Socialist Metropolis*, (Cambridge, Harvard University Press, 1995), 47-48. In 1912, 72.1 percent were tenants or subtenants. The situation was similar in 1992 on the eve of the mass housing privatization: the city of Moscow was landlord to 72.5 percent of the population, while 0.4 percent owned private housing. *Moscow*, 904.

⁹ Colton, *Moscow*, 6-7.

Why was private urban property ownership minimal in Russia, and why were Muscovites treated as subjects and not citizens? To answer these questions it is instructive to compare the political and legal implications of city development in the history of Russia and Western Europe.

2. *Comparing Urban Land Rights in Medieval Western Europe and Russia*

The reason why Russian cities were politically weak is not found in standard urbanization themes, such as demography or modernization. Whether Russian cities matched those in the West in population by 1800, as argued by one Western scholar,¹⁰ or whether the Russian city at the time was remarkable for its insignificant size, as lamented by a Russian historian,¹¹ would not have impacted the position of cities in Imperial Russia. In any event, as revealed by the first official census in 1897, the Russian and Western urbanization level was roughly equal.¹² St. Petersburg ranked with Paris; Moscow with Naples.¹³ Nor did a failure to modernize in the 19th century distinguish Russian from Western European cities. Literacy rates had reached similar levels in Russian and Italian cities by the turn of the twentieth century,¹⁴ and transport networks connected cities in Russia that supported a boom in internal and external trade.¹⁵ Urban congestion and squalor were blights both in Western and Russian cities. Scholars agree that local governments in Russia failed to modernize apace with waves of rural migrants;¹⁶ their principal disagreement is on the relative weight of industrialization and migration in stimulating rapid urban growth.¹⁷

¹⁰ Gilbert Rozman, "Comparative Approaches to Urbanization: Russia, 1750-1800," in Michael F. Hamm, ed. *The City in Russian History*, (University Press of Kentucky, 1976). Rozman estimates the urban population in 1800 at 8 rather than 4 percent based on source material and a broader definition of city boundaries.

¹¹ Hamm, "The Modern Russian City: An Historiographical Analysis," *Journal of Urban History* 4:1 (1977), 39. <http://juh.sagepub.com>.

¹² Hamm, "Modern Russian City," 42.

¹³ Louise McReynolds, "Urbanism," 246.

¹⁴ Frederick Starr as quoted in Hamm, *The Modern Russian City*, 40.

¹⁵ Brower, *The Russian City*, chapter 3.

¹⁶ McReynolds, *Urbanism*, 245.

¹⁷ Hamm, *The Modern Russian City*, 42-45.

The main distinction between Russian and Western European cities harkens to the medieval period, when urban property ownership became a foundation of municipal political autonomy in Western Europe but not in Russia. In *Economy and Society*, Max Weber¹⁸ describes four distinct features in the evolution of the medieval European town that led to the creation of city-communes.

The first feature in Western European cities relates to urban land rights. While all world cities of the period differentiated laws on house lots and farm land, the real estate law in medieval Western Europe enabled owners to buy, sell, and inherit land without restrictions. This did not occur with regularity in Russia or Asia, where encumbrances that tied use rights to the manor or village, such as prevailed on farm land, were more common.

Second, serfs or laborers who came to cities in medieval Western Europe could rise from bondage to freedom through payment of a tribute to the lord or labor wages. This path toward equal social and legal status was unique to medieval Western Europe. While it was also possible in Russia until the emancipation of the serfs in 1861 for migrants to raise their economic status through urban migration, legally the peasant remained bound to the village and the *mir* (community) could force him or her to return.

Third, while an honorary stratum of society led municipal affairs in all cities, creating social stratification, only in medieval Western Europe did the urban citizenry unite in solidarity against non-urban citizens, whether noble or not. Burghers who had acquired property held a common interest in preventing demands by the nobility for services such as billeting of soldiers and horses, which commonly occurred in Russia even in the 19th century.

¹⁸ This section is based on Max Weber, *Economy and Society*, “The Occidental City,” 1236-62. The brief rendering here cannot do justice to the richness of Weber’s text.

As a consequence of these developments, the fourth critical feature of medieval Western European cities arose:

The urban citizenry therefore usurped [i.e. seized] the right to dissolve the bonds of seigneurial domination; this was the great – in fact, the *revolutionary* – innovation which differentiated the medieval Occidental cities from all others. In the central and northern European cities appeared the well-known principle that *Stadtluft macht frei* [“Town air makes free”], which meant that after a varying but always relatively short time the master of a slave or serf lost the right to reclaim him....In cities the status differences disappeared – at least insofar as they signified a differentiation between “free” and “unfree” men.¹⁹

The attainment of individual freedom based on urban property rights led to several legal and political innovations. The city community fused into an association that owned, controlled, and taxed property. Citizens had equality before the law. These associations gradually became legally incorporated cities that attained, after considerable struggle, autonomous political and financial administration. In England, this occurred under Edward I (1272-1307) while in France, Germany and Italy the process was completed by the close of the Middle Ages.²⁰ The city unions spread universally as lords competed to provide charters for new cities that would attract wealthy citizens. As active members of a sworn burgher community, citizens received the right to define objective laws to which they themselves would be subject. According to Weber, this right did not exist in any city outside Western Europe, with a limited exception in Israel.²¹ As expressed by Weber:

The main *legal* achievement of the urban revolutions was the creation of a special trial procedure which excluded irrational means of evidence and in particular the test by duel....The legal gains further comprised the prohibition against hailing burghers before non-urban courts, and the codification of a special rational law for urban citizens....Formally, the new urban law signified the extinction of the old personality principle of the law. Substantively, it meant the destruction of the feudal associations and of patrimonialism [in those areas where “bourgeois” law applied.]²²

¹⁹ Weber, *Economy and Society*, 1239.

²⁰ Weber, *Economy and Society*, 1240.

²¹ Weber, *Economy and Society*, 1249.

²² Weber, *Economy and Society*, 1254.

An important factor facilitated the development of city-communes in medieval Europe: the absence of a strong central political authority backed by military force.²³ A lord or patrician family represented the nucleus of every city; lords owned manor estates and urban property that accumulated wealth through profitable urban economic activities. In medieval Western Europe, the property of the lord provided the political foundation of legitimacy for the city, while the *military* foundation rested on armies equipped by the lord.

In contrast, royal bureaucracies developed in the Near East and Asia that eventually extended to a bureaucratized military structure with a dependent army. Subjects, however rich, could not confront the lord militarily. (In Russia, as we will see later, military and bureaucratic administration evolved contemporaneously.) A king or emperor in Western Europe who sought to extract monetary tribute faced independently-armed subjects.

The burghers of Western Europe relied on the economic self-interest of the lords to defend the city-commune and property of burghers from expropriation by outsiders. In return, “the financial strength of his urban subjects forced the lord to turn to them in case of need and to negotiate with them....all city unions of the Occident, beginning with those of early Antiquity, were coalitions of the armed strata of the cities. This was the distinctive difference.”²⁴

The physical formation of medieval cities in Russia transpired in the same manner as in Western Europe. The Riurik dynasty (Scandinavians) introduced private landed estates in the tenth century that became the nucleus of early cities.²⁵ Artisans and merchants gathered in the manorial seat that served as the center of administration for a prince’s estates. Cities were the

²³ Weber, *Economy and Society*, 1249.

²⁴ Weber, *Economy and Society*, 1236-37, 1260-62.

²⁵ Blum, “The Beginnings of Private Landownership in Russia,” 779, 781.

collection point for taxes. Frequently cities were established as fortified garrisons along rivers to protect land acquired by princes through settlement or confiscation of peasant communes.²⁶

However, Russian cities lacked the essential features of city-communes: “town air in Russia never made free.”²⁷ While communal associations were formed by the Kievan period (9th to 13th centuries), bound by common social and economic interests, cities remained subordinate to the prince. A notable exception was Novgorod. After a popular revolt against the prince, the assembly of Novgorod decreed in 1136 that only residents of the city could own and use its land.²⁸ But even Novgorod ultimately succumbed to central authority under Ivan III (the Great) and Ivan IV (the Terrible).²⁹ While European cities were operating under self-governing charters in the Middle Ages, even Moscow, the largest urban formation in Russia, had no government. It fell under direct control of the sovereign, who appointed vice-regents (*namestniki*) to fulfill functions of interest to the crown, most particularly, to maximize revenues to the state.³⁰ Hence, while some Russian cities boasted the physical attributes common to other cities around the world, with markets and a fortress, they never acquired the self-governing identity of those founded on urban private property in Western Europe.

3. *Tsarist Land Governance prior to the Great Reforms*

a. *Political authority and the legal order*

The Russian Empire epitomizes the potency of elite land privileges as a basis for regime formation. At five critical junctures -- corresponding to the reigns of Ivan IV (the Terrible), Peter

²⁶ Blum, “The Beginnings of Private Landownership in Russia,” 782-83.

²⁷ Gleason, “The Terms of Russian Social History,” 16-17.

²⁸ Blum, “The Beginnings of Private Landownership in Russia,” 783.

²⁹ Colton, *Moscow*, 15.

³⁰ Colton, *Moscow*, 25.

II, Catherine II, Alexander II, and the 1917 Revolution – political authorities revised land rights to strengthen their hold on power.

Although princes established towns as garrisons to protect their property,³¹ the main source of political and economic power and social prestige throughout Russian history was the rural estate. Ivan the Terrible (1530-1584) consolidated the autocratic regime of Muscovy by rewarding nobles with inheritable land privileges in return for hereditary duties to the court. Thousands of estates were allocated to the royal court and senior civil servants. At the same time, a new law code in 1550 established regional councils, *zemskii*, that managed civil justice and raised taxes. Significantly, the councils reported to Moscow rather than to the boyars (local barons). To quell resistance to centralization of authority, many of the boyars were murdered during a reign of terror, the *oprichina*. Over time, these steps broke the feudal power of the boyars.³² The tsarist land monopoly became the foundation of national unity and the central administration.

Land resources became synonymous with autocratic control in an expanding empire. If state agents failed in their duties or abused their tax privileges, the reaction of the sovereign was harsh. The monarch subjugated cities and nobles, consistent with the revenue-maximizing aims of the predatory ruler, in order to maintain the land monopoly.³³

Subjugation of cities became imperative in the 17th century once they acquired the role of “revenue provider for the state.”³⁴ The urban tax was communal and paid by merchants and tradesmen on their business turnover. When businesses failed, as often happened due to state

³¹ Blum, “The Beginnings of Private Landownership in Russia,” 781. In the tenth century, private landholdings by local lords were protected by the garrisons, but these never evolved into city-communes, as noted earlier.

³² Linklater, *Owning the Earth*, 132-35.

³³ It is important to keep in mind that land ownership entailed rights to what was above or below ground. For example, by the time the boundaries of imperial Russia reached the Pacific in 1650, the sale of sable, fox and ermine produced one third of imperial revenues. Linklater, *Owning the Earth*, 136.

³⁴ David H. Miller, “State and City in 17th Century Moscow,” in Michael F. Hamm, ed. *The City in Russian History*, (Lexington: University Press of Kentucky, 1976), 49.

monopolies and preferences to foreigners, the remaining merchants had to pay a higher share. Rising tax burdens fell on a diminishing merchant class. The incentive was immense for city residents to flee the urban tax burden.³⁵ While lords in Western Europe attracted burghers to new towns with self-governing charters, wealthy nobles in Russia connived with merchants and artisans to set up trade and commercial activities just *outside* the city limits, to avoid taxation. For example, in 1648 such a settlement of 600 people sprang up outside Nizhny Novgorod. Both to exert autocratic authority and expand the tax base, Tsar Michael seized all property in such settlements, merged villages into neighboring cities, and bound all urban taxpayers to the town, on penalty of death. “No compensation was given to the owners because it was an offense to reside on the sovereign’s land or to buy municipal land.”³⁶ Henceforth, in return for the right to live in cities and conduct commerce, urban residents were tethered to their hometown and taxed.³⁷

Subjugation of the nobles became equally imperative as they quietly usurped royal land privileges as private rights. The loyalty system of Ivan IV was slowly breaking down. Nobles leased and transferred land and failed to provide their hereditary military or civil service obligations. After numerous military victories, including the defeat of Sweden at Poltava in 1709, Peter II (the Great, 1682-1725) was at the crest of his bargaining power with the nobles. To reassert autocratic authority, he retracted the privilege of inheritance and created a new bureaucratic structure in 1722 that matched rank to revocable land privileges.³⁸ Only the highest-ranking nobles received estates with serfs. Serfs could not leave the estate. Families could not possess or pass on

³⁵ David Miller, “State and City,” 336-39.

³⁶ The legal act was in Chapter XIX of the Ulozhenie (on the Townspeople). Vasilii O. Kliuchevskii, A Course in Russian History: The Seventeenth Century (New York: M.E. Sharpe, Inc., 1994), 157-62.

³⁷ Kliuchevskii, *The Seventeenth Century*, 157-62.

³⁸ Lieven, “The Elites,” 229-239. Rank, or *chin* in Russian, is the derivation of *chinovnik*, or official, bureaucrat.

land to their heirs.³⁹ By putting all property rights in state control, Peter surmounted the continuous risk of noble insurgency.

Peter's land-redistribution scheme contradicted his professed aim to Westernize by replacing arbitrary rule (*proizvol'*) with a rule of law (*zakonnost'*).⁴⁰ Land privileges could be revoked for failure to fulfill official obligations. The loss of property rights spelled the end of personal rights.⁴¹ It also destroyed the incentive to increase the productivity of land.⁴² Instead, property ownership was bound to noble privilege and service. Land became a source of social prestige until the mid-1800s.⁴³ Since Peter's scheme by-passed merchants and city residents, who were less than ten percent of the population,⁴⁴ he further reinforced the political significance of the rural landed estate.

In an abrupt reversal of Petrine policies, Catherine II (the Great, 1762-96) established *de jure* individual property rights for the first time in Russian history. The theory of predatory rule explains why. First, Catherine was deeply shaken by the threat to her rule from disputed circumstances surrounding her accession and a related, violent peasant uprising (the Pugachev Rebellion) in 1773-75. Her tenure in office was at risk, and she needed allies. The aristocracy also saw a threat in the rebellion, but their deeper fear came from the Petrine policy of revocable land privileges.⁴⁵ Second, Catherine was ideologically disposed to private land ownership. In her

³⁹ Linklater, *Owning the Earth*, 136

⁴⁰ As part of his effort to Westernize Russia, Peter introduced the European concept of the state as an impersonal entity, not the personal domain of the sovereign. Though he remained absolute monarch, he was also the first servant. Peter believed *Zakonnost'* (lawfulness, or rule of law) must become the basis for a government that serves the general welfare of society. Lincoln, *Great Reforms*, 4-7.

⁴¹ Pipes, "Private Property," 434.

⁴² Weber, *Economy and Society*.

⁴³ Lieven, "The Elites," 229-239.

⁴⁴ Linklater, *Owning the Earth*, 136.

⁴⁵ Pipes, "Private Property," 432 and *Encyclopedia of World Biography*, s.v. "Catherine the Great," (Detroit: Gale, 1998, *Biography in Context*), accessed January 19, 2015.

1767 Instructions (*Nakaz*) to the Legislative Commission of 1767-68, she had famously defended “ownership” (*sobstvennost’*) as essential to agricultural productivity and overall prosperity.⁴⁶ Her ideological predisposition brought her common cause with nervous nobles. In short, they struck a mutually beneficial bargain to expand property rights for ruling elites.

The 1785 “Charter of the Rights, Freedoms and Prerogatives of the Noble Russian Dvoriantsvo” was “a revolutionary measure in the fullest and most constructive sense of the word that set the course of Russian development” until the Great Reforms in the 19th century.⁴⁷ It bestowed on nobles civil liberties and property rights similar to those granted by the English monarchy to barons 600 years earlier.⁴⁸ Land could be bought and sold to nobility under a new form of property right – perpetual and inheritable ownership (*vechnoe i potomsvtvennoe vladenie*) – that would endure into the twenty-first century.⁴⁹

Catherine also introduced private rights to urban real estate for both nobles and urban residents who held the status of merchant (*kuptsy*) or tradesman and artisans (*meshchane*). These classes gained the right to own both movable and immovable property.⁵⁰ In essence, the legal acts privatized state-owned urban land to the benefit of residents and the state treasury.

⁴⁶ Limonov, *Vlast’ i sobstvennost’*, 1-3, and Pipes, “Private Property,” 432.

⁴⁷ Pipes, “Private Property,” 434.

⁴⁸ Pipes, “Private Property,” 432. Pipes details the steps leading up to the charter, starting with the release of nobles from mandatory service to the state in 1762 by Peter III.

⁴⁹ Colton, *Moscow*, 28.

⁵⁰ Pipes, “Private Property,” 433-37. Legal authority for urban residents to acquire real estate is in Article 4 of the 1775 Charter of the Rights and Benefits of the Cities of the Russian Empire; for nobles, it is in Article 30 of the 1775 Charter of the Nobles.

b. Bureaucratic organization and performance

The nature of Russia's territorial expansion into non-Russian territories – what Starr calls the “imperial dimension”⁵¹ – also reinforced bureaucratic standardization and role of the nobility. Absent a strong non-governmental agent such as British trading companies and competent civil administration, Russia relied on the expertise of its large army to administer control over vast territories. The cost of maintaining the army dictated the need for a bureaucracy to collect taxes. The breadth of territory reinforced a desire for centralized and standardized administrative procedures. At the same time, the bureaucracy reached the local level, where taxes were collected.⁵²

But the empire was expanding faster than it could be administered. The bureaucracy was fundamentally undermanned. In 1763, the difference between the number of civil servants employed by Russia (16,500) and Prussia (14,000) was not great, but Prussia had 1% of the territory of Russia.⁵³ Moreover, the civil service carried less prestige than military service, and its lower uneducated ranks were pilloried in Russian literature.⁵⁴ In short, the crown was incapable of managing administrative functions without the service obligations of the nobility, which Peter III ended in 1762. Those who left service were the wealthiest: only 16 percent of the nobility could afford to live on the fruits of serf labor. Those who stayed in state service required a salary.⁵⁵

⁵¹ S. Frederick Starr, “Tsarist Government: The Imperial Dimension,” in Jeremy R. Azrael, editor, *Soviet Nationality Policies and Practices*. (New York: Praeger, 1978), 3.

⁵² Starr, “Imperial Dimension,” 30-37.

⁵³ At the same time, as Bruce Parrott pointed out, population density was arguably much lower in Russia.

⁵⁴ Hartley, “Provincial and Local Government,” 467.

⁵⁵ Pipes, “Private Property,” 431, and Janet M. Hartley, “Provincial and local government,” in Dominic Lieven, ed., *The Cambridge History of Russia*, (Cambridge Histories On-Line: Cambridge University Press, 2008), 459. doi: <http://dx.doi.org/10.1017/CHOL9780521815291.023>.

Trained manpower and financial resources were insufficient to meet the responsibilities of empire with a centrally-appointed bureaucracy.⁵⁶

The solution provided by Catherine the Great coincided with her need for the support of the nobility just after the Pugachev Rebellion. In the 1775 Statute of Provincial Administration, Catherine reorganized the empire's administrative structure by creating provincial capitals with governors and law courts and tax collectors.⁵⁷ This measure favored the local nobility by design, and it stood the test of time.⁵⁸ As the theory of predatory rule would predict, the new fiscal structure aligned with Catherine's reliance on the slender stratum of educated local nobles, whose bargaining power continued to rise in the political order.

c. Public Participation in Decision-Making

The high transaction costs of running the empire and growing fiscal needs also put higher priority on revitalizing the urban economy and enlisting the support of the residents. However, the secondary role of urban land in the Russian Empire had a political counterpart: urban residents lacked a voice on local matters. All of the urban initiatives from Ivan the Terrible to Catherine the Great were top-down; none engendered the urban identity found in Western European city communes.⁵⁹

For example, Ivan the Terrible created the first local administration in Moscow, the *Zemskii prikaz* (Local Office), which collected property taxes, conducted trials, and managed public works, but mainly provided police surveillance. Community elders were consulted, but not regularly.⁶⁰

⁵⁶ Hartley, "Provincial and Local Government," 453.

⁵⁷ Linklater, *Owning the Earth*, 147-8.

⁵⁸ *Encyclopedia of World Biography* s.v. "Catherine the Great".

⁵⁹ Hartley, "Provincial and Local Government," 449-451.

⁶⁰ Colton, *Moscow*, 25-26.

Peter the Great instituted a city-wide council in Moscow that received the unlucky duty of raising taxes from communities around Russia from 1699-1710. This unpopular idea eventually gave way to local administration by provincial sub-divisions. However, the tsar appointed the Governors to run the provincial *gubernii* and county-sized jurisdictions, *uyezdy*,⁶¹ which remained under central supervision.

In an ambitious effort to stimulate the urban economy, Catherine the Great promulgated the Charter of Rights and Privileges Granted the Cities in 1785 to mimic the corporate features of a Western European city-commune. All urban residents became subject to common administrative and judicial procedures and received the right to own private urban property. Merchants, who were defined by their capital, acquired commercial privileges. In statutes, propertied males received the right to elect the mayor and representatives to exercise authority in managing city affairs. In practice, the municipality fell under the tsarist regime's provincial governor and only handled residual tasks such as sanitation, roads, and billeting of the tsarist army.⁶²

Urban reforms that were intended to increase municipal independence paradoxically led to a loss of bargaining power. Urban citizens were subjected to onerous obligations by central authorities; rights turned into burdens.⁶³ As in the previous century, the merchant class had a strong incentive to evade taxes and avoid participation in city government.

Property taxes, the primary municipal revenue, epitomized the conflict between local administration and the tsarist regime.⁶⁴ Legally-defined townspeople bore a collective service and fiscal responsibility to the state budget; nobles were tax-exempt, and as non-urban residents,

⁶¹ Colton, *Moscow*, 50.

⁶² Daniel R. Brower, *The Russian City between Tradition and Modernity, 1850-1900* (Berkeley, Los Angeles, and Oxford: University of California Press, 1990), 17. Nobles received exemption from billeting the army in the 1785 Charter of the Nobles. See Pipes, "Private Property".

⁶³ Hartley, "Provincial and local government," 453-55 and Brower, *Russian City Between Tradition and Modernity*, 20-22.

⁶⁴ Brower, "Tradition and Modernity," 20.

peasants paid rural land taxes.⁶⁵ Tsarist revenue demands on a narrow slice of urban residents continued to increase. For example, municipal taxes rose by 50 percent from 1840 to 1853. Inspectors recognized the taxes were excessive but were obliged to meet expenses for tsarist administration and billeting of soldiers. The merchant estate avoided involvement in municipal activities because they judged the obligations of service and tax payments as onerous. The costs exceeded the benefits.⁶⁶

Ultimately, the reforms created a culture of corruption in cities. The wealthier merchants could buy their release from municipal duty. Lesser businessmen accepted official responsibility as a means of personal enrichment. They could use public office to extract bribes in exchange for reducing taxes on residents or giving incumbent businesses commercial advantages over new market entrants. Powerful families in Moscow used networks to block tsarist encroachments while protecting their market dominance. Thus the perception of corrupt municipal officials became the norm, as captured in Gogol's *Revizor*.⁶⁷ Until the Great Reforms, the interference of tsarist officials and the retreat of capable local leaders from city affairs stunted urban self-rule. The ideals of Catherine's Charter were never fulfilled.

That an urban identity failed to develop should not be surprising due to fundamental conflicts of interest in the urban initiatives of Peter II and Catherine II. First, the tsars wanted to stimulate self-government, yet they burdened urban taxpayers with collective responsibilities to the central state. Cities had to fill national needs before local needs; fiscal rules on retention of revenues were notoriously unclear. Second, the tsars interfered excessively in the details of urban life, e.g., dictating the layout of streets and architectural styles, dividing residents into social

⁶⁵ Pipes, "Private Property," 436-37.

⁶⁶ Brower, "Tradition and Modernity," 21.

⁶⁷ Brower, "Tradition and Modernity," 19-22.

categories that existed only in St. Petersburg, and creating and abolishing towns when it appeared efficient. Catherine went so far as to determine the length of the meal breaks of apprentices.⁶⁸ Finally, the legal status of cities – as separate from or subject to central authority – remained in doubt. “Lacking both the means and the incentives to deal with urban needs, the municipalities operated primarily as inferior branches of state administration.”⁶⁹

Ironically, the introduction of private property favored tax-free nobles and their peasants over the urban *soslovie* (social estate). Manufacturing arose mainly around noble rural manors.⁷⁰ On the eve of the Great Reforms, there was little industrialization or urbanization, and the country remained rural and agrarian. Moscow (370,000) and St. Petersburg (almost 500,000) were world-class cities in population in 1856, but only 6% of Russians lived in cities. None were notable for commercial vitality; the state founded most cities for defense or administrative purposes. “They had neither corporate or patrician traditions nor any libertarian ones: town air in Russia never ‘made free.’”⁷¹

4. *Tsarist Land Governance from the Great Reforms to the 1917 Revolution*

a. *Political authority and the legal order*

Most scholars view the “era of Great Reforms” in the 1860s as the period of the most serious social and economic renewal between Peter the Great and the uprisings of 1905. Serfs won freedom, local self-government began in parts of the empire, press censorship lightened, and courts

⁶⁸ Hartley, “Provincial and local government,” 453-4.

⁶⁹ Brower, *Tradition and Modernity*, 21.

⁷⁰ Pipes, “Private Property,” 438.

⁷¹ Abbott Gleason, “The Terms of Russian Social History” in *Between Tsar and People: Educated Society and the Quest for Public Identity in Late Imperial Russia*, ed. Edith W. Clowes et al. (Princeton University Press, 1991), 16-17.

adjudicated on the basis of new laws that included protection of private property. Perhaps most significantly, space opened for *obshchestvo*, educated society, to play a role in public affairs.⁷²

From the perspective of the predatory rule theory, the Great Reforms originated in a tectonic shift in constraints facing the autocracy, starting with economic and social backwardness. Russia's loss in the Crimean War in 1854-56 exposed the gulf between industrializing Europe and a Russian economy built on a society of 50 million serfs. No longer was Russia an unassailable Great Power. Russia needed to modernize the economy. But an autocratic police state prevented the emergence of political mechanisms to mediate social change that would inevitably accompany industrialization. Russia also needed to introduce new principles of public administration to replace a system largely based on serfdom. Yet in emancipating the serfs, the crown would also lose the service of nobles who had been responsible for tax collection, military mobilization, and judicial administration in rural areas.⁷³

Though the topic of this study is not rural land, serfdom represented the primary constraint to Russia's autocrats in reforming land rights as the basis for modernization. As Nicholas I (1825-55) observed, serfdom was an "evil, palpable and obvious to all,"⁷⁴ but reforms could unleash civil disorders, similar to the Pugachev rebellion. The manner in which Catherine introduced private landed property complicated the process. It "was a mixed blessing because it was purchased at the expense of the serfs....besides freedom and rights for the few, [private property] intensified serfdom for the many."⁷⁵ Serf-owning nobles fervently believed, based on the Charter of the Nobles, that land and serfs were their private property. Equally fervently, serfs rejected the

⁷² Bruce W. Lincoln, *The Great Reforms: Autocracy, Bureaucracy and the Politics of Change in Imperial Russia*. (DeKalb, Illinois: Northern Illinois University Press, 1990).

⁷³ Lincoln, *The Great Reforms*, 36-39.

⁷⁴ Daniel Field, *The End of Serfdom: Nobility and Bureaucracy in Russia, 1855-1861* (Harvard University Press, 1976), 57.

⁷⁵ Pipes, "Private Property," 435.

notion that anyone but the tsar could own the land. They believed that those who worked the land had communal use rights. Under Nicholas I, it was unthinkable to separate the peasant from the land, but “the massive expropriation (as it would be in terms of state law) of the nobility’s lands was equally unthinkable.”⁷⁶

To modernize the country and preserve the autocracy, the tsars needed the support of competing factions in educated society (*obshchestvo*) and the bureaucracy. In the 1840s, a sociological rift was opening between these groups as access to education raised the qualifications of middle bureaucratic ranks and reduced the influence of the aristocratic elite.⁷⁷ At the same time, the repressive reign of Nicholas I (1825-55) created a political gulf between those in the aristocracy who feared the costs of change and those in the bureaucracy who feared the consequences of continuity. A Westernizing social and intellectual movement was forming that challenged the autocratic order. As Nicholas Riasanovsky put it, *obshchestvo* “was coming to a ‘parting of the ways’ with *gosudarstvo*, the state.”⁷⁸

The solution of the new monarch, Alexander II, was a bureaucracy dedicated to the preservation of autocracy. Though he himself was not a liberal, and the bargaining power of the autocracy had been weakened by the Crimean War, Alexander decided the best way to balance elite interests was to keep them in competition. He proceeded to co-opt the most pro-autocratic leaders of the reform movement into the bureaucracy and set them to work on major legislation.⁷⁹ The era of Great Reforms began.

⁷⁶ Field, *End of Serfdom*, 59.

⁷⁷ Gleason, *Russian Social History*, 18-19. In pre-1860s Russia, members of *obshchestvo* formed the core cultural, intellectual and political elite who governed the country and represented it abroad. They derived from the Petrine gentry.

⁷⁸ Gleason, *Russian Social History*, 20-21.

⁷⁹ Lincoln, *The Great Reforms*, 50-55.

b. *Bureaucratic organization and performance*

The “enlightened bureaucrats” who crafted the country’s Great Reforms believed government should serve public welfare through lawfulness (*zakonnost’*) rather than the arbitrary rule (*proizvol*) that had cast a long shadow over Russian administration. Beginning in 1848, several senior statesmen began to fashion civil service policies based on “clear principles, accurate information, and a precise chain of command.” Drawing on more educated recruits to public service, they created the bureaucratic capacity for the Great Reforms two decades later.⁸⁰

Initiating major reforms while overcoming arbitrary rule required the tsarist government to take an unnatural action: consult the public on major reforms. The common perception in government on the need for consultations raised a dilemma that went to the heart of the autocracy’s prerogative to decide and implement policy. How could the public be engaged without undermining autocratic rule?⁸¹

After considerable debate, the government agreed that a policy of *glasnost’* (public information) would lay the cornerstone for the Great Reforms and for a rule-based government. *Glasnost’* in the context of the day meant the government would eschew secrecy and share information on proposed laws for public comment. *Zakonnost’* meant the tsar and his bureaucracy would set a standard of abiding by laws rather than violating them. Thus Russia’s bureaucratic reformers opened channels of communication between the bureaucrats and educated society, but they were not liberals or constitutionalists. They remained “autocratic servants of an autocratic master.”⁸²

⁸⁰ Lincoln, *The Great Reforms*, 22-25.

⁸¹ Lincoln, *The Great Reforms*, 50-60.

⁸² Lincoln, *The Great Reforms*, 60.

Scholars agree that the enlightened bureaucrats played a central role in aligning the tsar, nobility, government, and educated society around a process of fundamental institutional change that began with freeing 22 million serfs.⁸³ Though the Emancipation Act of 1861 was a monumental step, the process began poorly and ended less advantageously for serfs than liberals had hoped. The eventual formula for the Emancipation Act of 1861 gave serfs personal freedoms, including the right to marry at will and acquire property, but “saddled communities of former serfs with heavy payments for overpriced land allotments that, they believed, were theirs by right in the first place.”⁸⁴ By the end of the 19th century, the emancipation paradoxically strengthened both peasant communes and the government at the expense of individual property rights.⁸⁵

The bureaucracy grew in power and prestige as a consequence of the Great Reforms. After the Great Reforms, the link between land ownership and nobility declined as ennoblement through bureaucratic service grew and the share of the hereditary nobility who owned land declined to 30 percent in 1905.⁸⁶ Nevertheless, the landowning hereditary nobility dominated the social elite until 1914. Many of these nobles overlapped with the political elite, comprised of senior military and civilian officials. They did not constitute a ruling class as in 18th and 19th century England, where political elites shared common roles and values and channeled authority through formal political and judicial organizations. On the social hierarchy, however, the nobility remained higher than the bureaucracy and Moscow business elite.⁸⁷

⁸³ Field, *The End of Serfdom*, 98-102 and Lincoln, *The Great Reforms*, 64-87. Field argues that Western philosophical views underpinned the transformation, so serfdom had no political or ideological support. He does not glamorize the bureaucrats, but neither does he discount their central role in managing the process. Both Field and Lincoln believe the genesis of the Great Reforms pre-dated the Crimean War. Lincoln's book is a synthesis of Western, Soviet and Russian scholars on reforms in the 19th century.

⁸⁴ Lincoln, *The Great Reforms*, 89.

⁸⁵ Limonov, *Vlast' i sobstvennost'*, 14.

⁸⁶ Hartley, “Provincial and Local Government,” 468 and Lieven, “The Elites,” 231.

⁸⁷ Lieven, “The Elites,” 231.

After the 1905-06 urban uprisings, autocratic power was further circumscribed. Before that point, the tsars could rarely make decisions without consulting the bureaucracy. After the appointment of a prime minister in 1905, Nicholas II (1894-1917) deferred to that individual directly.⁸⁸ Momentum for reform shifted to statesmen such as Count Sergei Witte, who championed industrialization and expansion of railroad construction, and Peter Stolypin, who introduced agrarian reforms to lift the peasant debt burden and carve individual private property rights out of peasant communes. Nevertheless, senior bureaucratic officials remained sensitive to tsarist court opinion, which often put them in a delicate position in arguing government policy in the legislature.⁸⁹

While the bureaucracy excelled in policy, it failed on implementation, reducing the economic impact of land reforms. In particular, attempts to institute a proper land registry failed, as did the issuance of a charter of procedures. The principal reason was the absence of a national regulatory and cadastral system to survey land plots.⁹⁰ The absence of a Weberian service standard is illustrated by the glacial pace of geodesic surveying in Moscow. The task had not been completed at the turn of the 20th century, even after seventy years of mapping.⁹¹

c. Public Participation in Decision-Making

Reform legislation in 1857-64 created a new role for citizens in national affairs. The burden for public health, education and the modernization of agriculture and industry began to

⁸⁸ Weber, *Economy and Society*, 993.

⁸⁹ Lieven, "The Elites," 234-37.

⁹⁰ Nina Y. Oding, "Land Problem in Russia: Historical Overview," (paper presented at International conference on Land Reform and Emerging Property Markets in Russia, St. Petersburg, Russia, May 29-31, 2001).

⁹¹ Colton, *Moscow*, 58.

shift from the autocracy and bureaucracy to “elected officials and experts employed by local public institutions.”⁹²

The post-reform period also ushered in a decidedly modern view of cities and electoral rules. For the Great Reformers, municipal decay signified national decay. After extensive study of urban issues and years of public debate, the enlightened bureaucrats introduced a municipal reform in 1870 that accorded autonomy to cities, within the limits of the legislation. The reform carried a whiff of Western philosophy that also reeked of social heresy to conservatives: voting rights would be based on property taxes or commercial fees, not on *soslovie* of nobility, merchants, and peasants. The formula put property or capital wealth above social status. In contrast, reforms of regional administration in the 1860s had given the nobility a power base in the *zemstvos* (*zemstva*, elected regional assemblies).⁹³ The electoral rules for municipalities were exceptional for Russia of the period because the balance of power in cities would shift to the commercial class. The reason may be due to the “relative political insignificance”⁹⁴ of cities in the early post-reform years.

Contrasts are stark before and after the 1870 municipal reform in government attitudes and civic activism. Nobility who loathed city service sought roles in public affairs; public buildings that were objects of tsarist conformity became subjects of civic interest; simple public deeds rather than grand architectural facades defined the new Russian city. Property ownership comprised a core feature of municipal life as both a source of income and political influence.⁹⁵

⁹² Lincoln, *The Great Reforms*, 62.

⁹³ The “*zemstvo*” solved the problem of local administration after the emancipation of the serfs also freed nobles from their tax collection, judicial and administration obligations. Hartley, “Provincial and Local Government,” 463-4.

⁹⁴ Brower, *Tradition and Modernity*, 101-103. Hamm agrees that “Urban Russia in the 1860s had scant significance for the state as a whole.” Michael F. Hamm, “The Modern Russian City: A Historiographical Analysis,” *Journal of Urban History* 4 no. 1 (November 1977): 40, accessed January 2, 2015, <http://juh.sagepub.com>.

⁹⁵ Brower, *Tradition and Modernity*, 95-95.

Dynamic urban growth in the post-reform period represented an opportunity and a threat to the autocracy. Predatory rulers, national and local, saw fiscal bounty in prospering towns. In the growing political polarization of the period, encouragement for urban taxation came from an agrarian lobby of nobles, *narodniki* (commoners) and the gentry-dominated zemstvos.⁹⁶ But as will be discussed later, from the point of view of tsarist authorities, local autonomy and taxation authority also planted a dangerous seed of popular democratic ideals in cities.

The demographic and economic surge of the late 19th century is indisputable. The urban population grew at an average annual rate of 2.3 percent until 1913, compared to 1.5 percent in the first half of the century. From 1883 to 1913, half of cities with over 50,000 residents saw their population double, while a third tripled in size.⁹⁷ Economic data are less precise, with national growth estimates ranging from 2.75 to 3.25 percent annually from 1886-90, when state-led industrialization started.⁹⁸ Financial markets and stock exchanges boomed, as did speculative investment in urban real estate due to the expansion of railroad construction through cities. Landlords became an updated version of the conservative old merchant class by seeking a safe income through housing investments.⁹⁹

As growth and demand for government services expanded, so did the fiscal deficit. The Ministry of Finance began to shift the national tax burden from rural residents to the urban economy in the 1880s.¹⁰⁰ Minister of Finance Bunge (1880-86) believed that economic growth

⁹⁶ Stefan Plaggenborg, "Tax policy and the question of peasant poverty in tsarist Russia, 1881-1905," *Cahiers du monde russe: Russie, Empire russe, Union soviétique, États indépendants* 36 N°1-2. (1995), doi:[10.1177/009614429402000204](https://doi.org/10.1177/009614429402000204). Cultures économiques et politiques économiques dans l'Empire tsariste et en URSS, 1861 – 1950, 61.

⁹⁷ Michael F. Hamm, "The Modern Russian City: A Historiographical Analysis," *Journal of Urban History* 4 no. 1 (November 1977): 41-42, juh.sagepub.com.

⁹⁸ Plaggenborg, "Tax policy", 55.

⁹⁹ Brower, *Tradition and Modernity*, 67-68.

¹⁰⁰ This paragraph is based on Plaggenborg, "Tax policy." He takes issue with the traditional scholarly view that peasants were impoverished by excessive taxation. Alexander Gerschenkron, for example, believed that peasants,

rather than higher taxes would be the answer to reduce the chronic budget deficits of post-reform Russia. His fiscal philosophy was based on the premise that taxation should not exceed capacity to pay. Rural peasants in particular required tax relief in order to increase their consumption. Bunge abolished the poll tax on peasants, anachronistic since emancipation, and reformed the land tax (paid mainly by peasants) so that the net loss to the Government (and gain to peasants) was approximately 52 million rubles. As part of the Great Reforms, he then proceeded to restructure fiscal policy to increase the burden where it could most safely be raised: the urban and industrial economy. After evaluating urban immovable property in 1883, his fiscal reform raised revenues from this source by 46 percent. Industry and capital gains also received higher tax rates. But the result of Bunge's policies was disappointing: budget deficits increased, and Bunge was forced to leave office.¹⁰¹

Count Sergei Witte, Finance Minister from 1892-1903, continued the thrust of Bunge's policies by raising taxes on the urban and industrial sectors, including a 12 percent increase in urban real estate taxes in 1893.¹⁰² In addition, he raised excise taxes (e.g. on sugar, alcohol) and increased government debt through foreign-financed bonds. He believed it was necessary to raise revenues for industrialization in the simplest manner, with low transaction costs. According to estimates by Plaggenborg, the urban and industrial sectors provided 68 percent of tax receipts at the national level in 1901.

Nevertheless, it is important to put the urban real estate tax burden at the national level in perspective. As indicated in Tables 1 and 2, land and property comprised 32 percent of direct

who comprised 80 percent of the population, were primarily responsible for financing the government's industrialization policies in the 1880s-90s.

¹⁰¹ Plaggenborg, "Tax Policy," 57-59.

¹⁰² Plaggenborg, "Tax Policy," 62.

taxes, but only 2.6 percent of overall national revenues in 1913. This share had not risen significantly since 1900.

Table 1

Russia's Budget Revenue Sources for 1900 and 1913					
Revenue items	Years				Growth rate in % over 1900
	1900		1913		
	mln.rubles	%	mln.rubles	%	
Direct taxes	131.9	7.7	272.5	8.0	206.6
Indirect taxes	658.1	38.6	708.1	20.7	107.6
Duties, court fees, fees from transfer of property	88.3	5.2	231.2	6.8	261.8
State monopolies (regalii)*	176.8	10.4	1024.9	30.0	579.7
Revenues from Government property and capital gains	473.5	27.8	1043.7	30.5	220.4
Revenues from disposition of state assets	0.6	0.0	2.9	0.1	483.3
Redemption payments	96.2	5.6	1.2	0.0	1.2
Compensation of State Treasury expenditures	71.1	4.2	116.7	3.4	164.1
Other revenues	7.5	0.4	16.2	0.5	216.0
Total revenues	1704	100	3417.4	100	200.6

Source: Ezhegodnik Ministerstva Finansov (Sankt-Peterburg, 1903), 35-36. Ezhegodnik Ministerstva Finansov (Sankt-Peterburg, 1915), 40-42.

*State monopolies include alcohol excise taxes, post, telegraph, telephone and coinage taxes.

Table 2
Direct Taxes in Russia, 1913

	mln.rubles	% of total direct taxes	% of total budget revenues
Land tax, immovable property tax and simple tax	87.3	32.0	2.6
Trade and industry tax	150.1	55.1	4.4
Capital gains tax	35.1	12.9	1.0
Total	272.5	100	8.0

Source: Ezhegodnik Ministerstva finansov (Sankt-Peterburg, 1915), 40-42.

However, urban property taxation takes on greater significance when seen with local eyes. Post-soviet Russian scholars believe fiscal debates in the late imperial period mirror those of contemporary Russia.¹⁰³ The key issue then and now was how to match fiscal revenues with local expenditure responsibilities. Until the mid-1800s, revenues from rural land and forest had comprised the highest share of taxes in the Volga region, reflecting the concentration of wealth in landed property. But land revenues peaked as national, regional and local governments overtaxed and nearly exhausted this resource. Volga region zemstvos of Kazan, Saratov, and Simbirsk searched for new sources, and urban real estate was the solution. In 1864, a regulation (*polozhenie*) on local rule allowed the zemstvos to increase tax collections. Tax receipts that had been unchanged from 1816 to 1842 rapidly increased – by 41% in 1867 and again 41% in 1868. Tax performance continued to improve, not because tax rates were increased but because city property was better defined and taxed.¹⁰⁴

Significantly, some local governments recognized that tax performance depended on proper valuation of land and real estate assets. Simbirsky Guberniia experimented with a mass evaluation system that harkened to 17th century English practice.¹⁰⁵ Value depended on size, location, and features (e.g. number of windows and chimneys, type of construction material); an average structure was valued and represented all others in a similar category. Detailed town mapping provided improved classification by property function (industrial, warehousing, housing, land plots for gardening, etc.). Valuation included a percent deduction for depreciation of

¹⁰³ I. B. Siderova, “Zemstva Kazanskoï gubernii v nachale XX veka: vzaimodestvie s gosudarstvennoi vlast’iu,” *Uchenye zapiski Kazanskogo gosudarstvennogo universiteta* 148, issue 4 (2006).
<http://cyberleninka.ru/article/n/zemstva-kazanskoy-gubernii-v-nachale-hh-veka-vzaimodeystvie-s-gosudarstvennoy-vlastyu>. S. A. Andreev, “Dokhodnye stat’i biudzhetrov zemstv Povolzh’ia v seredine XIX – nachalne XX vekov.”
<http://cyberleninka.ru/article/n/dokhodnye-stati-byudzhetrov-zemstv-povolzhya-v-seredine-xix-nachale-xx-veka-po-materialam-simbirskoy-i-saratovskoy-guberniy>.

¹⁰⁴ Andreev, “Dokhodnye stat’i biudzhetrov zemstv,” 25-26.

¹⁰⁵ English valuation practices are described in Linklater, *Owning the Earth*, Chapter x. Mass property valuation methods are gradually being introduced in Russia after successful pilots in 2008.

structures. The resulting quantification of property became a model followed by Saratov Guberniia.¹⁰⁶

The main conflict of interest between national and local levels concerned the tax retention rate of zemstvos – “taxes, of course, which were largely paid by peasants and townspeople rather than the nobles who dominated the zemstvo boards.”¹⁰⁷ Zemstvos reported to the Governor appointed by the crown. The Governor needed to fill national coffers before local ones. In Moscow, the provincial zemstvo used its taxation rights to interfere in city affairs, creating perpetual animosities.¹⁰⁸ Property valuation was a bone of contention. For example, the incentive of urban taxpayers was to undervalue town real estate, and Moscow was no exception. In the late 1880s, the Moscow provincial zemstvo conducted its own assessment and valued Moscow property two-to-three times higher.¹⁰⁹

Tensions initially ignited by vague jurisdictional authorities of city dumas¹¹⁰ and zemstvos came to a boil after the 1905-6 Revolution, strengthening calls for financial autonomy. The conservative gentry, anxious over their declining land fortunes, resisted Stolypin’s agrarian and institutional reforms that would broaden peasant land ownership and representation.¹¹¹ At the same time, the zemstvos began to assume a more autonomous voice in defending local interests. In Kazan, for example, the head of the Guberniia in 1912 bristled at the cap on real estate taxation imposed by the national government¹¹² and declared that tsarist fiscal policies were undermining

¹⁰⁶ Andreev, “Dokhodnye stat’i biudzhetrov zemstv,” 28.

¹⁰⁷ Hartley, “Provincial and Local Government,” 463.

¹⁰⁸ Colton, *Moscow*, 52.

¹⁰⁹ Brower, *Tradition and Modernity*, 116.

¹¹⁰ The city дума, or legislative council, was created in the municipal reform of 1870. Many дума responsibilities overlapped with the zemstvos, which geographically encompassed both towns and rural areas.

¹¹¹ Hartley, “Provincial and Local Government,” 463.

¹¹² The reason is unclear why the 3 percent annual increase cap was imposed. It is likely that the wealthiest owners of urban real estate, who comprised ruling elites in St. Petersburg and Moscow, lobbied for the cap. As these two cities provided two-thirds of national revenues, their ruling elites would have considerable bargaining power in relation to tsarist officials.

local autonomy. In 1913 the regional zemstvo passed a resolution calling for the expansion of self-government based on greater local taxation authority. It never came to life.¹¹³

Competition for a slice of the urban tax pie also arose because property ownership was linked to a highly stratified income structure. A defining feature of Russian urban growth in post-reform Russia was the concentration of wealth in a small stratum of the population in selected capital and provincial cities. One third of designated cities (227 of 761) in early 20th century produced less than 100,000 rubles from trade and industry.¹¹⁴ The “merchant city” was dominated by petty traders. According to records of taxation paid by the male electorate of propertied and commercially-active residents, those who paid the highest and medium levels in 1872 in Moscow fell from 2,400 to 1,600 while those paying minimal levels grew from 15,000 to 18,000 in 1897.¹¹⁵ Approximately 90 percent of hereditary guild artisans in Moscow could not afford to pay the minimum property tax and were thus excluded from the society’s elections.¹¹⁶ Most artisans were desperately poor migrants and provided day labor in large cities for temporary periods.¹¹⁷

Housing ownership in particular was suppressed by poverty. Housing is synonymous with urban landed property. According to Vissarion Belinsky, “the dream of every Muscovite is to have his own house, even if it is only one with three windows. It may be poor, but it is his own, and with a courtyard he may be able to raise chickens and even a calf.”¹¹⁸ As noted above, in 1912 only 4 percent of Muscovites lived in privately-owned homes or apartments.¹¹⁹ They were less fortunate than residents of Saratov, where 6,000 out of 65,000 people owned a cottage or hut in

¹¹³ Sidorova, “Zemstva Kazanskoi gubernii,” 182-3.

¹¹⁴ Brower, *Tradition and Modernity*, 69.

¹¹⁵ Brower, *Tradition and Modernity*, 70.

¹¹⁶ Brower, *Tradition and Modernity*, 66.

¹¹⁷ Brower, *Tradition and Modernity*, 22.

¹¹⁸ Brower, *Tradition and Modernity*, 29-30.

¹¹⁹ Colton, *Moscow*, 47.

the 1860s. Of these, 2,000 were too rudimentary for taxation purposes. Spacious urban homes formed the fairy-tale life of the wealthy.¹²⁰

From ownership data it appears that urban property reached a limit as a revenue source, however politically popular it may have been with the noble-dominated provincial zemstvos to raise city tax rates. Thus Moscow went looking for other sources to supplement its property receipts and raised 60% of revenues from fees on utilities and transportation in 1912.¹²¹ In comparison, property taxes comprised 73% of revenues collected by local governments in the US in 1902.¹²² Moscow's reliance on user fees rather than on property taxes reflected the socio-economic gulf between Russian and American cities at the turn of the century.

Tables 3 and 4 show that the state and nobility continued to dominate land ownership nearly 150 years after the introduction of private property for ruling elites. But members of the land-owning nobility were not all equals. The 155 families in the upper aristocracy who owned over 50,000 *desiatiny* sold only 3 percent of their land-holdings between 1900 and 1914, whereas the lesser provincial nobility gave up 20 percent.¹²³ Hence among "different private owners" the concentration of holdings varied greatly. Of peasant allotment land, 80 percent belonged to the commune until the Stolypin reforms in 1906 enabled individuals to buy individual land plots more easily. Hence peasant allotment land is not considered privately-owned.¹²⁴

¹²⁰ Brower, *Tradition and Modernity*, 30.

¹²¹ Colton, *Moscow*, 58.

¹²² John Joseph Wallis, "A History of the Property Tax in America," in *Property Taxation and Local Government Finance*, ed. Wallis E. Oates (Cambridge: Lincoln Institute of Land Policy, 2001), 123-47, <http://econweb.umd.edu/~wallis/>.

¹²³ Lieven, "The Elites," 230.

¹²⁴ Oding, "Land Problem in Russia," 1-3.

Table 3
Land ownership in 50 Gubernii (Provinces) of European Russia,
1905

	mln. desiatin*	%
State, royal land, churches, monasteries and other	154.7	39.1
Peasant allotment land	138.8	35.1
Different private owners	101.7	25.7
Total	395.2	100

Source: Ezhegodnik Tsentral'nogo statisticheskogo komiteta (Sankt-Peterburg: Ministerstvo vnutrennikh del, 1907).

Table 4
Breakdown of Government-Owned Lands in Russia,
1905

	mln. desiatin*	%
State	138.1	89.3
Royal	7.9	5.1
Military	3.5	2.3
Urban	2.1	1.4
Churches	1.9	1.2
Monasteries	0.7	0.5
Other	0.5	0.3
Total	154.7	100

Source: Ezhegodnik Tsentral'nogo statisticheskogo komiteta (Sankt-Peterburg, Ministerstvo vnutrennikh del, 1907).

* "desiatin" equals 1.09 ha or 2.7 acres.

The political influence of the nobility-dominated zemstvos is not surprising given its high land ownership share. Among private land owners, the share held by the nobility was three times that of merchants and townspeople (Table 5). The amount of urban land owned by the nobility is not clear from the data. Private urban land ownership varied considerably by region in 1905 (Table 6). Of interest for the case studies is regional variation in private ownership.

Table 5
Distribution of Land Ownership in 50 Gubernii (Provinces) of
European Russia, 1905

Category	in thsd. desiatin*	%
Noblemen	53,169.0	61.9
Clergy	337.2	0.4
Merchants	12,906.8	15.0
Townspeople	3,763.8	4.4
Peasants	13,212.0	15.4
Other	2,213.4	2.6
Foreigners	352.4	0.4
Total	85,954.6	100

Source: N.A. Rubakin, *Rossiiia v tsifrakh, 1901-1910* (Sankt-Peterburg: Vestnik znania, V.V.Bitnera, 1912).

Table 6
Distribution of Land Ownership Across Regions of European Russia, 1905
(in thsd. desiatin*)

Regions	Noblemen	Clergy	Merchants	Townspeople	Peasants	Other	Foreigners
Severnyi	303.9	6.6	522.6	51.4	732.0	16.6	14.1
Ozernyi	3,041.3	13.2	1,970.6	339.9	1,835.3	196.5	53.2
Pribaltiiskii	3,400.8	2.6	100.7	36	5.5	471.1	31.6
Severo-zapadni	10,224.6	33.1	709.9	624.5	1,012.0	345.9	3
Tsentrāl'nyi	4,379.2	30.8	1,902.6	446.9	1,761.1	86.1	19.5
Sredne-volzhskii	3,138.2	10.2	1,283.7	345.2	1,452.0	212.3	33.6
Zavolzhskii	9,913.9	19.8	2,794.6	279.2	1,394.3	70.9	14
Zadneprovskii	6,982.7	32	937.7	660	925.0	351.7	124.1
Iuzhno-stepnoi	3,193.9	87.6	941.7	361.6	1,885.0	207.3	33.7
Dneprovsko-Donskoi	5,377.8	87.7	857.5	407	1,630.1	93.7	13.7
Volzhsko-Donskoi	3,212.3	13.6	885.2	212.1	580.0	161.3	11.9
Total	53,168.6	337.2	12,906.8	3,763.8	13,212.3	2,213.4	352.4

Source: N.A. Rubakin, *Rossiiia v tsifrakh, 1901-1910* (Sankt-Peterburg: Vestnik znaniia, V.V.Bitnera, 1912).

* "desiatin" equals 1.09 ha or 2.7 acres.

The strengthening of municipal autonomy in 1870 as part of the Great Reforms was short-lived; it collapsed in 1892 under pressure from the tsar, provincial governors, and the conservative nobility. Self-rule without state supervision was anathema to Alexander III (1881-1894).¹²⁵ For

¹²⁵ Alexander III became Emperor in 1881 after the assassination of his father, Alexander II. His regime was devoted to the retraction of many of the progressive policies of the Great Reforms.

the Moscow provincial governor, the more that municipal administration assumed leadership, the less state administration had significance. Municipal autonomy, once the ‘golden words,’ disappeared in new statutes. Electoral rules for city dumas based on wealth rather than social estate were ironically too successful in allowing prosperous commoners to share voting rights with nobility and wealthy merchants. After the regressive 1892 reform, electoral rules were sharply curtailed to give even fewer residents a voice in local affairs. “The specter of ‘popular democracy’ figured occasionally in the complaints of tsarist officials,” according to Brower, “but the key issue was the legitimacy of the civil public sphere of the city.”¹²⁶

Under these conditions, urbanization lost its muscle as a modernizer of society and politics. Hartley acknowledged the emergence of an independent corporate identity among the provincial nobility and merchant class, mainly in Moscow, that fulfilled the goals of Peter II and Catherine II as the basis for local autonomy. By the time it appeared, however, such solidarity was anachronistic, since local institutions did not represent the reality of social stratification based on migrant labor in the early 20th century.¹²⁷ For Hamm, modernization stalled due to “rigid statutory restraints, bureaucratic neglect, and financial strangulation of the city and the consequent indolence in city government, for which less than 1 percent of the population could vote after 1892.”¹²⁸ Colton acknowledged some vitality in the private sphere of Moscow life, but saw the undemocratic and passive public organs as out of step with urban squalor and the needs of the disenfranchised poor.¹²⁹

The powerlessness of the cities and the weakness of urban property rights are connected; it would be hard to imagine that civic-mindedness could go very far without a link between

¹²⁶ Brower, *Tradition and Modernity*, 121-22.

¹²⁷ Hartley, “Provincial and Local Government,” 468-69.

¹²⁸ Hamm, “Modern Russian City,” 51.

¹²⁹ Colton, *Moscow*, 58, 69-70.

property taxation and political representation. In this respect the traditions of peasant communal society (the *mir*) were richer as an opportunity to practice democratic principles by distributing land and administering justice. Such traditions did not obtain in urban communities, not even at the level of shared housing. Only the wealthiest nobles and merchants, some 0.5 percent of the population, had the privilege to participate in elections in cities. For the lesser ranks of the propertied, the obligation to finance the state rather than the local community, without a voice in local politics, would be a disincentive to invest in urban amenities or infrastructure. For the majority of tenants who were migrants and owned land in the country, where their families lived, the city was a workplace rather than a home.

The symbiosis of the property tax as a “benefit tax,”¹³⁰ with real rewards for residents in sanitation services and good schools, and real limits on the power of political authorities, did not obtain at any point in Tsarist Russia. Twice, under Catherine II and Alexander II, the predatory ruler redirected the institutional path to widen access to property rights, first for ruling elites, and then for the broader population. In the latter case, the alignment of opinion among the tsar, bureaucracy and educated society hastened the liberalization process. But ultimately, tsarist policies on municipal autonomy and local taxation contradicted the spirit of initiatives to extend private property rights. Urban land failed to generate the political power that follows widespread property ownership, and “taxation without representation” never became a rallying cry by citizens in defense of individual rights.

¹³⁰ For a discussion of property tax as a “benefit tax,” see John Joseph Wallis, “A History of the Property Tax in America.” In *Property Taxation and Local Government Finance*, ed. Wallis E. Oates (Cambridge: Lincoln Institute of Land Policy, 2001), 123-47, <http://econweb.umd.edu/~wallis/>.

5. *Land Governance in the Soviet Period, 1917-1990*

Radical change in formal rules rarely represents a clean break from the past. When revolutions are ideologically grounded, as in 1917 Russia, they are vulnerable to subversion, either from factional rivalries, incompatibility of ideological incentives with human behavior, or from tensions that arise between new formal rules and deep-seated, informal institutions. Hence, according to North, “perhaps [the] most striking feature [of discontinuous change] is that it is seldom as discontinuous as it appears on the surface.”¹³¹ Differences and similarities in Tsarist and Bolshevik ideologies are beyond the scope of this study, as is the Russian Revolution as a case of institutional change. The focus here is to understand why, when and how urban property rights changed under Soviet-Marxist law as background to the institutional changes in post-Soviet Russia. From such examination we may gain purchase on institutional change from both an historical and micro-analytic perspective.

a. Political authority and the legal order

The “legal order”¹³² became an early battleground among the new revolutionaries. The initial question was metaphysical: what purpose was there for law when the state was supposed to wither away? At issue was the Marxist assumption that a stateless society could do away with bourgeois capitalist law and manage the transition to communism without a legal code to guide human conduct. As Engels had prophesied, civil law regulating property relations would die out with capitalism. Lenin’s *State and Revolution* (1917) sidestepped the problem by declaring that a proletarian State could first end the capitalist legal order; thereafter it would begin to recede from

¹³¹ North, *Institutions, Institutional Change*, 89-91.

¹³² Weber, *Economy and Society*, 333-34. Weber defines law as a norm “directly guaranteed by legal coercion.” A “legal order” shall be said to exist wherever coercive means, i.e. of a physical or psychological kind, are available” (313). However, “Legal coercion is not the sole, or even the greatest, motivation of “legal” conduct.” Rather, it is the expectation of the individual that certain conduct will be approved or disapproved by society (317).

power. The first normative acts would not represent law per se, but the will of the people as the new ruling class in society. Soviet leaders philosophically rejected the need in the long-term for the state to administer legal rules in a communist society.¹³³

Due to its significance as political theory, it is important to understand how the Communist Manifesto influenced the legal battle, particularly over civil law. According to Marxist thought, power, property and law are interwoven in bourgeois economic history. Oppressed serfs evolved into bourgeoisie in medieval European city communes when they acquired property, won the right of self-government, and enshrined their status as free individuals in law.¹³⁴ As bourgeois wealth accumulated, the bourgeoisie overtook the nobility and eventually the state, where it implanted laws favorable to capitalist economic interests. Bourgeois law was firmly entrenched in the public mind as the only legitimate legal norm even though ten percent of propertied society exploited the 90 percent who were without property. To break bourgeois political power, the Communist Manifesto exhorted revolutionaries to seize its source of economic power. The first order of business in a communist revolution would be “abolition of property in land and application of all rents of land to public purposes.”¹³⁵ However, the Manifesto went on to stress, “The distinguishing feature of Communism is not the abolition of property generally, but the abolition of bourgeois property.”¹³⁶ Property that is not exploitative of labor could be exempted from confiscation.

The Bolsheviks initially put Marxist theory into practice as if following a checklist from the Communist Manifesto. Compared to the gradual pace of industrial nationalization, land

¹³³ William E. Butler, *Russian Law* (Oxford: Oxford University Press, 2009), 75-76. John N. Hazard, “Soviet Property Law,” *Cornell Law Review* 30:4 (June 1945), 478. <http://scholarship.law.cornell.edu/clr/vol30/iss4/5>.

¹³⁴ Karl Marx and Frederick Engels, *Manifesto of the Communist Party, February 1848, Vol 1. of Marx-Engels Selected Works* (Moscow: Progress Publishers, 1969), 15.

¹³⁵ Marx and Engels, *Communist Manifesto*, 26.

¹³⁶ Marx and Engels, *Communist Manifesto*, 23.

seizure was swift and non-negotiable.¹³⁷ In its first decree of October 28, 1917,¹³⁸ the Second Congress of Soviet Workers and Peasants expropriated all agricultural estates of the nobility, without compensation, while protecting peasant smallholdings.¹³⁹ Once the Bolsheviks had outmaneuvered competing parties and dispensed with the democratically-elected Constituent Assembly, they decreed on February 19, 1918¹⁴⁰ that all rights to land, urban as well as rural, above and below ground, were abolished. Whether the structure was a factory, barn, or house, the land under it reverted to state ownership.

Having nationalized all land, the Bolsheviks issued a carefully-crafted decree on urban property on August 20, 1918,¹⁴¹ that differentiated acceptable housing from the bad bourgeois holdings requiring reallocation. Specifically, large houses over a designated minimum size would be seized, while small homeowners could retain title to their abodes. In towns of 10,000 or less, the definition of a minimum size was left to local Soviets to decide. Thus, for owners of small homes in town or country, property rights underwent a twist not known in Tsarist Russia or the West: land and buildings became two separate properties. The owner of an *izba* (cottage) became tenant to the local government for the land on which it stood.

In the two largest cities, the revolutionary zeal applied to the restructuring of property rights made ‘legal coercion’ an understatement. The 1918 decree had declared that in Moscow and St. Petersburg, families could retain dwellings with up to five units.¹⁴² However, the Moscow Soviet

¹³⁷ Hazard, “Soviet Property Law,” 470.

¹³⁸ Sob. Uzak. R.S.F.S.R., 1917, I, No. 1, Art 3 in Hazard, “Soviet Property Law,” 468. Hazard notes that dates on decrees and other acts through January 31, 1918 are in accordance with the Julian calendar, which was in force in Russia at the time. The Gregorian calendar was adopted for all dates beginning with February 14, 1918, which would have been February 1, 1918, under the Julian calendar.

¹³⁹ Hazard, “Soviet Property Law,” 468.

¹⁴⁰ Sob. Uzak. R.S.F.S.R. 1918, I, No. 25, Art. 346 in Hazard, “Soviet Property Law,” 469. The decree was incorporated as Article 6 of the 1936 Constitution of the USSR.

¹⁴¹ Sob. Uzak. R.S.F.S.R. 1918, I, No. 62, Art. 674 in Hazard, “Soviet Property Law,” 469.

¹⁴² Hazard, “Soviet Property Law,” 469.

had already taken matters into its own hands, well before the decree. A helter-skelter process of seizures and forced resettlements by revolutionary enthusiasts tore families apart or compressed many families into one larger housing unit, sometimes at gunpoint. A scene in the movie, *Dr. Zhivago*, depicts this socially painful process under the glare of the Peoples' Commissars. The Moscow Soviet sharply raised real estate taxes on residences not yet restructured, cut rents in half in apartment buildings, and "municipalized" tenements of the largest landlords, affecting 40 percent of the population.¹⁴³

New laws could not regulate urban and rural land use amidst civil war, the Red Terror, and famine. The property battle in rural areas was exceedingly contentious because of spontaneous peasant land grabs¹⁴⁴ and conservative opposition to reallocation.¹⁴⁵ Laws were passed that required equal distribution of land; these were promptly ignored. Finally, the 1922 Land Code recognized the futility of dictating land allocation and confirmed the land use rights of those working the land, in perpetuity, while title to the land remained with the state.¹⁴⁶ Reality on the ground forced law to catch up.

The Civil Code represented ground zero in the legal battle over property relations. Jurists trained in the Tsarist period struggled to square their revolutionary ideals with the evolving need for civil law. The crisis became acute when Lenin proclaimed the New Economic Policy in 1921, allowing a measure of private enterprise. To enable new property relations, the jurists plumbed European concepts and sections of a draft by the Tsarist Commission on civil law, and employed them in the Soviet Civil Code of 1922. While heavily amended by subsequent decrees, it remained

¹⁴³ Colton, *Moscow*, 90-91.

¹⁴⁴ Colton, *Moscow*, 117.

¹⁴⁵ Hazard, "Soviet Property Law," 471.

¹⁴⁶ Hazard, "Soviet Property Law," 471-472. The Land Code was superseded by the forced agricultural collectivization under Stalin in the 1930s.

in place as an uneasy compromise until 1937. Many of its basic tenets held throughout the Soviet era, including the prohibition on buying and selling land and the right to seek permission to build a house or enterprise structure.¹⁴⁷

The practical effect of the Code was to enable property rights to be regulated through contracts, just as in Tsarist Russia and capitalist countries, and to restore economic principles to land use. As in rural areas, city Soviets became the owner of most land and property and distributed occupancy privileges by rewriting the contracts from private ownership to socialist leasehold. All land tenants paid land rent, including state enterprises. Initially, contracts covered several years, but after 1936, as new notions of Soviet civil law took root, the local Soviets issued certificates of perpetual use rights. So long as an enterprise had rights to a building, it could retain the privilege of using the underlying land.¹⁴⁸

After the initial pell-mell of revolutionary land seizures, Soviet ruling elites began to use property privileges as a reward or disciplinary measure. Since the state owned all land and high-value housing, access to property was a privilege that could be granted or revoked. Just as Peter the Great had allocated land privileges in line with the rank of nobles, the Communists reserved the swankiest addresses for the highest party members. Swaths of graceful landscapes in western Moscow, formerly the nob hill of celebrated families and artists, were filled with rising luminaries of the Communist Party such as Joseph Stalin. Geographic proximity of in-town residences to the Kremlin, the center of power, radiated social status. Favored cultural and scientific groups received the higher space allocations once reserved for soldiers returning from the front.¹⁴⁹

¹⁴⁷ Hazard, "Soviet Property Law," 478-79.

¹⁴⁸ Hazard, "Soviet Property Law," 476-77.

¹⁴⁹ Colton, *Moscow*, 122, 126-127, 162-163.

The costs of managing municipal property led the Soviets to introduce a more rational housing policy. An “orgy of annihilation” had inspired tenants to depreciate their dwellings so as not to become a target of takeover by the Moscow Soviet.¹⁵⁰ Several policy correctives were implemented during the liberalization of the New Economic Policy (NEP). Gone was the utopian notion of free housing. Idealistic visions of communal living also vanished.¹⁵¹ The original decree stipulating that owners of dwellings with no more than 5 units could remain private was finally implemented, in a move that amounted to “demunicipalization.” Enterprise-owned housing rules that required the eviction of tenants upon a change of job were reinstated, but with a softer face to the employee, who received protection from the court to find alternative quarters. Finally, a new form of nongovernmental “housing partnership” was created that reinstated leases under contract to the municipality. Space allocations, known as “sanitary norms,” favored servants of the people, including army, security, and scientific officials, but poor residents received 10 percent of space allocated. By 1924, housing partnerships comprised 31 percent of dwellings but housed 50 percent of the population. Private housing (demunicipalized) comprised 28 percent of dwellings but because the units were smaller in size, housed only 5.5 percent. Overall, the municipality became landlord to about 78 percent of the population.¹⁵²

After a twenty-year “legal order” that nationalized land but allowed urban land relations based on Tsarist and European contractual principles, a new team of jurists declared that property law could indeed exist, but in socialist form. Led by A. Ia. Vyshinskii at a 1938 conference on legal science, the new jurists explained that the old school, led by E. B. Pashukanis,¹⁵³ had

¹⁵⁰ Colton, *Moscow*, 159.

¹⁵¹ Colton, *Moscow*, 120-123.

¹⁵² Colton, *Moscow*, 158-164.

¹⁵³ Pashukanis was executed in 1937 for his policy views. Jurists such as Pashukanis were rehabilitated in the 1960s during the resuscitation of interest in Western political and legal philosophy. See Butler, *Russian Law*, 82-83.

misinterpreted the writings of Marx and Engels. In fact, bourgeois law corresponded to a bourgeois phase of power, just as feudal laws had upheld the feudal period. Hence, law was the creation of the ruling class in any society. Following declarations in the 1936 USSR Constitution, there was no doubt that socialism had triumphed over capitalism. It was time to adopt a Marxist-Leninist socialist law to administer state property.¹⁵⁴

In the officially-sanctioned definition of Soviet law in 1938, coercive force, the cudgel that had restructured property rights, was proclaimed at the height of Stalin terror as the guarantor of the legal order. Substantively, Soviet law represented “the aggregate of rules of conduct established in a legislative procedure by the power of the working people expressing their will...for the purpose of...building of a communist society.” Politically, such law would be “ensured by the entire coercive power of the socialist State...” Philosophically, it signified acceptance by the Soviet hierarchy that civil law was needed to manage state property and build state socialism.¹⁵⁵

While legal precepts evolved significantly and less coercively after 1964 (the Khrushchev period), legal norms for property rights established that endured until 1990. Soviet experience bears witness to Weber’s observation that “factual regularities *of* conduct (‘customs’) can...become the source of rules *for* conduct (‘conventions,’ ‘law’). At the same time, the reverse is also true: legal norms can produce regularities that endure even when laws change.¹⁵⁶ Today, two such norms -- the separation of land and buildings as two distinct properties and perpetual use rights – still stand as sturdy as an oak tree. What the Soviets decreed in the 1920s and wrote into civil law in the 1930s, the post-soviet Russians have been trying to repair since the 1990s.

¹⁵⁴ Butler, *Russian Law*, 76-81. Hazard, “Soviet Property Law,” 79-80.

¹⁵⁵ Butler, *Russian Law*, 81.

¹⁵⁶ Weber, *Economy and Society*, 332.

b. Bureaucratic organization and performance

The early Soviet period established a pattern of central bureaucratic and Communist Party control over cities. The context of “war communism,” a euphemism for the Bolsheviks’ battle against their enemies, real and imagined, demanded greater centralization of authority, as did the organizational chaos within local soviets (municipal administrations), which depleted already shabby communal services. Three areas of centralization appeared, with lasting effects. First, as early as 1918, local municipal departments reported both to the local executive and to the analogous central department in a “dual subordination” that continued Tsarist practice. The higher authority dominated the pecking order.¹⁵⁷ Second, rising standardization (e.g. in land and housing practices) diminished the bargaining power of municipal officials vis-à-vis the Communist Party. This occurred due to the Party’s parallel structure (within the municipal bureaucracy) and its right to dictate the hiring of senior municipal officials.¹⁵⁸ Finally, large industrial enterprises became a salvation for local soviets, and in time, a competitor for municipal power. Enterprises held the biggest trump cards -- access to scarce housing and consumer goods, supported by generous budgets – that could not be supplied by local soviets.¹⁵⁹

City planners were challenged to put Marxist ideology into practice in urban life. Though their visions differed, utopian-minded architects and planners who came of age before the revolution shared a common goal of founding the ideal socialist city.¹⁶⁰ How was not evident from

¹⁵⁷ Colton, *Moscow*, 128-38.

¹⁵⁸ Colton, *Moscow*, 139-45, 160.

¹⁵⁹ Colton, *Moscow*, Colton 117-8.

¹⁶⁰ Milka Bliznakov, “Urban Planning in the USSR: Integrative Theories,” in *The City in Russian History*, ed. Michael F. Hamm (Lexington: University Press of Kentucky, 1976), 246-49. Frederick S. Starr, “The Revival and Schism of Urban Planning in Twentieth-Century Russia” in *The City in Russian History* edited by Michael F. Hamm (Lexington :University Press of Kentucky, 1976), 238-39.

the Communist Manifesto, which observed that the agglomeration of capitalistic activity had concentrated wealth and political power in cities. According to the Manifesto, a critical step in the revolution was the “gradual abolition of all the distinction between town and country by a more equitable distribution of the populace over the country.”¹⁶¹ Such a philosophy, if put into practice, would reverse the pattern of increasing urban density in market economies.

The “socialist city,” with its inefficient spatial structure, emerged from debates over land ownership and urban planning. Starting from the late Imperial Period, urban planners had challenged the concept of private land ownership and provided an urban constituency for Bolshevik aspirations to transform cities into monuments of socialist development. Starr believes the planning heritage of the late imperial period, which was based on imported models of urban form, survived and was adapted rather than destroyed by Bolshevism. Both the classical revivalists, who “gladly subordinated private and individual interest to their general plan,” and the left-leaning International Garden City Society that advocated public land ownership, sympathized with Bolshevik policies to abolish private land ownership.¹⁶²

Urban planning evolved into a rigid bureaucratic exercise to glorify the conformist sentiments and national aspirations of the state. Stalin created a central office for architectural planning (Arplan) that led the preparation of General Plans (city designs) and supervised local offices, to ensure national conformity. The single client of Arplan was the Soviet Government. The blueprint until World War II was the “superblock” of four-storied apartments and courtyard in central zones; thereafter it was the high-rise apartment complex on city fringes with limited

¹⁶¹ Marx and Engels, *Communist Manifesto*, 26.

¹⁶² Starr, “Revival and Schism,” 232-36. Inspired by the British social reformer Ebenezer Howard in 1904, the “garden city” envisioned a harmonious blending of nature, community, and employment. Russian/Soviet experiments failed to take off due to the absence of an employment base and the control of land by central agencies rather than democratic town assemblies. See also Colton, *Moscow*, 63.

services.¹⁶³ The decaying remnants of these structures stand as a chronological and geographical guide to city planning in the Soviet era.

The sad irony of central planning was that it distorted land use in cities. Five-year plans (industrial production goals) came into competition for funding with the General Plan¹⁶⁴ (for territorial socio-economic development). Once adopted by the Soviet Government, sector ministries and regions fought a budget battle to get resources for implementation. The most powerful sector and industrial lobbies dominated the struggle, and their resource needs claimed first priority. As a consequence, fulfillment of the General Plan at the municipal level had low priority, leading to disproportionately greater investment in industry, underfunding of municipal infrastructure and housing, and distortion of land use patterns of socialist cities.¹⁶⁵

Resource constraints and scarcity led to stratification of social groups and privileges in landed property for elites. The obsession with industrialization since the 1930s and the absence of market mechanisms created a chronic disequilibrium in supply and demand of consumer goods on the urban street, while ensuring shortages that stimulated a black market and corruption.¹⁶⁶ Access to housing in Moscow in the 1980s is a telling example of how consumer supply shortages were rationed. Depending on proximity of one's employment to the political center of power, the waiting time for scarce living space varied by a factor of three. For the general public, the queue to receive an apartment was six to nine years, while for employees of an enterprise or central agency it would be three to four years. Local government workers in the consumer industries or

¹⁶³ Bliznakov, "Urban Planning in the USSR," 253-55.

¹⁶⁴ As noted in Chapter 2, the General Plan determined what could be constructed and for what purpose on every land parcel in every large municipality. These plans were approved in intervals of 20-30 years. The more powerful or influential the ministry or industry, the more desirable was the location of the land plot it received for development.

¹⁶⁵ Limonov and Vlasova, *Upravlenie Nedvizhimosti*. The distortion of land use in socialist cities is discussed in Chapter 4.

¹⁶⁶ Alec Nove, *An Economic History of the USSR*, 375-382.

service sectors had the longest wait, while the shortest was for high-placed Communist Party officials, who regularly jumped the queue. “When they paid the piper, the enterprises and ministries called the tune.”¹⁶⁷

In short, bureaucratic performance regarding urban planning placed abstract socialist ideals above concrete consumer realities and central goals above citizen interests. The revenues thus maximized by predatory rulers benefited the ruling elites more than the general population.

c. Public Participation in Decision-Making

A central premise of the dissertation is that public participation can advance the pace of institutional change if the public is engaged in decision-making by executive authorities and the bureaucracy. Public engagement contains supply-and-demand features: there must be demand for citizen input on the part of public authorities, while citizens must be willing to engage in a meaningful consultation process. According to Reddaway and Glinski, two patterns of state-society relations have alternated in Russian political culture, producing pendulum swings to the right (in favor of dictatorship) and to the left (in the form of liberalizing reforms that weaken the state). Top-down, coercive transformations imposed ‘progress’ without allowing discussion or dissent (e.g. Peter the Great, Stalin). Bottom-up initiatives grew out of political and intellectual awakenings of society (e.g. the Great Reforms). The tendency in bottom-up initiatives was for counter-elites to press for more comprehensive changes out of frustration with the illegitimacy of the existing order. Such actions then fanned revolutionary social tensions.¹⁶⁸ The question in this study is whether state-society dialogue can develop more constructively, at the level of urban

¹⁶⁷ Colton, *Moscow*, 498-502.

¹⁶⁸ Peter Reddaway and Dmitri Glinski, *The Tragedy of Russia's Reforms: Market Bolshevism Against Democracy* (2001), 623-29. The slowdown of the command economy during the Brezhnev period was a sign of systemic ills.

planning linked to land use, where decisions are commonly reached with civic input in advanced market economies.

Demand by the Communist Party for greater involvement of citizens in local affairs began to appear in the 1960s during a reassessment of Soviet ideology. Reddaway and Glinski describe such moments as periodic attempts by the Party to stage “thaws” of partial liberalization to stimulate better economic performance.¹⁶⁹ The ideological basis for citizen engagement, however, was presented as a third stage following Lenin’s proletarian state in the 1920s and Stalin’s building of state socialism in the 1930s. By the XXI Congress of the Communist Party in 1961, Soviet ideologists deemed the country to be in an advanced phase of socialism where an ‘all-people’s State’ would draw on the services of non-governmental bodies. The state would not wither away. Rather, it would divest more functions to these bodies and citizen groups.¹⁷⁰ These concepts were formalized in the new Constitution in 1977, while aggrandizing the role of the Party and State.

However, society was less willing to supply the desired inputs on terms dictated by the Party. The educational, gender and urban migration patterns since the founding of the Soviet Union had created a population that was harder to indoctrinate and mobilize than the uneducated masses encountered by Lenin. By 1988, Starr noted, the USSR was as urbanized as Italy and about 10 percent less than the United States. Ruble found that specialized employment patterns, urban stratification, and creation of a professional female labor force had created a massive social transformation. The result was that “society was starting to outgrow the crude and rigid instrument of the party-controlled political system.”¹⁷¹

¹⁶⁹ Reddaway and Glinski, *Tragedy of Russia’s Reforms*.

¹⁷⁰ Butler, *Russian Law*, 82-83.

¹⁷¹ Joseph B. Dunlop, *The Rise of Russia and the Fall of the Soviet Empire* (1995), 68.

Upon coming to power in 1985, Mikhail Gorbachev recognized that an ideological gap between the state and society was at the heart of the crisis.¹⁷² A dissident movement had raged since the 1960s; now the *neformaly* (informal organizations) were getting out of control.¹⁷³ Since the end of the Brezhnev era there had been no incentive to work or produce. People were demoralized and deaf to the regime's urgings. Like Khrushchev, Gorbachev believed the Party's legitimacy was the point of contention. Just as the enlightened bureaucrats had to build a bridge to society before the Great Reforms, Gorbachev framed *glasnost* to open dialogue on pluralism, the market, and the rule of law.¹⁷⁴ In the process, to use Tatyana Zaslavskaya's apt metaphor, he "uncorked" systemic change.¹⁷⁵

At the practical level of urban planning, *glasnost* opened space for architects and urban planners to advocate for the freedom of architectural design from "dogged adherence to central decrees."¹⁷⁶ Following a conference in summer 1986 of the Leningrad Division of the RSFSR Union of Architects (a professional organization of 1,550 members), an active debate dominated the media on ways to reenergize the dreary state of urban planning. The city's substandard housing stock, only 2 percent of which was constructed after the 1917 Bolshevik Revolution, received withering criticism in the context of the times, together with calls for greater historic preservation to retain the city's cultural soul.

Public debate extended past refined professional societies to become "grassroots fury"¹⁷⁷ in both Moscow and Leningrad in the 1980s. A celebrated case in Leningrad illustrated the failure of constructive dialogue and the clash of cultures between planners and residents inspired by

¹⁷² Carl Linden, *From Khrushchev to Gorbachev* (1990), 233.

¹⁷³ Dunlop, *The Rise of Russia*, 73.

¹⁷⁴ Linden, *From Khrushchev to Gorbachev*, 233.

¹⁷⁵ Dunlop, *The Rise of Russia*, 68.

¹⁷⁶ Blair A. Ruble, *Leningrad: Shaping a Soviet City* (Berkeley: University of California Press, 1989), 87-89. This paragraph draws on the same source.

¹⁷⁷ Colton, *Moscow*, 748.

glasnost'. In March 1987, as demolition started on two historic hotels, the Astoria and Angleterra, a storm of complaints to media outlets led to the publication of an explanatory interview by the city's chief architect, S. I. Sokolov. He clarified that the Astoria would be renovated to match the monumental style of the pre-revolutionary period while work on the Angleterra would not be completed until 1989, without specifying the nature of the works. The interview prompted large and repeated demonstrations outside the hotels and widespread media coverage of concerns that the city Soviet and Communist Party committees planned to destroy the historical heritage of St. Petersburg. Meanwhile, the Angleterra was torn down in a matter of weeks rather than two years.¹⁷⁸ Students from the history department of St. Petersburg University had mounted the bulldozers to stop the works, but to no avail. In the aftermath of the events, Chief Architect Solokov resigned¹⁷⁹ and the Party, after blaming city officials, cracked down on the demonstrators, expelling students from universities who had led the defense of the Angleterra.¹⁸⁰ The significance of the event, according to Limonov, was that historic preservation had provided an apolitical cause for civil society to exercise public authority against the state.¹⁸¹

The underlying tension between urban planners and residents was the classification of the General Plan, a document impacting millions of lives, as a state secret. In counterpoint to the agglomeration efficiencies produced by land markets in Western democracies, Leningrad plans had created a geographic divide between inner-city employment and outer-city housing in order to reduce population density in the historic center, while intensifying the industrial ring around it.¹⁸²

¹⁷⁸ Ruble, *Leningrad*, 89-93.

¹⁷⁹ Leonid Limonov, Personal Interview, St. Petersburg, Russia, August 1, 2013.

¹⁸⁰ Ruble, *Leningrad*, 93.

¹⁸¹ Limonov, Personal Interview, August 1, 2013.

¹⁸² Throughout the Soviet period, Leningrad planners aimed to reduce population growth, limit urban sprawl, and spread population evenly across the territory. To reach this goal, residents of the inner city were progressively moved to housing outside the city. Since employment, social services, commercial activity and tourism were concentrated in the historical center, about half of the population commuted daily, requiring an average two-hour commute. This vision required a larger planning landscape. Ultimately, the 1986-2005 GenPlan embodied a

As a consequence, the social demands of a growing city were not fully recognized, leading to housing shortages, absence of sufficient transport and health services, and inadequate maintenance of existing facilities.¹⁸³ Despite these impacts on economic efficiency and citizen welfare, only a cursory reference appeared in public on the “Technical-Economic Foundations of the Unified General Plan of Development of Leningrad and the Leningrad Region in 1986-2005,” and then only after its approval by Mikhail Gorbachev and the Politburo.¹⁸⁴ “Significantly,” according to Ruble, “even this overview of the 1986 General Plan provided insufficient information for meaningful public participation in the planning process.”¹⁸⁵

The mounting of bulldozers by students, on one hand, and the secrecy of urban planners, on the other, broadcast the bankruptcy of an ideology that could not countenance consultations on normal concerns affecting community life. The event also demonstrated that the directional compass of the bureaucracy pointed to state masters rather than citizen interests. To cross Gorbachev’s bridge to society would require bureaucratic planners to relinquish the shield of secrecy that had defined the communist *nomenklatura* for decades. It would also require them to explain why their elegant blueprints had failed to meet their own projections, let alone social requisites. The impatience of society faced the impregnable fortress of the state. The pendulum was beginning to swing, but no one at the time could predict the direction it would take.

regional framework that integrated Leningrad Region and Leningrad city, a territory slightly smaller than the state of Indiana. See Ruble, *Leningrad*, 74-82.

¹⁸³ Ruble, *Leningrad*, 98.

¹⁸⁴ Ruble, *Leningrad*, 103-106.

¹⁸⁵ Ruble, *Leningrad*, 107.

6. *Conclusion*

Urban land, and by extension, urban communities, were stepchildren in the legal order of the Tsarist empire and the Soviet Union. Two related factors retarded widespread ownership of private urban land in Russian history. One was the absence of a tradition of urban real estate as a source of social status, wealth, political power, and municipal finance. Under the Tsars and Soviets, social status and personal enrichment depended on favors from or proximity to the autocratic leader of the day. Second was the failure of Russian cities to develop as autonomous political communities where all citizens shared the rights and protections of “bourgeois” law based on ownership and control of urban property.

Using the predatory rule theory and the conceptual framework of North, Wallis and Weingast (2009), we may distinguish five distinct stages in the institutional evolution of land rights from the sixteenth to the twentieth century. During the first phase, Ivan IV brutally eliminated many of the boyar nobles, then used the distribution of inheritable land privileges among the nobility to contain violence through a loyalty system. The exchange of land for service to the crown helped establish national unity and a foundation to finance the territorial expansion of Muscovy. Russia became a fragile natural state.

Over time, the loyalty system eroded as nobles failed to provide service in return for land rights and connived with urban residents to deprive the monarch of revenues. The second phase occurred when Peter II used his strong bargaining position from military victories to retract the nobles’ land rights and to tie land *privileges* to state service. The privileges were revocable and not inheritable. Land lost its value as a source of individual wealth and power, and became a status symbol of service to the tsar. Russia remained a fragile natural state because Peter II redistributed land privileges in order to maintain control within the ruling coalition.

Catherine II faced a different set of constraints than her predecessors due to internal threats. She was forced by circumstances to strengthen the land rights of noble challengers to secure their support for her reign. Russia became a basic natural state where ruling elites accepted property rights and rule of law for elites. For the first time in Russian history, the word for private “ownership” was used by a Russian monarch, and individuals could hold private rights to *urban* land. However, Catherine failed to reap the benefits of an expanding urban economy by overtaxing cities and undermining their autonomy to make financial decisions based on local needs. The beneficiaries of private property were tax-free nobles and the serfs they owned rather than an urban middle class.

In the next phase, a tectonic shift in the fortunes of the empire and the composition of society led Alexander II to authorize enlightened bureaucrats to initiate modernization efforts through the Great Reforms. As a consequence, serfdom ended and the opportunity to acquire land rights was extended to all members of society. Russia was on the verge of becoming a mature natural state where a rule of law in land rights is extended beyond ruling elites. However, the more land that the nobles lost, the more alarmed they became about the tides of institutional change.

At the end of the imperial period, in reaction to the growing influence of cities, a conservative coalition under Alexander III and Nicholas II curtailed municipal autonomy, increased the tax burden on urban property, and denied property owners the right of political representation. There were few champions of private property in Russian society, even in the first two constitutional dumas elected after 1905, when legislators were broadly representative of society. Rather, the pressure for institutional change was to nationalize or “municipalize” land, but not to privatize it.¹⁸⁶

¹⁸⁶ Limonov, *Vlast' i sobstvennost'*, 15-17. Pipes, “Private Property,” 437.

The assumption of power by the Bolsheviks was not preordained when the tsarist autocracy collapsed in early 1917, but soon after seizing power, the party decreed that all land would revert to the collective property of the state. In the process, Russia had reverted to a fragile natural state.

Not all cases can be explained by applying the theory of predatory rule to the motivations of rulers in instigating institutional change in property rights. The principal exception is the 1917 revolution, in which the motivation by the Bolsheviks to nationalize land was ideological. Once in power, however, the Bolsheviks used land as a revenue system, just as all Russian rulers had before them. State land ownership both projected power and maximized revenues through land rents.

The theory of predatory rule as used here is consistent with the proposition by Reddaway and Glinski that fiscal crises motivated major reforms throughout Russian history. In their analysis, the primary reason for revenue shortfalls related to wartime losses (e.g. Ivan IV's Livonian War, Northern War under Peter the Great, Crimean War of 1853-56, Russo-Japanese War of 1904-5, World War I and Afghan War of 1979-88). The threats to national security motivated a usually complacent oligarchy to modernize.¹⁸⁷

The predatory rule theory explains why and when institutional change occurred; the land governance model describes how the process transpired. With the major exception of the Great Reforms, when political authorities, the bureaucracy, and society all aligned to enable far-reaching statutory changes in land rights, the more common pattern was for political authorities to restructure property rights with the compliance of the bureaucracy, which served the autocratic ruler of the period. Considering the relative poverty of urban residents throughout the Russian

¹⁸⁷ Reddaway and Glinski, *The Tragedy of Russia's Reforms*, Chapter 1.

and Soviet periods,¹⁸⁸ and the disincentives for engagement in urban affairs, it is not surprising that society shied away from civic activism. Given the aversion to compulsory participation in communist-era organizations, the voluntary initiative of those who took to the streets in the late Gorbachev period is that much more remarkable.

¹⁸⁸ A. Zaichenko, an economist writing in *Argumenty I fakty*, described the Soviet “social pyramid” during the Gorbachev period as 2.3 percent rich, 11.2 percent middle class, and 86.5 percent poor. See Dunlop, *The Rise of Russia*, 82.

Chapter 4 The Struggle for Urban Land Rights: 1990-2013

The codification of private land ownership, for the first time in seven decades, presented a formidable agenda for a weak state. As trade and economic production collapsed, inflation soared, and regions sought sovereignty from the Russian Federation, the Federal Government took on the herculean task of putting the essential features of an urban land market in place. The agenda included: “(i) clear and tradable property rights; (ii) efficient market-oriented information systems; (iii) a taxation system consistent with efficient land use; and (iv) the publicity and contestability of urban planning decisions.”¹ This chapter describes why the results of the first decade fell short of expectations from a federal policy perspective, and how corrective actions after passage of the Land Code in 2001 advanced the urban land privatization agenda.

From 1990 – 2000, despite legal chaos and contradictory land privatization and fiscal policies, aggressive efforts by President Yeltsin and federal political authorities planted the seeds of institutional change. However, their high level of pro-land-privatization activities did not find a ready counterpart in bureaucracy or society. The bureaucracy remained dysfunctional, undergoing several redundant restructurings, while society, represented by debate in the Duma (legislature), was highly polarized. Hence, there was no alignment in the land governance model, and institutional change was stymied.

Starting in 2001, the institutional matrix for land privatization altered dramatically. President Putin maneuvered the Land Code through the Duma by taking rural land, the most contentious issue, off the table. His appointment of an enlightened bureaucrat, German Gref, led to increased investments in land administration and resolution of turf battles among Soviet-era

¹ Alain Bertaud and Bertrand Renaud, *Cities without Land Markets: Lessons of the Failed Socialist Experiment*, Discussion Paper No. 227, (Washington, D.C., World Bank), 48.

agencies. A national unified property registration system emerged after 2008, under President Medvedev. At the same time, federal authorities adjusted fiscal-federalist policies to give municipalities 100 percent of land tax receipts, providing local governments an incentive to privatize land, and land taxpayers a lever over local governments. While the national Duma passed the Land Code and related Civil Code allowing land to be bought and sold, as the decade wore on, it became a drag on institutional change by extending Soviet-era land privileges. On the other hand, civic organizations in some cities came to life, leading several internationally-publicized protests in defense of urban land rights. Thus, there was greater alignment in the land governance model from a federal perspective, but not enough to herald a breakthrough for rapid institutional change across the country.

The chapter begins with a very brief summary of the political and economic context for land privatization. It then follows the land governance model and compares the performance of political authorities, the bureaucracy, and society across two decades. The last section compares the two periods, including fiscal-federalist policies, and describes the status of urban land privatization at the end of the study period.

1. The economic and political context for urban land privatization

During the two-decade period of this study, institutional change took place against a backdrop of dramatic economic swings, social dislocation, and political upheaval. The disintegration of the Soviet Union in 1991 exposed industry to competition that led to unsustainable fiscal deficits as the federal government and municipalities financed unprofitable enterprises to keep employment from collapsing. In 1998, the Russian Government defaulted on its foreign and domestic debt obligations. For the second time since 1992, the population lost its

savings through ruble devaluation and high inflation. Public support swelled for protection of industry, which also affected the pace of urban land privatization. Following improved macroeconomic management and rising oil and gas prices, the country entered a period of sustained growth in 1999 that averaged 5% annually until a dip during the 2008 financial crisis (see Table 1). With the exception of that year, the country also enjoyed a housing boom driven by higher personal incomes and access to housing finance.² Just as economic output contrasted sharply between the 1990s to the 2000s, the country pivoted politically from a liberal-leaning but polarized government to center-right leadership under an increasingly authoritarian regime.³

Table 1. Social and Economic Indicators, 2007-13
Russian Federation

	2007	2008	2009	2010	2011	2012	2013
GDP % change, y-o-y	8.5	5.2	-7.8	4.5	4.3	3.0	1.3
Inflation, CPI, % change	9.0	14.1	11.7	6.9	8.5	5.1	6.8
Real Disposable Income, (1999=100%)	245.6	251.5	259.3	272.5	274.7	286.2	295.7
Average dollar wage, US\$	532	697	588	698	806	859	942
% of population below subsistence	13.3	13.4	13.0	12.5	12.7	10.7	11.0

Source: World Bank, "Russian Economic Report," Edition No. 32 (September 2014), 54.

² A record growth of 4.9% was reached in 2012, when 65 million square meters of new housing was constructed, a record in the post-communist period. Oxford Analytica, "Extension of Russian Housing Privatization Misses Goal," April 3, 2013. Housing production affects demand for urban land.

³ For an excellent discussion of the contrast between the two periods, both politically and economically, see Timothy M. Frye, *Building States and Markets after Communism: The Perils of Polarized Democracy* (New York: Cambridge University Press, 2010), Chapter 7.

2. *The Land Governance Model, 1990-2000*

a. *Political authority and the legal order, 1990-2000*

As Soviet power waned in 1990-91,⁴ four legal acts adopted by the Supreme Soviet of the Russian Soviet Federated Socialist Republic (RSFSR) struck down seven decades of communist faith in the sanctity of state-owned property. These included two laws detailing property rights and two that established land as an economic asset. As Chairman of the Russian Supreme Soviet, Boris Yeltsin was in a position to counter the conservative land policies of his political and personal nemesis, President Mikhail Gorbachev of the USSR. Land reform and political competition were inextricably linked.⁵ At the same time, Yeltsin consistently favored liberal economic policies and moved early to privatize assets, to prevent the Communist Party from returning to power.⁶

In November 1990, for the first time since passage of the 1922 Soviet Civil Code, the law “On Land Reform” of the RSFSR introduced the concept of private property.⁷ Thereafter, Yeltsin launched a series of initiatives that defined new principles for land and related policies based on private ownership, including a Land Code (April 1991).⁸ Councils of People’s Deputies at the municipal level, popularly elected for the first time in 1990, were authorized to assign land plots

⁴ On December 25, 1991, President Gorbachev signed a decree that dissolved the USSR. Boris Yeltsin was elected President of RSFSR in June 1991, and he continued in office as head of the newly-independent Russian Federation.

⁵ According to Wegran, the rivalry strengthened Yeltsin’s commitment to anticommunism in all forms, including land privatization. Stephen K. Wegran, *Land Reform in Russia: Institutional Design and Behavioral Responses*, (New Haven and London: Yale University Press, 2009), 37. Wegran provides an excellent overview of debates pertaining to rural (rather than urban) land in the late Soviet, Yeltsin and Putin periods.

⁶ Timothy M. Frye, *Building States and Markets after Communism: The Perils of Polarized Democracy*, (New York: Cambridge University Press, 2010), Kindle location 2287.

⁷ The Code did not explicitly deal with land tenure but extinguished pre-revolutionary private rights. The 1936 USSR Constitution confirmed the collectivization of rural land yet affirmed personal ownership rights. See Butler (2009) 388-390.

⁸ RSFSR Law No.x, dated November 23, 1990, “On Land Reform;” amendments to the Constitution on December 15, 1990; “Law on Property” dated December 24, 1990; Land Code of the RSFSR, dated April 25, 1991. RF Law No. 3295-1, dated July 14, 1992, “On the Fundamentals of Town Planning Activities in the Russian Federation.”

for private ownership or to transfer the rights to the underlying land whenever a residential building or structure was transferred from one citizen to another through sale or gift. In appearance this continued the Soviet practice whereby those in positions of power could selectively allocate land, except now rights for private ownership were being transferred, not simply opportunities for personal use, and the rights could not be revoked, as in the past. In addition, buildings and land could be unified as a single property. The Land Code was a significant step to remove the socialist-era distinction between use rights to land and to structures.⁹

At the same time, in 1991 the *Law on Payments for Land* introduced the concept of land as an economic resource and laid the basis for the 1991 *Law on Land Tax* requiring owners of land to pay a tax and users of land (under a lease) to pay an annual rent. The law laid out the objects of taxation, the calculation methodology, the rates for land sale, rental and taxation, and the revenue-sharing formula to allocate revenues among levels of government. Average tax rates per square meter of urban land were set in the 1991 law. The land tax became the basis for the purchase price of land.¹⁰ Following Soviet rather than market principles, the land purchase price was initially calculated according to a norm (standard) set at fifty times the land tax.¹¹

The concept and intent were sound, but the legislation was deeply flawed. The law recognized the importance of property rights and property taxes as a foundation of municipal finance, tied to a legally registered parcel of land.¹² Indeed, the law was aimed at raising revenues while encouraging efficient land use.¹³ Nevertheless, without a market mechanism to determine

⁹ Alexander Pusanov, *Development of the Real Estate Rights System in Russia in 1989-2009*, (Moscow: Institute for Urban Economics), 3-4.

http://www.urbaneconomics.ru/eng/publications.php?folder_id=19&mat_id=86&from=fp&page_id=373.

¹⁰ Jane H. Malme and Natalia Kalinina, "Property Tax Developments in the Russian Federation," in Jane H. Malme and Joan M. Youngman, eds., *The Development of Property Taxation in Countries in Transition: Case Studies from Central and Eastern Europe*, (Washington D.C.: World Bank Group, 2001), 72.

¹¹ Pusanov, *Development of Real Estate Rights*, 4.

¹² Bertaud and Renaud, *Cities without Land Markets*, 31.

¹³ Malme and Kalinina, "Property Tax Developments," 74.

prices as market values changed, municipal authorities acquired a valuable resource that could easily be traded, at their discretion, for private gain.¹⁴ As inflation rose rapidly, the real purchase price plummeted, but could not be adjusted without passage of national legislation. Moreover, municipal authorities could vary the tax rate in a given district so long as the rates were averaged across the city to stay within the limit set by law. This led to a significant amount of arbitrary and negotiated rates for different users, and taxation rates for similar land parcels became “unjustifiably disproportional” across the country.¹⁵ Finally, the law did not draw a distinction between rates for leasing, to capture the economic value of land use, and taxes, to compensate for benefits provided by the public treasury to landowners. As a consequence, an implicit subsidy was written into the law for those who chose to lease land rather than purchase it.¹⁶

Even as these laws were being passed, land reform faced social opposition and political headwinds during the Soviet period. Since land had no economic value, and was bartered rather than exchanged transparently on an open market, the concept of trading land commercially as part of real property was alien to the population. Moreover, given a longer legacy in Russian history of communal land use compared to Western Europe, the right to buy and sell land like a commodity raised considerable concern at all levels of society.¹⁷ At the same time, leftist parties in the parliament (Communists, Agrarians) remained ideologically opposed to private land ownership of any kind, most vehemently with respect to agricultural land, which was defined to include garden plots in both urban and rural settings. There was no real consensus within the Yeltsin

¹⁴ Pusanov, *Development of Real Estate Rights*, 4.

¹⁵ United Nations Economic Commission for Europe (UNECE), *Land Administration Review of the Russian Federation*, (HBP/WP.7/2003/, May 17, 2003), 9. Bertaud and Renaud, *Cities without Land Markets*, 32-33.

¹⁶ Foreign Investment Advisory Service (FIAS) of World Bank-IFC, *Business Location Report, Russia* (2001), Appendix III-16. This would be the case when land was allocated only upon payment of the land rent and no initial price was paid for the right to lease. Some cities, such as Moscow and St. Petersburg, required up-front payments for the right to lease.

¹⁷ UNECE, *Land Administration Review*, 6.

administration on the directions or objectives of land reform. They also underestimated the need to build a constituency for land reform at local levels and to decentralize the execution of reform measures. Thus the privatization of land – not just of property on the land -- was politically contested and socially sensitive.¹⁸

By 1993, the process was perceived as severely corrupt, leading Yeltsin, now President of the Russian Federation, to issue a decree that suspended much of the Land Code adopted in April 1991. He instead issued a decree giving physical and juridical persons¹⁹ the right to sell and purchase land plots.²⁰ The decree was intended to remain in place until the adoption of a new land code. Thereafter, in December 1993, the right to private ownership of housing and land was enshrined in the Constitution.²¹ In a Soviet-era holdover, the Constitution declared multiple ‘forms of ownership,’ including State and municipal, though private ownership had pride of first place.²² However, the Constitution also required the adoption of a land code or federal legislation to enable citizens and firms to exercise their legal rights by buying and selling land.²³ Without the power to transact, property rights are meaningless. Yet given the fierce ideological debates and politically contentious issues surrounding land privatization, another eight years passed before President Putin could realize this goal.

¹⁸ Vera Matusevich, “Land Reform in the Russian Federation: Why it was not that Efficient,” mimeo (2011); UNECE, *Land Administration Review*, 6-7, 25; Thomas F. Remington, “Russia’s Federal Assembly and the Land Code,” *East European Constitutional Review*, (Rev. 99, 2002), 99-104. <http://www.heinonline.org.proxy3.library.jhu.edu/HOL/Page?handle=hein.journals/eurcr11&id=231&collection=journalsRemington> 2002; World Bank, *Implementation Completion Report (ICR) on a Loan in the Amount of US\$80 Million to the Russian Federation for a Russia Land Reform Implementation Support Project*, Report No: CPL-37560 (2004), 8.

¹⁹ Russian law distinguishes between physical persons (individuals) and juridical persons (businesses).

²⁰ Decree No. 1767, “On Regulating Land Relations and Promoting Agrarian Reform in Russia,” October 1993.

²¹ Pusanov, *Development of Real Estate Rights*, 3-4.

²² Butler observes that “in a market economy there is no reason why the State or municipal formations should own, possess, or dispose of property or property rights on the basis of a form of ownership which differs from other actors in property relations.” *Russian Law* (2009, 403). Oxford University Press.

²³ Remington, “Russia’s Federal Assembly and the Land Code.”

Yeltsin's bargaining power with the regions on land privatization was constrained by conflicts with the regions over fiscal-federalist policies. During the "parade of sovereignties" in 1992-93, when 30 out of 89 regions stopped remitting taxes to the Federal Government,²⁴ there was no longer a Communist Party of the Soviet Union (CPSU) to resolve inter-regional issues.²⁵ Inflation, mass privatization, and the federal effort to push expenditure responsibilities to the regions further complicated fiscal relations.²⁶ The Federation Treaty signed by Yeltsin on March 21, 1992 with all regions but Chechnya and Tatarstan did not resolve fundamental intergovernmental issues.²⁷ For example, tax offices retained local loyalties.²⁸ Using multivariate regression analysis, Treisman found that regions with labor unrest or that declared sovereignty by 1990 were favored with tax breaks and fiscal transfers in 1992. Both St. Petersburg and Moscow became net donors to the Federal Treasury, but Tatarstan, which had declared sovereignty, was a net beneficiary.

Land privatization and fiscal federalist rules evolved as contradictory rather than complementary exercises, even though the initial intention was to assign all land and property taxes to the local level. Three obstacles arose. First, negotiations between the Federal Government and the region, and then the region and the municipality, tended to determine revenue-sharing more than budget laws. Second, revenues from land taxes and land leases were combined into one account. Hence, there was no incentive on the part of municipal authorities, who collected and remitted the funds upward, to differentiate between leasing and taxing land. Third, the tax on

²⁴ Christine I. Wallich, *Russia and the Challenge of Fiscal Federalism* (Washington, D.C.: World Bank, 1994), 248.

²⁵ Daniel Treisman, "The Politics of Intergovernmental Transfers in Post-Soviet Russia." *British Journal of Political Science*. Vol. 26, No. 3 (Jul., 1996), Cambridge University Press. <http://www.jstor.org/stable/194103>. Accessed: 25/11/2014, 303-304.

²⁶ Wallich, *Fiscal Federalism*, 6.

²⁷ Treisman, "The Politics of Intergovernmental Transfers," 304.

²⁸ Wallich, *Fiscal Federalism*, 27.

property was managed separately from the tax on land. The property tax was too expensive to implement (the cost of collection exceeded the revenues remitted), so many localities dropped it altogether. Had land and buildings been combined and taxed as one real estate object, land privatization and fiscal incentives would have been complimentary.²⁹ In turn, it would have encouraged land privatization through a fiscal incentive, and transformed land and property taxes into a “benefit tax” that related directly to local services (e.g. quality of schools and social services). Instead, it was in the interest of local authorities to manage leases off-budget or to under-report revenues so as to keep more funds in the local budget.

Thus from the perspective of the requirements for private land markets noted above –clear and tradable property rights and efficient tax systems – the legal and fiscal framework was incomplete and inconsistent and remained so throughout the 1990s. Land ownership varied by form of property or use. *Hereditary life tenure* gave permanent use rights to occupants for single family dwellings and garden plots. The property could be passed to heirs but not sold or leased. If a municipality wanted to use the underlying land, e.g. for construction of a road, it would only need to compensate the occupant for the dwelling, not the land. *Leasehold* enabled owners of a privatized structure to use underlying land for up to 49 years, subject to payment of rent for the lease to municipalities; land tenants were not liable for a tax to compensate for government services, such as infrastructure. Enterprises retained the Soviet-era “perpetual use” privileges on land they occupied, until it was purchased or converted to leasehold. *Agricultural land*, including

²⁹ Another constraint was the frequent adjustments of land taxes and lease rates by municipalities that had no relation to market value, discouraging new investment in landed property and efficient land allocation. They also led to perversely high taxes on individual and business property (office buildings, homes, factories) that were highly depreciated and in need of renovation. This in turn increased tax evasion and discouraged registration of new construction. As early as 1997, an estimated five million homes were not registered, meaning the land they occupied was also not registered. Malme and Kalinina, “Property Tax Developments,” 72-75.

small plots inside urban boundaries, could be held privately but not sold for ten years or leased for more than five.³⁰

Most significantly from the standpoint of economic development, the land under privatized enterprises remained the property of municipalities. According to Pyle, the reason why Russia failed to privatize land and buildings as a single real estate unit, as was done in Eastern Europe and several former Soviet Republics like Armenia and Kyrgyzstan, was due to the assumed complexity of the task and desire for speed more than ideological opposition to land privatization.³¹ As discussed in the next section, the complexity of defining land plots and registering property was certainly a constraint. Yet the differing reactions of the regions to decrees by Yeltsin in 1994-95, which significantly lowered the price of enterprise land plots, and in 1997, which gave regions full authority to set land prices, suggest that political considerations were also important. After 1995, over 50 regions rapidly sold enterprise-attached land, with St. Petersburg, Leningrad Oblast, Kaluga, Samara, Vladimir, Astrakhan, and others among the top twenty in level of activity.³² Yet after 1997, when Yeltsin gave the regions authority to set land prices, the process of enterprise land privatization practically dried up, either because of high sales prices set by municipalities, or outright bans on sales. In 32 regions, the process came to a halt, including Moscow city, where the local legislature allowed only leasehold but not private ownership. Political motivations are also evident in the rejection by the federal legislature of the Government's first voucher privatization bill because it included the sale of land under enterprises or factories.³³ The more

³⁰ Bertaud and Renaud, *Cities without Land Markets*, 28-29.

³¹ William Pyle, "The Ownership of Industrial Land in Russian Cities: Explaining Patterns of Privatization Across Regions and Firms," (NCEEER Working Paper, 2011), 3-4..

³² Pusanov, *Development of Real Estate Rights*, 7.

³³ Leonid Bershidsky, "Yeltsin Decree Launches Privatization Phase 2," *Moscow Times*, Jul. 23 1994, <http://www.themoscowtimes.com/news/article/yeltsin-decree-launches-privatization-phase-2/350200.html>. Bershidsky reports that Chubais agreed to hold off on land privatization until parliament passed a land code containing land-ownership rules. After deputies still failed to agree on the privatization decree, he pulled back on several concessions, including privatization of land under buildings.

likely reason for the continued bifurcation of buildings and land was that municipalities wanted to keep control over valuable urban land for a future stream of rents.³⁴

Despite political opposition and disarray in the regions, President Yeltsin demonstrated strong political will and commitment to drive urban land reform. During his tenure, 77 presidential decrees and government resolutions were passed related to land and property rights. The State monopoly on land ownership was abolished. Nevertheless the legal order remained highly fragmented at the national, regional and municipal level. The first stage of urban land reforms had not met the expectations of society, according to the head of Moscow's legal department for land relations, making it less likely that regions would want to conform to federal policies, even under a more centralized government.³⁵ The situation was reminiscent of the pre-Stolypin period in the late 19th century when a patchwork of legal acts applied to different forms of land ownership.³⁶ Private land ownership was "a classic Russian muddle: it exists in theory, not in practice."³⁷ The historical context of the new laws, the speed of implementation, and sensitivity to the social impact of reforms resulted in sub-optimal economic outcomes.³⁸

b. Bureaucratic Organization and Performance 1990-2000

The most urgent priority for the land bureaucracy in the 1990s was to develop a system to register and guarantee rights to private property, which, when combined with a land code, would

³⁴ Gregory Kisunko and Jacqueline Coolidge, "Survey of Land and Real Estate Transactions in the Russian Federation," Policy Research Working Paper 4115, (World Bank, Washington, D.C., 2007).

³⁵ V.V. Soldatenkov, Chief of Legal Department, Moscow City Committee for Land Use, "Pravovoe regulirovanie kupli-prodazhi prava arendy zemel'nykh uchastov po konkursu v gorode Moskve." *Chernye дыры v Rossiiskom Zakonodatel'stve*. Vol. 1, 2001. <http://www.k-press.ru/bh/2001/1/soldatenkov/soldatenkov.asp>. Accessed December 9, 2014.

³⁶ Leonid Limonov and Tatyana Vlasova, editors, *Upravlenie Nedvizhimostiu i Zemel'nimi Resursami Predpriati*, (Leontief Center, St. Petersburg, 2002). *Mimeo*.

³⁷ *The Economist*, March 8, 2001.

³⁸ Pusanov, *Development of Real Estate Rights*, 2-3.

lay the basis for private investments in land. The Yeltsin Administration underestimated the importance of measuring, registering and monitoring compliance with land law as a foundation for tenure security. It failed to develop the supportive infrastructure for secure land rights, allowing Soviet-era practices to persist throughout the 1990s.³⁹

Two federal omissions contributed to weak bureaucratic performance, nationally and regionally. First, Soviet-era land administration agencies were not restructured or modernized. The State Committee of the Russian Federation for Land Resources and Land Management (Roskomzem) carried responsibility for land regulation and administration, including at the local level, but was ill-equipped to manage these tasks on market principles. Some Soviet-era expertise was relevant and highly advanced in important areas, including surveying, geodesy, and mapping. Absent from Soviet practice were many complex systems that needed to be created and developed, including fiscal and legal cadastres, registration of rights to land and real property, market-based valuation of land, and mass evaluation of land for tax purposes.⁴⁰ Even had Roskomzem appreciated this complexity, it was distracted by overseeing a multiplicity of Soviet-era agencies at the local level, including for surveying, architectural planning, building (technical) inventories, and construction. Since land prices were set administratively rather than by market value, the allocation of land by municipal agencies followed Soviet-era needs and norms, with significant negative externalities.

³⁹ This section draws on Bertaud and Renaud, *Cities without Land Markets*; Alain Bertaud, "The Development of Russian Cities: Impact of Reforms on Spatial Development," (Mimeo for World Bank, 2010); UNECE, *Land Administration Review*; Pusanov, *Development of Real Estate Rights*; Matusevich, "Land Reform: Why not that Efficient;" and World Bank, ICR, Land Reform Implementation Support Project.

⁴⁰ These areas became the focus of international assistance from 1992. A catalogue of donor aid for land administration reform is provided in UNECE July 2003 (Addendum 1), pp. 13-16.

Second, the legal foundation for registration was not seriously considered until the adoption of several acts in 1997-98.⁴¹ These contributed to bureaucratic fragmentation by separating the related functions of registration of rights, on one hand, from the cadastral mapping of land plots and inventory of structures, on the other. Moreover, federal laws and resolutions were not supported by normative regulations and administrative reforms to enable orderly implementation throughout the Russian Federation.

The experience of the World Bank in supporting a US\$110 million Government project for land reform implementation reflects the bureaucratic challenges of the period.⁴² Approved in mid-1994, when opposition to agricultural land sales was high in the Duma (Parliament), the World Bank took a calculated risk by financing a project to accelerate land reform in rural areas through introduction of a uniform land registration system. Following adoption of the Law on Registration, Roskomzem lost its function of registering land rights to the Ministry of Justice. Thereafter, Roskomzem was abolished and replaced by a new Ministry (Land Policy, Housing and Municipal Economy) that lasted less than six months. The World Bank took stock of the shifting terrain and agreed with the Government to refocus the project on the system of land cadastre mapping and valuation, primarily in urban areas. As a pre-condition for land registration and a basic infrastructure requirement for land markets, the project thus took the more modest but nevertheless essential goal of mapping, valuing, and recording land parcels for tax purposes.

⁴¹ Federal Law No. 122-FZ, July 21, 1997, "On State Registration of Real Estate Rights and Transactions Therewith"; Resolution No. 1378 of the Government of the Russian Federation, October 1, 1997, "On Measures for the Implementation of the Federal Law "On State Registration of Real Estate Rights and Transactions Therewith," and Resolution No. 219, February 18, 1998, "On the Approval of the Rules for Maintenance of the Unified State Register of Real Estate Rights and Transfers Therewith."

⁴² Total project cost at closing in 2003, of which US\$72.5 million from an IBRD loan and US\$38.5 million from the Russian Government. World Bank, *Implementation Completion Report on a Loan in the Amount of US\$80 Million to the Russian Federation for a Russia Land Reform Implementation Support Project*, Report No: CPL-37560 (2004).

The Law on Registration further confused the division of responsibilities among agencies at the federal level and made land administration at the municipal level even more dysfunctional. The Ministry of Justice, technically responsible for registration, had no control over the registration chambers created by regional authorities. Three separate agencies kept records and charged different fees for what would be a single piece of real property in market economies: one for the land plot (cadastral chamber), one for structures (technical bureau), and another for land rights (registration chamber). They did not share information, organizational systems, or technologies.⁴³ A report commissioned by the Russian Government from the Land Working Party of the UN Economic Commission for Europe summarized the situation in the 1990s as follows:

The institutional structure of state land administration in the Russian Federation is characterized by ambiguous departmental responsibilities, deep conflicts of interests between various agencies, and the wide distribution of liabilities for decisions. As a result, the decision-making process requires numerous interagency consultations, which delays decisions on major economic issues, and spreads confusion among other partners and citizens approaching the land administration authorities.⁴⁴

Looking back, a 2014 government report observed that one of the biggest mistakes from the early period was to fail to prepare human resources in agencies or the population at large for land registration.⁴⁵ Following more liberal rules regarding ownership of land under homes and farms (as opposed to enterprises), demand exploded for registering ownership rights for small-

⁴³ United Nations Economic Commission for Europe (UNECE), *Land Administration Review of the Russian Federation – Addendum*, (HBP/WP.7/2003/7/Add.1, July 16, 2003), 2-4.

⁴⁴ UNECE May 2003, 13-14. In a holdover from Soviet law that treated land as an object of planning rather than an economic asset, state agencies both determined land policy and also recorded cadastral values and registered rights to state-owned land. As noted by UNECE, this was a direct conflict of interest because public officials could determine land use for a valuable land parcel and give preferential rights to that land, usually to privileged parties related to government, without contestation or competition. This provided grounds for land disputes, diminishing confidence by all parties in the reliability of rights and real estate markets. Annex II outlines seven primary functions of land administration, including federal policy-setting, unified real property cadastre and its regulation, land use management and planning, and registration of real property rights. In each case, 3-6 different agencies shared responsibility for the same function.

⁴⁵ The other mistake noted was to separate land and buildings into two properties. Ministry of Economic Development of Russian Federation and the Federal Service for State Registration, Cadastre and Cartography (Rosreestr), “Gosudarstvennyi doklad o sostoianii i ispol’zovanii zemel’ v Rossiiskoi federatsii v 2013 godu.” (Moscow, 2014), 51.

scale housing construction and agricultural use. Given weak bureaucratic capacity, local land committees struggled as of 1993 to issue titles to 50 million households for dachas and garden plots and to 175,000 newly privatized farms.⁴⁶ Pressure continued to grow as individual housing construction nearly doubled to 10 million square meters by 1996.⁴⁷ Most of these titles were recorded unsystematically in the Land Books of local governments, and were not recognized by the Federal Government as proof of land rights.⁴⁸

At the end of the 1990s, the Federal Government recognized a more systemic approach was needed. A maze of laws and decrees covering land relations had led to “legal chaos” and implementation of land reform measures was underfinanced.⁴⁹ The Russian financial crisis in August 1998 retarded real estate market development and new political initiatives on urban land.⁵⁰ Though it was not designated as the lead agency in land issues, the Ministry of Economy took responsibility to develop and promulgate the Federal Targeted Program “Development of Land Reform in the Russian Federation 1999-2002,” laying the basis for adoption of the Land Code in December 2001 after a decade of debate.

c. Public Participation in Land Market Decisions 1990-2000

In advanced market economies there are multiple opportunities for public engagement in land rights issues, starting with legislative bodies at the national and local levels, and extending to

⁴⁶Matusevich, “Land Reform: Why not that Efficient;” and World Bank, ICR, Land Reform Implementation Support Project, 48.

⁴⁷ Paragraph 3, Article 6 on the “Right of Ownership to Real Estate in the Housing Sector” states that “Private ownership of real estate or its part in the housing sector is not limited in terms of quantity, size or value; is secured by the right of inviolability and is subject to registration with the local administrative authority.” RF Law No. 4218-1, *On the Fundamentals of Federal Housing Policy*, December 24, 1992, quoted in Pusanov, *Development of Real Estate Rights*, 6-7.

⁴⁸ Matusevich, “Land Reform: Why not that Efficient,” 5.

⁴⁹ Matusevich, “Land Reform: Why not that Efficient,” 6-7.

⁵⁰ Pusanov, *Development of Real Estate Rights*, 10.

neighborhood-level decisions on new development projects. Local land use regulations and zoning depend heavily on public participation. Landowners want to protect their investment by preventing newcomers from developing real estate in a manner that could decrease land values, such as building a sewage plant next to a luxury townhome. Public hearings or civic protests give property owners an opportunity to influence public or private development plans (e.g. for roads or high-rise buildings) and new land-use regulations.⁵¹ These mechanisms also allow citizens to protect or preserve public space or objects of cultural heritage from unwanted development projects either by the state or private developers.⁵² Such practices were just beginning at the end of the 19th century in Russia when Soviet central planning replaced nascent urban land markets.⁵³

In the 1990s, the primary locus for public debate on land rights was in parliament. Leading the opposition, Communist Party chairman Genady Zhuganov declared that “In Russia, land, air and water must belong to all the people, and not to concrete individuals.”⁵⁴ Following adoption of the Constitution in 1993 and Civil Code in 1994, Yeltsin often avoided the conservatively-oriented (and democratically elected) Duma by exercising power through decrees and Government resolutions. The direction of land reform was often tenuous, with competing versions of legislation adopted by one house of parliament, overturned by the other, or vetoed by the President.

For example, on May 7, 1996 the President tried to implement the Constitutional requirement for a land code by decree. He reaffirmed the right of citizens to private land and ordered acceleration of reforms in Decree 337 “On the Implementation of Citizens’ Constitutional

⁵¹ Alain Bertaud, “The Development of Russian Cities: Impact of Reforms on Spatial Development,” mimeo (World Bank, 2010), 6.

⁵² For example, civic activism in St. Petersburg in 2010 stopped the construction of Gazprom Tower, while public protests in summer 2013 in Istanbul, Turkey prevented Prime Minister Erdogan from implementing an ambitious Ottoman-inspired development surrounding Taksim Square.

⁵³ Leonid Limonov, *Vlast’ i sobstvennost’ na zemliu v Rossii: k voprosu o zavisimosti ot traektorii predshestvuiushchego razvitiia*. Mimeo, 2010.

⁵⁴ Los Angeles Times, October 28, 1993.

Rights.” In the same month, the State Duma (lower house) overturned the decree and used the opportunity to pass a conservative version of the Land Code that retracted the sale of land owned by peasant farmers and annulled rights granted earlier to landowners. In June 1996, the Federation Council (upper house) rejected the Duma version. A similar stalemate occurred in summer 1998 when the Duma debated a compromise bill acceptable to the President, but then failed to garner the necessary 226 votes for passage. Likewise, changes to Chapter 17 of the Civil Code to regulate business transactions on non-agricultural land remained blocked by the communist-agrarian lobby.⁵⁵

A high level of political polarization underpinned the Duma’s inability to pass privatization legislation acceptable to all factions, both before and after the 1996 presidential election.⁵⁶ Polarization in the Duma reflected a sharp split in society. During his re-election campaign, Yeltsin put a high profile on private property and carried the vote in urban areas, while rural residents mainly backed the Communists. Public surveys undertaken in 1995-96 suggest that Yeltsin knew the preferences of his electorate. Private land ownership enjoyed the support of 59% of respondents, a higher percentage than those who favored privatization of other state property (46%). Those holding the most liberal (pro-market) views were likely to have a university education, be younger and wealthier, and live in a large urban area.⁵⁷

In contrast to the national-level debate, which received widespread and independent coverage in the media, opportunities in local communities for political action or public

⁵⁵ Remington, “Russia’s Federal Assembly and the Land Code;” Matusевич,, “Land Reform: Why not that Efficient.”

⁵⁶ Timothy M Frye, *Building States and Markets after Communism: The Perils of Polarized Democracy*, (New York: Cambridge University Press, 2010), Kindle location 2399. Frye defines political polarization as the “policy distance on economic issues between the executive and the largest opposition faction in parliament.” Kindle location 156.

⁵⁷ Adam J. Berinsky and Joshua A. Tucker, “Don’t Knows” and Public Opinion toward Economic Reform: Evidence from Russia. *Communist and Post-Communist Studies* 39, 73-99 (Elsevier, Ltd. 2006). https://files.nyu.edu/jat7/public/Berinsky_Tucker_CPCS_2006.

involvement remained limited due to inadequacies in Federal Law No. 3295-1, “On the Fundamentals of Town Planning Activities in the Russian Federation.” Adopted in July 1992, it retained the vertical structure of land planning, whereby Federal ministries decided how land in municipalities could be planned, allocated and zoned, not just for government purposes but also for private or commercial use. The law did not provide precise definitions of activities to be regulated. Nor did it specify how citizens could be involved in land planning or zoning decisions. In 1998, the Duma passed the Town Planning Code No. 73-FZ, which opened the door to the development of land use zoning standards by local governments. While the Code was declarative rather than obligatory, cities such as Velikiy Novgorod, Tver, Pushkin and Irkutsk began to experiment with urban development planning, and Kazan, Samara, Khabarovsk and Ufa were among the cities that adopted regulations.⁵⁸

While town planning laws were adopted and some experiments were undertaken by sub-Federal authorities, the process of land use allocation had barely changed since the Soviet Union had disintegrated. Land use zoning was progressing slowly. In the absence of appropriate federal legislation, bureaucrats in municipalities and regions actively traded land according to local laws.⁵⁹ Without published data on land market values, a black market in land flourished in the regions, outside of public view. Urban development projects tended to favor large investors with links to local officials or bureaucrats rather than protecting the rights of small property owners.⁶⁰

The importance of zoning and urban planning is rarely discussed in the literature on property rights, but the implications for economic development and security of private urban land

⁵⁸ Pusanov, *Development of Real Estate Rights*, 4-5, 9-10.

⁵⁹ “Chinovniki torgyut zemlei i bez kodeksa,” *Rossiskaya Gazeta*, 8/30/00, www.rg.ru/bussiness/territ/61.shtm

⁶⁰ Leonid Limonov, *Vlast' i sobstvennost' na zemliu v Rossii*, 27.

ownership are evident in painful transitions now underway in formerly socialist cities.⁶¹ In a market economy, firms and households decide how to trade off location with the time and cost of transport according to business or personal needs, and land values adjust according to these decisions. Land density and values are thus higher in city centers where transport time is shorter. Land use regulations that are clear and transparent help reduce the possible negative effects of competing land uses. Such planning is an important “corrective” in market economies that is exercised through public hearings, discussed further below.

In contrast, land had no locational value in the Soviet period, leading to highly distorted patterns of urban development. This was because the absence of land markets did not allow for allocation of land plots according to competitive prices that would determine the most efficient locations for construction of different forms of real estate. Instead, planning ministries drove the selection of industrial sites. As a result, industrial enterprises were located in prime locations at the center of cities that in a 20th-century market economy would be occupied by high-rise buildings. Furthermore, with highly subsidized energy prices, planners did not factor in the cost of urban transport, leading to a concentration of urban housing and population density on the periphery. With the exception of a few historical settlements such as Velikiy Novgorod, highly-populated urban areas in the Soviet Union most clearly represent the features of the “socialist city,” in which population density increases the farther one moves from the center.⁶² For comparison, in 1990, population density 17 kilometers outside Moscow was as high as in the center of Paris. Whereas modern metropolitan areas in market economies have multiple employment hubs in

⁶¹ The authors use the phrase “socialist city” to describe a phenomenon common to all post-communist countries. Alain Bertaud and Bertrand Renaud, *Cities without Land Markets: Lessons of the Failed Socialist Experiment*, Discussion Paper No. 227, (Washington, D.C., World Bank).

⁶² The structure of the “socialist city” is common to all administrative-command economies but is most visible in former Soviet republics given the long dominance of non-market mechanisms.

surrounding suburbs, jobs in the “socialist city” remain centralized, often in declining industries, creating urban rust belts with environment risks.⁶³ The structure of a modern Soviet city was thus closer to that of urban areas in mid-19th century Europe. As a consequence,

the well-intentioned goal of socializing the collection of the land rent through total public ownership and allocation of real estate property has yielded unexpected and undesirable outcomes. The resulting structure of socialist cities renders the transition to markets economically much more difficult and socially painful.⁶⁴

In principle, privatization of urban real estate, accompanied by appropriate policies to finance urban infrastructure, should have improved the efficiency of land development and the city structure, to the benefit of business and the well-being of citizens. As of the end of the 1990s this had not happened. To the contrary, as in St. Petersburg, the share of housing, green zones and cultural areas have declined, while commercial building increased, primarily because the municipality remains the monopoly landlord.⁶⁵ Hence, even with new laws for town planning, without an urban land market, and in the absence of information on large development projects, municipalities in most regions continued to allocate land as during the Soviet period, without engaging citizens in decision-making.⁶⁶

3. The Land Governance Model, 2001-2013

a. Political Authorities and the Legal Order, 2001-2013

Beginning in 2001, Putin pursued pragmatic solutions to expand private urban land ownership, as did President Medvedev during his 2008-2012 term in office. While Putin was

⁶³ Bertaud and Renaud, *Cities Without Land Markets*, 6-7.

⁶⁴ Anil Sood, Forward to *Cities Without Land Markets*, 6.

⁶⁵ Leonid Limonov, *Vlast' i sobstvennost' na zemliu v Rossii*, 19-24.

⁶⁶ This section is based on Pusanov, *Development of Real Estate Rights*; Implementation Completion and Results Report of the Cadastre Development Project (ICR 2038) of World Bank, 2011; Implementation Completion and Results Report of the Russia Land Reform Implementation Support Project (ICR 29286), 2004; Matusevich, 2010

initially cautious, he and a group of enlightened bureaucrats led by German Gref, Minister of Economic Development and Trade, set out to convert land privileges to land rights, and thus reverse the predominant tradition of land institutions initiated under Peter the Great and preserved in the Soviet era. The agenda advanced in several respects. First, the focus of political authorities shifted from privatization to security of land rights, and the legal order evolved from general principles of private ownership, without a firm basis in legislative acts, to specific guarantees for land market relations, enshrined in the Civil and Land Codes. Second, the fiscal framework was reformed to compliment rather than contradict land privatization. Third, the role of government agencies rose in importance through the reorganization, consolidation and professionalization of the land administration bureaucracy at the national level. This in turn led to improved citizen services and a feedback channel from citizens to government agencies at the local level.

At the start of the decade this path of institutional change would not have appeared obvious. However, the composition of the Duma and Federation Council (upper chamber) became more centrist after the 1999 parliamentary elections, and President Putin, elected in March 2000 on the first ballot, worked more through compromise than confrontation with the Duma.⁶⁷ The new environment inspired a renewal of efforts by liberal-leaning parties to pass a land code. Following several failed attempts, on January 26, 2001 the Duma voted 229-168 to pass in the first reading Chapter 17 of the Civil Code regulating sales of non-agricultural land.⁶⁸ This created an opening for movement on the Land Code because it provided the legal framework for purchase and sale of urban land plots. The margin was narrow, since 226 votes were required for amendments to the

⁶⁷ Frye, *Building States and Markets after Communism*. The period from 2001-2004 was marked by elite bargaining over policy options and a decline in political polarization. Kindle location 2465, 2499, 2516-2527.

⁶⁸ Remington, "Russia's Federal Assembly and the Land Code."

Civil Code. Nevertheless, Prime Minister Kasyanov seized the opportunity to press for land reform and instructed the Government to prepare a Land Code for submission to the Duma.⁶⁹

It is significant that President Putin waited until five days after the vote to come out strongly in favor of legislation to permit buying and selling of land, which he said was necessary to promote economic investment and overcome a system that “favored corruption and arbitrary bureaucracy.”⁷⁰ Putin cautiously staked out a position without offending either the agrarian-Communist lobby or regional leaders and overtly invited the initiative to come from the regions.⁷¹ Nevertheless, the appointment of German Gref, Minister of Economic Development and Trade⁷² to lead the process was a sign of Kremlin sponsorship of major land reform. As a pro-market reformer with a strong legal background in property rights, he was tasked to design a land code that could bridge the views of government and governors in the upcoming legislative debate.

The emotional and contentious legislative fight over land privatization dragged for nearly a year. It originated first in the Duma, where a 4-party coalition barely passed the Land Code in the first reading,⁷³ then shifted to the regions on a constitutional challenge from the Communists, then came back to the Federation Council, where a new law on appointment of the upper house

⁶⁹ Interfax, January 29, 2001.

⁷⁰ Agence France Press, January 31, 2001.

⁷¹ For background, see Stephen K Wegrin, *Land Reform in Russia: Institutional Design and Behavioral Responses*. (New Haven and London: Yale University Press, 2009), 244-46. The issue was discussed widely in the Russian press (e.g. *Vedomosti*, *Profil*, *Vremya*, *Kommersant*, *Rossiskaya Gazeta*, *Novaya Izvestiya*, *Parlamentskaya Gazeta*, *Sevodnya*, *Moscow Times*, *Rosbusiness Consult On-line*.)

⁷² Gref had a long career on land-related issues and association with Vladimir Putin. Beginning in 1991, he served in the St. Petersburg city government as a legal advisor on property relations, eventually rising to Vice Governor and Chairman of the City Property Committee in the office of the Mayor. He moved to Moscow in 1998 to become first deputy minister in the Ministry of State Property. He was appointed Minister of Economic Development and Trade on May 18, 2000 by President Putin. http://www.themoscowtimes.com/mt_profile/german_gref/433935.html.

⁷³ As reported by Yevgenia Borisova, “The State Duma passed the Land Code in an emotionally charged first reading Friday that saw lawmakers chant, come to blows and whole factions march out en masse. The Duma voted 251-22 with three abstentions in favor of the Kremlin-backed code, which would allow the sale of commercial land and plots in cities and villages to Russians and foreigners. The sale of agricultural land is not provided for in the code and will be dealt with in a separate law. The legislation must pass two more readings in the Duma and then be approved by the Federation Council before it can be sent to President Vladimir Putin to be signed into law.” *The Moscow Times*, June 18, 2001, p. 1

representatives strengthened the constituency in favor of pro-presidential parties. The transfer of the draft Land Code from the agrarian to the property committee in May 2001 by the Duma leadership and the removal of agricultural land from the code, a clever move by the Putin Administration, enhanced the chances of success.⁷⁴ But most significantly, 79% of the new members of the Federation Council voted in favor of the Code. As they had recently been appointed by regional executive organs, they aimed to increase their bargaining power with the executive branch by supporting the Kremlin.⁷⁵

Approval of the Land Code in November 2001 was a watershed event that clarified the conceptual framework for land by unifying land and buildings as one real estate unit, but the more critical turning point from an economic perspective was the approval in April 2001 of Chapter 17 of the Civil Code. Boris Nemtsov, leader of the Union of Right Forces faction, described its enactment as an act of stealth:

The Communists slept through the land issue – back in March, when Pavel Krasheninnikov stood up in the Duma to say – in a monotonous, quiet, insidious voice – that another item should be added to the 17th article of the Civil Code, setting out the rules for land transactions: inheritance, sales, gifts, leases. By the end of his speech everyone was half-asleep, and the vote was overwhelmingly in favor. That was the start – that’s the moment when the land revolution took place in Russia, but nobody noticed it.⁷⁶

The immediate result of the adoption of the Land Code was a rapid rise in enterprise land privatization. The reason reflected economic behavior: enterprises wanted to buy before land prices rose. The law enacting the Land Code in 2002 set a floor and ceiling for land prices as a multiple of the land tax rate, with a higher range allowed in more populous areas (from 5 to 30

⁷⁴ Stephen K. Wegran, *Land Reform in Russia: Institutional Design and Behavioral Responses*, (New Haven and London: Yale University Press, 2009), 244-45.

⁷⁵ In comparison, only 39% of former Federal Assembly members supported the Code. They owed their allegiance to a power base in the regions. Remington, “Russia’s Federal Assembly and the Land Code.”

⁷⁶ *Profil*, No. 27, July 16, 2001, pp. 12-15

times) and a lower range in settlements with less than 500,000 residents (from 3 to 10 times). A short window opened before regions adopted laws to reset land prices locally, usually at the highest price allowed by law. Applications surged to repurchase land plots. This led to:

...very serious battles on the issue of the rate of the repurchase price, as a result of which the repurchase price was considerably reduced, right down to the minimum price (e.g. in Tomsk and Irkutsk oblasts). A minimal rate was set by the legislators of Nizhniy Novgorod oblast, but the local governors vetoed these resolutions. In some regions considerable changes in terms of repurchasing land plots took place on numerous occasions over a short span of time (in Kemerovo, Novosibirsk and Vologda oblasts).⁷⁷

Despite these regional battles, nation-wide, owners of privatized enterprises and real estate repurchased approximately 11,000 hectares⁷⁸ of land valued at 14 billion rubles (\$450 million) in 2002 alone.⁷⁹

The first Putin Administration (2000-2004) missed a significant opportunity to harmonize fiscal and land privatization policies. A two-step reform in the Tax Code considerably tightened the Federal Government's control over tax policy, allowing it to accept or deny local tax rates and types of taxes.⁸⁰ The advantage of centralization was that it was more cost-effective. The disadvantage was that the tax-sharing formula reduced incentives to raise revenues locally, and did not respect the "benefit principle" whereby local taxes procure goods and services for local taxpayers.⁸¹ Instead of motivating local governments with 100% of land tax receipts, the Federal Government continued to claw back 50%, dampening incentives to privatize. Administrative price-setting also remained in the law implementing the Land Code. Finally, because land and property registration (cadastral surveys, delineation of boundaries, etc.) was not sufficiently

⁷⁷ Pusanov, *Development of Real Estate Rights*, 13.

⁷⁸ Russia has 7875 thousand hectares of land in urban settlements, of which 45% is designated by Roskadastr (Federal Agency for Real Estate Cadastre) as residential-commercial-industrial. Comprehensive data on land ownership at the sub-national level is difficult to access (Pyle 2011, 8)

⁷⁹ Pusanov, *Development of Real Estate Rights*, 14.

⁸⁰ Migaro O. Da Silva, Galina Kurlyandskaya, Elena Andreeva, and Natalia Golovanova, *Intergovernmental Reforms in the Russian Federation: One Step Forward, Two Steps Back?* (Washington, D.C.: The World Bank, 2009), 63-64.

⁸¹ Da Silva et al, *Intergovernmental Reforms*, 65.

developed, the onus was on local authorities to build expensive systems to take advantage of a land tax. Given the incentive environment and high transaction costs, it is not surprising that many local authorities preferred to engage in commercial real estate activity and lease state property, with negative externalities on the local investment climate.⁸²

Recognizing flaws in the infrastructure for land registration and taxation systems, Prime Minister Kasyanov chaired an extraordinary Cabinet meeting on land reform in October 2003. He noted that the creation of a transparent and open land market was a top Government priority, to stimulate investment and growth. Economy Minister Gref then reported that market transactions in land were still insignificant, only 7.5% of the total land fund was privatized, and 97% of this amount was agricultural. His proposals to promote the productive potential of land included: i) a one-stop window to record cadastral surveys and register land rights; ii) pilot valuation of land to lay the basis for real estate taxes; iii) clear borders for the nearly 900,000 federal, regional and municipal land parcels, of which only 200,000 had been delimited; iv) a process for competitive land allocation in municipalities (mainly for construction purposes); and v) measures to require enterprises with ‘perpetual’ use rights to either *purchase* or *lease* the land they occupied by January 1, 2004, and thus end one of the most pernicious practices of the Soviet era, by removing the right of municipal authorities to reclaim land under an enterprise building. The Cabinet adopted a resolution in support of these measures, stressing priorities on the registration of land, the unification of enterprise property, and the harmonization of regional regulation with federal laws.⁸³

⁸² See footnote 29 for other local practices that constrained the local investment climate for property.

⁸³ A review of the Gref reforms is in Matusevich, *Land Reform in the Russian Federation: Why it was not that Efficient*, Mimeo, 2011.

To complement these measures, federal fiscal incentives and urban land policies started to become mutually reinforcing after 2005, during the second Putin Administration. Most importantly, local governments received 100% of the personal property and land tax (for Moscow and St. Petersburg, 84.5%). The formula to derive land taxes was universal across Russia, but municipalities received authority to set the rate within a prescribed ratio of the cadastral value.⁸⁴ As discussed in the next section, the establishment of the Russian Registration Agency (Rosreestr) in 2008 ended the turf battles that had hampered coordination among Soviet-era bureaucratic organizations. At the same time, a Federal Targeted Program ramped up investments in an electronic, unified property registration system. A unified property tax was still far in the future, but the foundation was laid.⁸⁵

To stimulate enterprise repurchases further, the Government pushed amendments to the land privatization law in 2008 that capped the price of land at a maximum of 2.5% of the cadastre value (20% for Moscow and St. Petersburg). This served to lower the repurchase price by 5 times on average nationwide. Yet it did not accelerate the rate of land privatization as much as expected.⁸⁶ Aside from pricing incentives, President Putin called a special State Council Presidium meeting on October 9, 2012 to address other constraints, including ownership forms, land zoning,

⁸⁴ Da Silva et al, *Intergovernmental Reforms*, 63-65.

⁸⁵ Pilot tests in Tver and Novgorod from 1995-98 demonstrated that local governments would have little incentive to introduce a uniform property tax unless the fiscal federalist system was reformed, because any increases in taxes collected would accrue to the federal level. Moreover, the transaction costs to introduce the system would be very high, consuming a minimum of two years to conduct cadastral surveys and register property. See Freinkman et al, *Subnational Budgeting in Russia*, 54. These findings contributed to a long-term strategy to introduce a unified property tax in the second Putin Administration.

⁸⁶ Pusanov, *Development of Real Estate Rights*, 14. Pyle takes a different perspective, observing that enterprise land ownership rose six-fold from 2001 to 2010, creating rapid privatization “much at odds with the standard theory that in Putin’s Russia, privatization stalled.” William Pyle, “The Ownership of Industrial Land in Russian Cities: Explaining Patterns of Privatization Across Regions and Firms,” (National Council for Eurasian and East European Research, 2011), 7-8. <http://www.nceer.org>.

information access, state boundary delimitation, and competitive tenders. Introducing the discussion, he observed:

We must admit that our land potential is still managed ineffectively. Reforms of this sector are proceeding very slowly and laboriously. The situation has gradually begun to change only in the past six or seven years. This is a great challenge for our country because Russia has never had private ownership of land, or only for a very brief period and even then in a limited form.

Today there is great demand for land in our country. More and more people are interested in purchasing land to build homes or do business. However, both companies and individuals are constantly faced with an unreasonable amount of red tape. The President and the Government of the Russian Federation are bombarded with letters on this issue from all across the country.

People write that it is impossible to find information on available land, that they are in a position of powerless petitioners whose demands and needs are ignored, and that it takes three or more years to get a plot of land. As a result, land remains unused and is not working for anyone's benefit. The high-handedness and corruption of officials greatly inhibit the full-fledged development of land relations in Russia. And as a result, this slows the progress of the country as a whole.⁸⁷

In expressing frustration over continuing difficulties with land privatization, Putin was acknowledging that institutional change requires more than intentions expressed in laws or federal programs. It either fails or comes to life through the actions of local political authorities, bureaucrats, and market actors. The test of the Putin Administration's intentions depended on the performance of a unified land bureaucracy held to common standards across the country.

b. Bureaucratic Organization and Performance, 2001-2013

The genesis of poor services to citizens and businesses was the executive branch's failure in the 1990s to recognize the importance of land rights registration, beginning with reform of the system and functions of property administration. Despite approval of the Law on Registration of Rights in 1997, Russia had "one of the slowest and most expensive systems of registration found anywhere" due to multiple organizations and unresolved issues in linking records on actual

⁸⁷ The Kremlin, Moscow at <http://www.eng.kremlin.ru/news4500> downloaded 5/19/13.

properties to formal legal rights.⁸⁸ Thus, while the legal order had improved after 2001, weak systems for registration of rights still curtailed the development of urban land markets. As of 2004:

Despite fundamental changes to the economy and nature of property rights in the Russian Federation..., the manner in which real property was administered remained little changed. Responsibility for land, buildings and rights to real property were spread across three organizations. There were inadequate linkages between the organizations, numerous requirements to transact with real property, and poor access to information. The property market was operating inefficiently, investment was frustrated, and property was rarely used as security for loans. Consequently, the contributions of the country's real property resources to economic growth and social stability, as well as government revenue, were falling well short of their potential.⁸⁹

Recognizing these weaknesses, the Ministry of Economic Development and Trade initiated work on a major package of reforms and investments in line with the recommendations outlined by German Gref at the 2003 Presidium. The package included the establishment of a computerized, unified record of real property to help stimulate investments in real estate and improve the accountability of public administration through better information flows. To reach these goals, the Government requested implementation support and financing of US\$100 million from the World Bank. The request followed the successful completion of the Russia Land Reform Implementation Support (LARIS) Project,⁹⁰ which had invested in infrastructure, mapping data and training to modernize real property administration. LARIS had also studied gaps in the existing rights registration system and legal framework, prepared an information and communications technology (ICT) strategy, and assessed social attitudes to accommodate citizen concerns. This operational experience and sector knowledge contributed to the design of a new project to strengthen property registration systems.

A major constraint on Government land registration objectives was fragmentation of bureaucratic structure. Cadastral (mapping) information on land was handled by an urban or rural

⁸⁸ World Bank, ICR, Land Reform Implementation Support Project, 10-11.

⁸⁹ World Bank, Implementation Completion Report (ICR) on a Loan in the Amount of US\$100 million to the Russian Federation for a Cadastre Development Project, ICR2038 (Washington, D.C., December 13, 2011), 11.

⁹⁰ For an evaluation of the project see World Bank, Implementation Completion Report 29286 (2004). The World Bank has committed US\$1.4 billion in financing for land governance and administration projects in most of the former socialist and communist countries of Europe and Central Asia.

land committee, cadastral information on buildings was managed by the Bureau of Technical Inventory, and information on property ownership (formal land titles) was held by the Rights Registration Service (RRS). The existence of multiple agencies raised transaction costs for users and increased opportunity for corruption when citizens needed to petition for services in face-to-face meetings. In 2004, at the beginning of project preparation, the Government merged the organizations responsible for land and buildings into the Federal Agency for Cadastre of Immovable Property (Cadastre Agency, or CA). However, the merger of the CA with the RRS met with stiff resistance from both agencies, a common phenomenon in public institutional reforms. Given the strong commitment and readiness of the CA, the project focused first on the Cadastral Development Project, along with the Federal Targeted Program for land development from 2006 to 2011. The Bank coordinated with both agencies to ensure close technology and information linkages.

The project aimed to reduce the average time for completion of transactions in immovable property from four months (80 business days), the baseline business standard in Russia as of end-2004, to one month (20 business days) by project closing in end-2009. This key outcome indicator would be aided by the creation of market competition in technical survey services, which at the time were controlled by government agencies. In addition, several intermediate targets were set to help reach the key outcome, including reduction of steps requiring the client to interact with the CA, an increase in the number of applications processed per staff person, a reduction in the time spent in the cadastre office, and an increase in client satisfaction with cadastre offices, measured by client surveys.

The US\$100 million loan financed activities to achieve the project goals, including legislative and regulatory reform, upgrading of professional skills (particularly for information

services), ICT systems, and a pilot of mass appraisal methodologies for land and real estate by municipal authorities, to support Gref's goal of more equitable property taxation. Bank financing was modest compared to the Government's own investments in the Federal Targeted Program, which covered complementary activities.⁹¹

Despite these efforts, the decision to accelerate a functional land cadastre, with semi-autonomous units handling buildings and land, rather than pursue a unified registration system under one agency, failed to meet the needs of a rapidly expanding real estate market. According to the Urban Institute, "technical and organizational considerations and departmental interests have obscured the essential truth that the system should be established not for the sake of registration as such, but for the sake of providing state guarantees of registered rights."⁹² While aiming to bring more order into regional land committee activities and conformance with federal laws, the federal bureaucracy failed to bring coherence to the system of land governance through a single state structure.

Five years after Gref recommended a one-window concept of rights registration to the Presidium, the Government decided to merge the two agencies, CA and RRS, to form the Federal Service for Registration, Cadastre and Cartography Services (Rosreestr) under the Ministry of Economic Development. The Government recognized the imperative of a unified cadastral and registration system in December 2008, just as the World Bank-financed project was about to close, having nearly completed a new information system in 1,000 municipal CA offices in 40 out of 89 Subjects of the Federation. Disruptions in local offices ensued while two agencies became one,

⁹¹ For example, as of 2007 the Bank had disbursed US\$32.9 million against a Government commitment the same year of US\$250 million. While the strategy was set by the Government and CA, the Government sought the Bank's intellectual inputs, policy advice, and implementation discipline more than financing. Bank ICR 2038 (2011, 9, 16, 28)

⁹² Pusanov, *Development of Real Estate Rights*, 48.

causing the project to be extended to June 2011. Rosreestr merged 6,000 offices and 46,000 staff into a unified structure. A new legal framework and strategic plan was necessary to accommodate the expanded mandate of the new agency. The onset of the financial crisis in 2009 further complicated restructuring as property values fell and budgetary shortfalls limited spending on developing the capacity of the new agency.

Even with the setbacks caused by the restructuring, when the project closed in mid-2011, the average time to complete transactions in immovable property had declined from 80 to 19.5 business days, some 264 private firms were accredited to perform technical surveys, and moderate improvements were registered in client satisfaction surveys. In other areas, such as time clients spent in the cadastral office, improved from 120 minutes in 2004 to 20 minutes in 2009, but then deteriorated to 48 minutes in 2011. Despite the disruptions, the final institutional structure came into line with best international practice. The registration of buildings and land is unified in one registry, filing can be performed electronically, and information on real properties can be accessed in major markets such as Moscow and St. Petersburg from anywhere in the world.⁹³

The Putin Administration drove institutional change nation-wide through an e-government initiative launched in 2009, while the management of Rosreestr implemented the changes through new systems, ICT and staff training. According to Yuri Akinshin,⁹⁴ Deputy Director of Rosreestr, the ultimate goal was to harmonize protection of property rights across the country, irrespective of location, for which technology served two salutary purposes: greater transparency and accountability by civil servants, and better public services for individuals and firms. Achieving

⁹³ World Bank, ICR for Cadastre Development.

⁹⁴ Interview September 5, 2012, Ministry of Economic Development, Moscow, Russia. See also a case study on Russia in Romyana Tonchovska and Gavin Adlington, *Information Technology in Support of Good Governance of Tenure of Land: Lessons Learned and Good Practices from Europe and Central Asia*, Annual Conference on Land and Poverty, World Bank, April 23-26, 2012.

transparency and accountability was an uphill battle given disarray in documentation after nearly two decades of non-systematic rights registration. Rosreestr was charged with collecting, digitizing, and storing relevant documents so they could be provided to individuals, municipal officials and banks for property transactions, taxes, and mortgages. This process was underway, Akinshin noted, and document collection was improving. An additional challenge was to overcome the resistance by local businesses and officials to relinquishing opaque land deals for construction.

To increase the security of land tenure, national governments invest in information technology aimed at disclosing information and thus “reducing opportunities for corrupt and non-transparent land management.”⁹⁵ One technological solution was to institute an open portal, where all information on sales and rights would eventually be public.⁹⁶ “Once this is fully in place,” Akinshin said, “property registration won’t depend on local relations, where every bureaucrat becomes a big player and wants to defend and control their turf. We try to prevent it from the beginning.” Feedback from the portal based on quantifying user views revealed that the greatest obstacle faced by citizens and firms was access to the right information. “Government understood that we were encountering problems created in the past, because people cannot get all the documents they need,” Akinshin said. “If the Minister [of Economic Development] cannot respond to this feedback, then top officials have serious issues to solve. So we in the bureaucracy must ‘serve up’ (to executive authorities) and ‘down’ (to citizens).”

Another important mechanism to implement institutional reforms nation-wide, according to Akinshin, was the *call center*, where clients phone in to raise questions or complaints. “This

⁹⁵ Romyana Tonchovska and Gavin Adlington, *Information Technology in Support of Good Governance of Tenure of Land: Lessons Learned and Good Practices from Europe and Central Asia*, Annual Conference on Land and Poverty, (World Bank, 2012), 2.

⁹⁶ The portal was launched in 2013.

removes the discretion of regional branches to interpret the rules arbitrarily, since it serves to monitor how accessible the offices are for citizens, and the quality of their services. It is a powerful tool both to control and to evaluate what improvements are needed.” As of September 2012, the call center was receiving 16,000 calls per day; since 2006 approximately 150 million inquiries were recorded. “About half are requests for updated physical evidence of property ownership. Other questions refer to where to go for specific services, what documents are needed, and whether actions represent violations of regulations. Clients also ask for appointments and suggest whether service was bad or good. They send us text messages and we can send out responses.”

In summary, Akinshin said, the modernization of land and property registration services through e-government mechanisms saved time and money for clients, while reducing opportunities for corruption, because services were automated rather than face-to-face. This was a major stimulus for economic development through land and property transactions. “As a result of automation, Rosreestr could handle an increase in applications for property registration from 2.5 million in 2010 to 15 million in 2011 and 26 million as of September 2012. By number of applications, citizens dominate, but by value the demand is mainly from banks. Now we see collateral, mortgages, and tax revenues all growing.”

A case study on Russia’s implementation of IT solutions for property registration indicates that transparency is indeed improved, business processes are simplified, all fees and requirements are published, and documents are provided by Rosreestr on behalf of applicants to 50 government and municipal institutions. Nation-wide, e-services are available on average for 22% of locations and access is increasing (where not on-line, application is in person).⁹⁷ Trends in Russia’s relative world rankings on the ease of property registration validate improving performance. Russia,

⁹⁷ Tonchovska and Adlington, *Information Technology in Support of Good Governance*, 8.

represented by Moscow, rose from 49th out of 181 economies in 2009 on registering property to 12th out of 189 economies in 2014.⁹⁸

c. Public Participation in Decision-Making, 2001-2013

The strong and growing demand for Rosreestr's services notwithstanding, not all Russian citizens have embraced the concept of land ownership and many retain mixed views on the value of registering urban property. Social surveys in seven oblasts demonstrate that Russians who have adapted to new post-Soviet social and economic conditions are eager to register property. These Russians generally have positive expectations about personal income, political stability and security of their legal rights; nevertheless, they remain anxious that arbitrary actions of federal and local authorities may undermine their rights. Those Russians who choose not to register property (apartments, dachas, land) generally have negative expectations overall.⁹⁹

When the legal order is in transition, society and political authorities may clash, bringing more urgency to the pace of institutional change. A property rights dispute in Rechnik in 2010, inside the Moscow third ring, illustrates Weber's observation that "factual regularities of conduct ('customs') can...become the source of rules for conduct ('conventions,' 'law')." At the same time, he notes that legal norms can also produce regularities, so the reverse is also true.¹⁰⁰

The dispute relates to two important legal changes introduced by the Land Code in 2001: i) the end of distribution of land plots with right of lifetime ownership and hereditary succession. Holders of such rights are entitled to acquire the plot for free; and ii) the establishment of norms for town planning, bringing all Subjects of the Federation under the same regulatory framework.

⁹⁸ This is particularly notable in that Russia ranked 92nd in the world on overall ease of doing business. World Bank-IFC. *Doing Business* in Russia (Washington, D.C., 2015), 213.

⁹⁹ Tsentri Politicheskoi Konjunktury Rossii, 2003.

¹⁰⁰ Max Weber, *Economy and Society*, (Berkeley and Los Angeles: University of California Press, 1978), 332.

Henceforth, town planning regulations would be binding for all users of land, regardless of the forms of ownership or other rights.¹⁰¹

In the 1950s, the Soviet Government bestowed a small area of land along the Moscow River to workers of the Moscow Canal, not to own, but as privileges in perpetuity, primarily for use as garden plots. With the passage of time, people improved the property and built dachas and fruit trees; with the growth of Moscow, Rechnik, as the area is called, became prime real estate. Today's residents of 200 homes either inherited their plots or purchased them from previous owners of the 'perpetual' use rights. By 2007, the Moscow City government eyed the property and declared that Soviet-era land use privileges were no longer valid. In a visit to Rechnik in 2007 covered on Russian television, Mayor Luzhkov stated that "These are not residents here; they are temporary occupants. This village, like any other illegal construction in the city, does not have a right to exist."¹⁰² The municipal government declared that the land would be reclaimed and zoned as a nature reserve; the residents suspected the motive was to expand a near-by golf course. Pressure mounted by the municipal government to evict the residents, first by cutting off water and power and when this did not work, appealing for and winning a court order to destroy the structures.

While such disputes arise across Russia, the Rechnik case received extensive international coverage given the painful image of families and elderly people watching helplessly as demolition teams with bulldozers, in freezing weather at 4 a.m. on January 21, 2010, pulled down roofs and walls. Two residents who attempted to protect their properties were hospitalized and 25 others were detained by police. To raise attention to the case, residents demonstrated peacefully in

¹⁰¹ Pusanov, *Development of Real Estate Rights*, 12, 14.

¹⁰² Michael Schwartz, "An Oasis is No Match for Bulldozers and Bureaucrats," *New York Times*, November 8, 2009.

Moscow on January 31, 2010, and attracted support of anti-corruption activist Sergei Udaltsov. On February 2, residents of Rechnik filed suit against Mayor Luzhkov and his wife, billionaire real estate developer Yelena Baturina, for 100 billion rubles. On the same date, they appealed to the European Court of Human Rights in Strasbourg on charges of genocide, linking the deaths of 12 elderly residents to the eviction.¹⁰³ Finally President Medvedev intervened and ordered the Prosecutor-General on February 4 to review the legality of the Moscow court order to raze the neighborhood. The Moscow court then acted to suspend the demolition on the same date, too late for the 22 homes already destroyed.

The President's order moved the resolution of the case to the judicial system, where Moscow officials defended the legality of their actions, including the offer of compensation for those who had received Soviet-era permits, but not those who had decided to build without land titles. An observer from the Accounts Chamber, Anatoly Kucheren, participated in a Kremlin-created civic council meeting with Rechnik residents and underscored the importance of careful legal review, but also expressed hope that the inter-governmental council would resolve the conflict. Given the resonance raised across the country from the case, Medvedev also instructed the Government, under Prime Minister Putin, to explore the underlying reasons why dacha owners could not register their land plots quickly, in a simplified manner.¹⁰⁴

It is an important question why, despite significant advances in the legal order and improvements in bureaucratic organization and performance, a bitter local dispute over urban land rights rose to occupy the attention of the President, Prime Minister and Mayor of Moscow. One theory was that the Rechnik case had become a "theater of war" between the Mayor and Rechnik

¹⁰³ "Rechnik Residents Claim Genocide Following 12 Deaths," Moscow Times, February 2, 2010.

¹⁰⁴ "Rechnik ne ischerpan," Vremya novosti, No. 33, March 1, 2010.
<http://www.vremya.ru/2010/33/51/248534.html>

residents that the Kremlin could use, at some point, to dislodge Luzhkov.¹⁰⁵ In fact, Sergei Sobyenin was appointed Mayor of Moscow later that year, and one of his first announcements was a promise to draft new land use and development regulations by March 1, 2011, including zoning to set clear guidance for development on any given plot of land.¹⁰⁶

While political rivalries may have played a part, the display of significant social discontent over a property dispute in the capital, while world media observed, revealed the tenuous influence of federal authorities over the tortuous process of institutional change. Had he not intervened, the President would have appeared powerless and disinterested in the legal order of which he was an architect. In fact the Land Code, a signature achievement of the first Putin Administration, had authorized the holders of Soviet-era permits in Rechnik to acquire the land at no cost, which they had not done. Moreover, the ‘dacha amnesty’ program initiated by the second Putin Administration in 2006, when Medvedev was Prime Minister, enabled all holders to privatize and register such property. The program succeeded by 2010 in registering 45% of land plots by millions of citizens, but not all. Those who refrained either believed their current rights were valid and could be protected, or did not believe that formal registration would strengthen the security of their rights.¹⁰⁷ There is also evidence that the transaction costs of acquiring rights to property for the purpose of constructing a home or office entail so many risks that people tend to purchase from current private owners even without full legal title.¹⁰⁸ In the case of Rechnik, some residents

¹⁰⁵ “Luzhkov v Kremlin: Behind a small dispute over housing in Moscow is a bigger story,” *The Economist*, February 10, 2010.

¹⁰⁶ “Moscow mayor orders new land use rules by March,” *Ria Novosti*, November 1, 2010. <http://en.rian.ru/russia/20101101/161168609.html>, downloaded 12/1/2010.

¹⁰⁷ Elena Khmel'nitskaya, *Prava sobstvennosti i administrativnye bar'ery: opyt analiza “dachnoi amnistii,”* Panel on Administrative Barriers to Ownership Rights, Leontief Center, February 14, 2012.

¹⁰⁸ Leonid Limonov, “Sobstvennost' na zemliu v Rossii: Problemy registratsii i spetsifikatsii prav. Dachnaia amnistiia: problemy, provaly, territorial'nye osobennosti,” Leontief Center: St. Petersburg, February 14, 2012.

reported that they had attempted to register their homes but were ignored by municipal officials.¹⁰⁹ Other reports suggested that residents believed they were protected by the amnesty program.

Rechnik raises the question whether society can become an impetus for faster and more durable changes in economic institutions such as urban land rights. Perhaps in recognition of the need for greater engagement by society, the case prompted several legal rights groups to announce the creation of a Public Judicial Center to help individuals register and defend their property rights.¹¹⁰ Several observers, prior to the actual demolition, opined that the failure of residents to act earlier reflected an immature understanding of ownership rights, harkening to a time when individuals were unwilling to take personal responsibility before the power of city government. But while people were beginning to defend their courtyards, the city was defending the construction companies, which meant revenues for the municipality.¹¹¹

Knowledgeable observers are skeptical about the interest and ability of society to drive institutional change in property rights. Masha Lipman, Editor, *Pro et Contra* explains the reluctance of citizens to engage directly in political action on property issues as a continuation of the conflict between arbitrary rule (*proizvol*) and rule of law (*zakonnost'*) in Russian history.¹¹² This was because executive authorities have not just power but the law under their control; rights to private property are not yet protected by law. Pusanov of the Institute for Urban Economics in Moscow concludes that the “intricate scheme of regulating land use relations is totally non-transparent and corruption-inducing. It deprives owners of an opportunity to efficiently exercise their rights.”¹¹³ In this same vein, Vlasova of the Leontieff Institute notes that there is an absence

¹⁰⁹ Schwartz, New York Times, November 8, 2009

¹¹⁰ “Russian Center to Help Citizens Protect their Property Rights,” RFE-RL, February 6, 2010.

¹¹¹ Swirtz, op.cit.

¹¹² Interview September 5, 2012, Carnegie Endowment, Moscow, Russia

¹¹³ Pusanov, *Development of Real Estate Rights*, 50.

of the concept of public interest, which underpins town planning and zoning rules. When the government and investor are both on the same side, the search for a balance in private versus public interests, as would be revealed through public hearings, is not relevant.¹¹⁴ Limonov of the Leontief Institute concludes that “never in the history of Russia did private owners constitute the majority of the population,” so while indicators of nascent awareness are growing, public understanding of property rights and political action associated with the protection of those rights remains fundamentally under-developed.¹¹⁵

3. *Comparing the Evolution of Urban Land Rights in the 1990s and the 2000s*

In a nation where land was long a communal resource, centuries before the Russian Revolution, the decision by executive authorities to embark on privatization of land, not just of apartments or buildings, was politically radical and socially painful. Land reform began without consensus on the fundamental question of how private land ownership would serve public welfare, and where regulation by authorities could balance the greater good with individual self-interest.

The answer is not straightforward, since

...economic, social and political circumstances, and administrative arrangements, should dictate public decisions on the question of land ownership. There is no one best solution for all times and places. There are solutions for each individual situation. Often the border between public and private ownership is vague since any one of the many rights associated with private ownership may be pre-empted by the state for public purposes; public ownership is sometimes accompanied by considerable freedom in private use¹¹⁶.

Despite the political controversy over land reform and economic volatility of the early 1990s, the Yeltsin Administration proceeded to abolish the state monopoly on land. From 1990

¹¹⁴ Interview August 1, 2013, Leontief Institute, St. Petersburg, Russia

¹¹⁵ Limonov, *Vlast' i sobstvennost' na zemliu v Rossii*, 13-17.

¹¹⁶ Burroughs, Roy J. 1966. *Should Urban Land be Publicly Owned?* Vol. 42, No. 1, pp. 11-20.
<http://www.jstor.org/stable/3145490>.

to 2000, federal political authorities took the lead in advocating urban land reforms but overlooked two critical factors that retarded their implementation : i) regional diversity in support for reforms; and ii) practical arrangements to register land rights. First, the need for political compromise led the Yeltsin administration to enfranchise regional authorities in making key policy decisions. As a result, local officials exercised arbitrary rule in deciding who received what land allocation and at what price. Second, in the rush to privatize property, federal laws and decrees became theoretical exercises, without companion regulations to guide the implementation of land reforms, and the registration of rights received insufficient attention. Multiple agencies had responsibilities for land and property administration at the federal level, while at the municipal level, Soviet-era agencies continued on ‘auto-pilot’ for planning and allocation of land, except in relatively few regions that experimented with modern town-planning exercises. Public engagement was largely confined to a highly contentious debate over land rights in the Duma (parliament). Inconsistency in the legal order and a weak focus on the practical administrative aspects of registration of rights enabled local officials to retard urban land reforms and perpetuate Soviet practices such as bifurcation of land and building ownership. Hence, the continued dominance of the public sector and the weakness of the registration system prevented citizens, firms and the economy at large from reaping the benefits of private land rights.

However, since 2001, the Putin era ushered in a second wave of reforms in the legal order, starting with passage of the Land Code and amendments to the Civil Code to facilitate real estate transactions, and continuing with national improvements in bureaucratic organization and performance to reduce regional variation in implementation. The transparency of information and accountability of civil servants to the public increased through the initiative of enlightened bureaucrats such as German Gref in the Ministry of Economic Development, which reorganized

Rosreestr in line with international standards. Federal efforts to reduce the purchase price led to a six-fold increase in land ownership by enterprises from 2001 to 2010, reversing the stagnant record of the 1990s. Civil society remained largely outside urban land use decisions, given slow progress in town planning, with only 40% of cities having approved documents. However, a very positive sign is that 31 out of 35 cities with population over 500,000 have adopted legal regulations for town planning, laying a foundation for greater public participation in land use decisions.¹¹⁷ After two decades of adjusting to the legal concept of private ownership, the visibility of civil society is also growing as will be discussed in the case study chapters.

The broad conclusion reached by comparing the two periods is that progressive laws promoted by reform-oriented political authorities are not sufficient for sustainable institutional change. National outcomes depend on how the laws are interpreted, administered, and enforced regionally.¹¹⁸

5. The status of urban land privatization

Against the political and economic swings from 1990-2000 to 2001-2013, it is not surprising that the pace of institutional change also differed. As a consequence, urban land privatization remains a work in progress, as illustrated by three issues.

First, notwithstanding significant advances nationally, municipalities continue to be majority landowners. In the earlier period, no one could buy or sell land, take a mortgage, or seek public information on registered property. All of these rights are now in place.¹¹⁹ A slowly rising trend is appearing as citizens acquire lots for city homes and suburban gardens, and businesses

¹¹⁷ Pusanov, *Development of Real Estate Rights*, 45-46.

¹¹⁸ Pusanov, *Development of Real Estate Rights*, 51.

¹¹⁹ The right to buy and sell land was authorized in a Presidential decree in 1995 but formally codified in the Land Code in 2001 and Civil Code in 2002. The law allowing mortgages was adopted in 1998. The first law regulating registration was passed in 1997, and the national electronic property registry was launched in 2013.

turn Soviet-era perpetual use rights into private ownership. As of end-2014, over 144 million rights had been registered following transactions for all forms of real estate (urban and rural land, housing, office buildings), about one per capita. The vast majority of rights registered are by citizens (124 million) followed by businesses (10.7 million) and municipalities (5.6 million).¹²⁰ Considering the economic depression of the 1990s and the on-going delineation of urban land boundaries and land parcels, this is a significant level of private real estate registration in fifteen years. On the other hand, while the pace of urban land privatization is accelerating, municipalities remain dominant: out of 8.2 million hectares of urban land¹²¹ (*gorodskikh naseleennykh punktov*) state and municipalities own 7 million hectares (86.1%) while citizens own 0.79 million hectares (9.6%) and businesses 0.35 (4.3%).¹²²

Second, vestiges of the Soviet past remain in legal categories of property rights. To illustrate, the following figure divides land ownership for housing into two primary ownership categories, private (56%) and municipal (44%). The latter includes leasehold (12.2%), permanent (perpetual) use rights (20%), hereditary, perpetual tenancy (5.5%), and unregistered (3.7%) land. With the exception of leasehold, the other categories represent Soviet-era privileges. These frequently create civil law disputes due to the assumption that such privileges are equivalent to ownership rights.¹²³ The survival of Soviet legal concepts is evident in Article 8(2) of the Constitution, which states: “Private, State, municipal, and other forms of ownership shall be

¹²⁰ Rosreestr, Federal'naia sluzhba gosudarstvennoi registatsii, kadastra i kartografii, Forma No 8, Svedeniia o kolichestve zaregistrovannykh prav na ob'ekty nedvizhimosti na konets otchetnogo perioda za January-December 2014. Moskva, 2014.

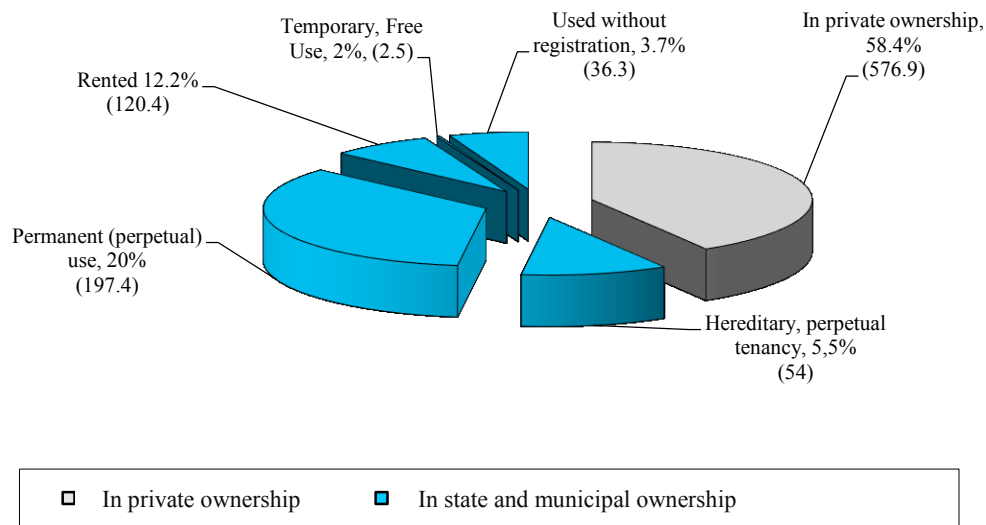
¹²¹ For comparison, urban land in the US covers 60 million acres, or 22.2 million hectares. The total area of urban land privately owned in Russia (about 3 million acres) is somewhat less than the land area of Connecticut.

¹²² Rosreestr, Federal'naia sluzhba gosudarstvennoi registatsii, kadastra i kartografii, Gosudarstvennyi doklad o sostoianii i ispol'zovanii zemel' v rossiiskoi federatsii v 2014 godu. Moscow: Ministry of Economic Development and the Federal Service for State Registration, Cadastre and Cartography, Moskva, 2015, 17, 63.

¹²³ Since adoption of the Land Code in 2001, the Government has been setting and extending deadlines for the conversion of perpetual use rights to either freehold or leasehold. The deadline was again extended to 2014.

equally recognized and defended in the Russian Federation.”¹²⁴ Ownership (*sobstvennost’*) rights may be defined in a market economy by the form of one’s interest in property (e.g. fee simple). However, there is no need to articulate the rights of the state versus private owners. History thus bears on the evolution of property rights institutions in Russia.

Figure 1. Structure of Land Ownership for Individual Housing Purposes in 2013¹²⁵
(in percent and thousand hectares)



Third, national data conceal considerable variation in ownership rights at the municipal level and by federal district, with the Far East and Siberia having lower private shares than the central, southern and Volga districts.¹²⁶ The dissertation explores the reasons for this variation in the case study chapters that follow.

¹²⁴ W. E. Butler, *Russian Law*, (Oxford: Oxford University Press, 2009), 402-403.

¹²⁵ Rosreestr, *Gosudarstvennyi doklad o sostoianii i ispol'zovanii zemel' v Rossiiskoi Federatsii v 2013 godu*. Moscow: Ministry of Economic Development and the Federal Service for State Registration, Cadastre and Cartography, 2013.

¹²⁶ Rosreestr, *Gosudarstvennyi doklad o sostoianii i ispol'zovanii zemel' v rossiiskoi federatsii v 2013 godu*, (Moscow: Ministry of Economic Development and the Federal Service for State Registration, Cadastre and Cartography, 2014), 54.

Chapter 5 Moscow: A Case of Institutional Stasis

Demographic density in large urban centers can be a powerful engine of national growth if labor is highly educated and the spatial structure enables efficient mobility. Efficiency of spatial structure in turn depends on land markets.¹ This chapter argues that Moscow remains spatially inefficient because it falls short on every measure of the land governance model: political authority and the legal order favor the state over the private property rights of firms and citizens; the bureaucracy serves political masters rather than public interest; and the public is excluded from decisions on land use that affect lifestyle and investment choices. Moscow exemplifies stasis in the *pace* of institutional change because the policies and actions of political authorities and bureaucrats are aligned against land privatization, and to date, despite massive and well-publicized public protests, state rights through eminent domain prevail over private use rights.²

By putting in place a legal and regulatory framework for land use, Luzhkov helped stabilize the capital³ during a chaotic period of privatization and property seizures. His administration also instilled order in land governance by means of rules to measure, monitor, and register land rights. However, lacking a political or fiscal incentive to extend land rights to a broader constituency, or to enforce the rules impersonally, the Luzhkov administration solidified property rights for the

¹ World Bank, *Russia: Reshaping Economic Geography*, Report No. 62905-RU, 2011, pp. 11-15. Alain Bertaud, "The development of Russian cities: Impact of reforms on spatial development," Mimeo for World Bank Group, 2010, p. 3.

² See Bertaud, "The development of Russian cities." This chapter draws on his theoretical framework for spatial efficiency based on property rights and efficient land use regulations.

³ Moscow is a federal city with legal rights under the Constitution as a subject of the federation. Thus it can deal directly with federal authorities without going through an intermediary layer of government.

municipal coalition in power and related parties.⁴ Thus, while formal rules were instituted, implementation by the bureaucracy was arbitrary.⁵

The first section of the chapter discusses the importance of land markets to spatial efficiency. Thereafter, the structure follows the land governance model. It examines and compares the role of political authorities, the bureaucracy, and society in developing land rights, before and after adoption of the Land Code in 2001.

1. The spatial inefficiency of Moscow

Development of property rights and active land markets was an urgent reform requirement in 1992 because Moscow suffered from serious land misallocation left over from the Soviet planning period. Two key features of the command economy led to striking inefficiency in land use in Moscow: large inner-city areas with obsolete industrial land, and concentration of residential property at the periphery.⁶

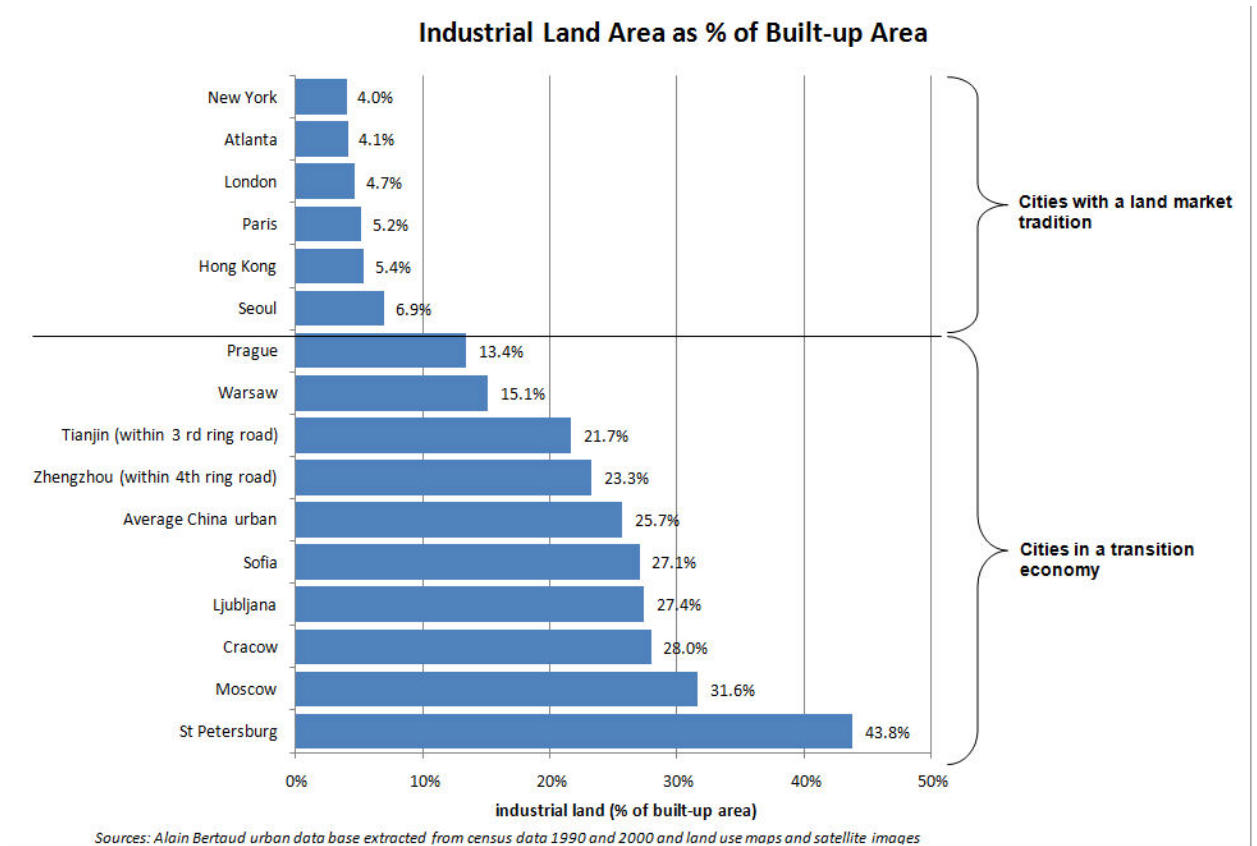
First, the share of land devoted to industrial plant was extremely high in the city center, where land is most valuable. As seen below, Moscow had almost 8 times more industrial land than New York in 2000. While many of these enterprises were going bankrupt under market conditions, the land they occupied was growing in value but could not be sold or used as collateral

⁴ Theory derives from Douglass C. North, John Wallis, and Barry Weingast, *Violence and Social Orders*, (New York: Cambridge University Press, 2009), 148-151.

⁵ North, Wallis, and Weingast observe that the degree of personalization of institutions tends to correspond with the nature of a political regime and how it uses rents. Economic rents provide financial returns greater than the best alternative use of capital. In regimes dominated by a single leader or party, where institutions are personalized, ruling elites “manipulate[s] the economic system to produce rents that then secure political order,” p. 18. Impersonal institutions are associated with impersonal organizational forms, which are legal persons that exist independently of the identities of their individual members. Such organizations appeared only in the last five centuries. They are limited in societies dominated by a single leader or powerful elites, who want to control economic rents and political order. In contrast, competitive political and economic systems are founded on impersonal institutions implemented by impersonal organizations. (pp. 22-25). Also see Levy, *Working with the Grain*, 19-22. When institutions are impersonal, the quest for rents drives innovators to introduce new products or political solutions (Levy, *Working with the Grain*, 23).

⁶ Alan Bertaud and Bertrand Renaud, *Cities without Land Markets: Lessons of the Failed Socialist Experiment*, World Bank Discussion Paper no 227, (Washington, DC: World Bank, 1994), 11.

to finance enterprise restructuring or relocation. The absence of markets created pockets of ‘fallow’ land, often requiring environmental clean-up. This land needed to be recycled for higher-value use, most likely as combined commercial, residential and office space that would enable households to live and work in the center, reducing commuting time.⁷

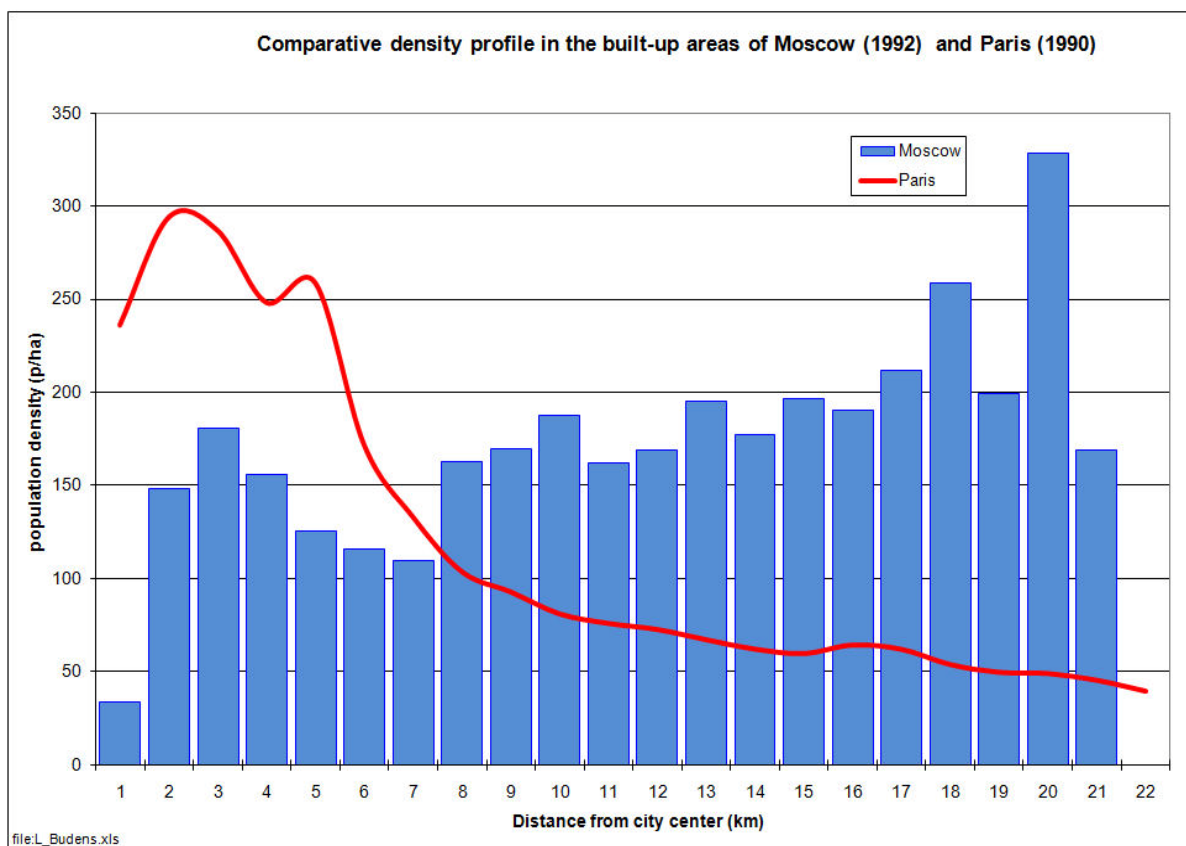


Source: Bertaud, “The development of Russian cities,” (2010), 9

Second, the development of industrial belts in the city center from the 1930s to the 1950s forced residential housing to be located at the periphery, resulting in a positively sloped density gradient, quite the opposite of the population density profile in market cities. Below, Moscow in

⁷ In a market economy, rising land values provide an incentive to recycle land to higher efficiency by reducing consumption of land per job or resident. Hence land is most valuable and densely utilized in city centers. If the area devoted to industrial land in Moscow in 1992 was reduced from 32% to a still high level of 10%, approximately 100 square kilometers of developed land (with water and electrical connections) valued conservatively at US\$2.2B could have been freed up in prime Moscow locations. Bertaud and Renaud, *Cities without Land Markets*, 21.

1992 is compared to Paris. Transportation in such a spatial configuration is highly inefficient. As energy prices rose to world levels and parking (a form of land use) was not taxed, the costs in travel time and traffic congestion rose dramatically, principally due to Moscow's socialist spatial structure (including road lay-out) and the absence of land markets.⁸



Source: Bertaud, "The Development of Russian Cities," 7.

The spatial inefficiency of Moscow in 1992 demanded decisive land recycling of the kind that is facilitated primarily by land transactions, but also by far-sighted urban planning in partnership with property owners. We will return to this topic in the sections on public participation in preparation and implementation of the General Plan.

⁸ Bertaud and Renaud, *Cities without Land Markets*; World Bank, *Reshaping Russian Geography*.

2. *The Land Governance Model in Moscow, 1990-2000*

a. *Political Authority and the Legal Order, 1990-2000*

The serendipitous rise of Yuri Mikhailovich Luzhkov from an unspectacular career in the chemical industry to a powerful position at the epicenter of the democratic transition gave him the political authority to influence property rights in Eurasia's most populous city. A hard-working and competent technocrat, he passed three decades outside of the limelight until his acceptance in 1986 of a part-time position as chair of consumer services in the Mossovet (city council). As described by Colton,⁹ this was the first of several fortuitous decisions that led him to increasingly more visible positions in city government and the Communist Party executive committee of Moscow. His organizational prowess and energetic sponsorship of the cooperative movement ingratiated him with Boris Yeltsin, who was then the Moscow party boss. Following the election of the new Mossovet (City Council) in March 1990 – for which he declined to run – he was again fortunate, with Yeltsin's backing, to fill the vacant position of head of the Moscow executive committee (in City Hall). This put his managerial skills to the task of running the city government while Gavriil Popov, the respected liberal economist, attempted to lead the Mossovet. The “odd couple” of Popov and Luzhkov received a two-thirds majority vote in the first democratic elections for Mayor and Vice Mayor on June 12, 1991, the same day voters elected Boris Yeltsin President of the Russian republic in the Soviet Union.¹⁰

Several key developments strengthened Vice Mayor Luzhkov's executive authority and reputation in the year after the mayoral election, enabling him to act decisively on property rights.

⁹ Timothy J. Colton, “Understanding Iurii Luzhkov,” *Problems of Post-Communism* (Vol. 46, No. 5, September-October 1999), 16.

¹⁰ Colton, “Understanding Iurii Luzhkov,” 16.

He actively defended Yeltsin and democratic forces during the August 1991 coup attempt by hardline Communists. In the emergency period following the coup, as bread lines lengthened, he adeptly managed food and economic matters, raising his visibility and legitimacy as a political leader.¹¹

Vice Mayor Luzhkov moved quickly to take control of Moscow property and the privatization process in the spring of 1992, but not in the same manner as Mayor Popov. After the August 1991 coup, Popov had seized property of the Communist Party and claimed the former COMECON headquarters, where he installed a new mayoral department.¹² In December 1991, Popov threatened Yeltsin that he would resign without sufficient powers to perform his obligations to the public. President Yeltsin relented and granted Popov additional authority, including over real estate in the city.¹³ Luzhkov used this opportunity to secure the city's land rights, sidestepping but dealing adroitly with the obstreperous Mossovet that was blocking Popov.¹⁴ In January and March 1992 he put legal order into the chaos of the property grab by three instructions: i) establishing leasehold as the primary form of property rights; ii) creating the bureaucratic process to manage land relations; and iii) extracting value from land for city income.

In contrast to Yeltsin's continuing efforts to push private ownership,¹⁵ Vice Mayor Luzhkov's March 2, 1992 instruction, "On Leasing as the Main Form of Land Relations," went in

¹¹ Colton 1999, "Understanding Iurii Luzhkov," 17; Blair Ruble, "The Rise of Moscow, Inc," *Wilson Quarterly* (Spring 1998), 84-85. <http://eds.b.ebscohost.com.proxy1.library.jhu.edu/ehost/delivery>.

¹² Celestine Bohlen, "Soviet Disarray: In Moscow, Too, A Liberal Feels Besieged." *The New York Times*. December 18, 1991. <http://www.nytimes.com/1991/12/18/world/soviet-disarray-in-moscow-too-a-liberal-mayor-feels-besieged.html>. Accessed December 1, 2014.

¹³ Ukaz Prezidenta Rossiiskoi Federatsii N 334 ot 29.12.91 "O дополнительных полномочиях органов управления г. Москвы на период проведения радикальной экономической реформы." *Moscow Times*, "Mayor Popov: Is he resigning?," June 5, 1992, <http://www.themoscowtimes.com/news/article/mayor-popov-is-he-resigning/221428.html>, accessed December 4, 2014.

¹⁴ Bohlen (1991) quotes Valery Vyzhutovich, a Moscow legislator, who noted that "There is not a single serious problem to which the solution advanced by the Mayor's office was not blocked" by the City Council.

¹⁵ For background on the federal legal framework of the period and Yeltsin's efforts, refer to Chapter 4.

the opposite direction: it reduced opportunities for privatization in Moscow. It is short but striking in its categorical assertion of the pre-eminence of municipal land ownership.¹⁶ With the “goal of modernizing land relations and implementing measures of economic stimulus and rational land use,” the Vice Mayor instructed that, going back to January 1, 1992, the main legal option for acquiring land use rights would be to lease from landowners.¹⁷ While Yeltsin and Popov were battling over ownership of buildings in Moscow, demarcation of land in Moscow between levels of government had not yet begun. To fix Moscow’s stamp on city land, the Vice Mayor instructed Moskomzem (Moscow Land Committee) to formulate and issue all necessary documents, to conclude and register agreements with lessees (including foreign), and to register agreements by owners, users and renters of land with third parties for temporary (up to 3 years) leases. The Committee was further instructed to carry out the measures immediately, even before adoption of further acts, and “to apply [such acts] only if they do not contradict the present order.”¹⁸ In this manner, the Vice Mayor warned the Mossovet that whatever rules they might adopt, and however they wished to allocate land, his instruction had precedence. To assure it became public knowledge, the instruction included an order for official publication.

Thus, in his first key instruction, Luzhkov narrowed the legal interpretation of land rights to leasing. Significantly, the instruction included a draft lease, to be finalized by the Land Committee, which spelled out the rights and responsibilities of lessor and lessee. It included the following clause authorizing compensation to tenants in the event the city government exercised its right of eminent domain:

¹⁶ Rasporazhenie vitse mera № 110-VM ot 2 marta 1992 goda, “Ob arende zemli kak osnovnoi forme zemel’no-pravovykh otnoshenii v g. Moskve.” http://mosopen.ru/document/110_rvm_1992-03-02. The instruction was signed by Luzhkov as Vice Mayor.

¹⁷ Rasporazhenie № 110-VM, March 2, 1992.

¹⁸ Rasporazhenie № 110-VM, March 2, 1992, paragraph 4.

In cases associated with the confiscation (изъятия) of land for public needs, to guarantee that the Lessee is provided equivalent land in another location (agreed with the tenant) and compensation to the tenant for all costs associated with land development and the construction of buildings, structures, storage facilities, roads, etc., in accordance with estimates of the costs of the works.¹⁹

While in appearance a liberal formulation, the arbitrary implementation of this clause, favoring parties related to the Mayor's regime over common citizens, would later become an instrument to expose the extensive co-mingling of public office and private business during Luzhkov's term on Moscow property matters.²⁰

Within the same month, the Vice Mayor established his authority over land-related decision-making. The Moscow City Government resolution "On Implementation of Land Reform" lays out a legal and regulatory framework for land relations that would endure without major changes throughout Luzhkov's tenure.²¹ Within one year, Moskomzem (Moscow Land Committee) had to establish the normative basis for land reform (e.g. environmental controls, penalties for infringement of legislation, demarcation of territories, construction protocols) and land administration (e.g. cadastral mapping and geospatial data, land inventory, registration, and monitoring and control over the use of land). In addition, the resolution divided responsibility between City Hall and the prefects for decisions on the allocation of land or removal of structures for projects in support of city development. Broadly, City Hall would oversee any capital or reconstruction project relating to federal buildings, communal infrastructure, industrial zones,

¹⁹ Rasporazhenie № 110-VM, March 2, 1992, Lease Clause 2.10.

²⁰ Boris Nemtsov, *Nezavimimyi Ekspertnyi Doklad: "Luzhkov: Itogi,"* (Moscow: Solidarnost 2009) <http://www.rusolidarnost.ru/files/luzhkov-itogi/Boris-Nemtsov-Luzhkov.Itogi.pdf>. This report is discussed later in the section on 2002 to 2013.

²¹ Postanovlenie Pravitel'stva № 174-PP of 31 March 1992. *О ходе реализации мероприятий по земельной реформе в г. Москве. О взаимодействии Москомзема и префектур административных округов по регулированию земельных отношений.* "On Implementation of Land Reform in Moscow City; On Interactions between Moscow Land Committee and Prefects of Administrative Okrugs Regulating Land Relations." http://mosopen.ru/document/174_pp_1992-03-31. Municipalities were required to establish a regulatory framework to implement national legislation adopted in 1991. The *Law on Payments for Land* introduced the concept of land as an economic resource and laid the basis for the *Law on Land Tax*. It was signed by Luzhkov as premier of government.

transport and cultural monuments, while the prefects would handle everything else in their districts, primarily housing. Even considering that prefects were mayoral appointees, their scope of work was tightly defined; all contractors for reconstruction projects had to be selected by competitive tender, and technical agencies in their jurisdictions (land, architecture) received precise instructions on when and how to become involved. Finally, the resolution confirmed temporary regulations issued by the Vice Mayor on January 31, 1992 regarding the granting or confiscation of land for urban development.²² Compared to arrangements at the federal level during this period, Moscow was exceptionally well organized for land-related investments.²³

City Hall under Luzhkov also acted swiftly to monetize land and secure income for the budget. Attachment 5 to the resolution “On Implementation of Land Reform” specified how the city would assess and collect a land tax (if land was privately owned) or land rent (if land was leased) from legal entities and citizens, pursuant to the federal law “On Land Payments.”²⁴ Tax rates for the 69 territorial zones of Moscow had already been defined. Anyone wishing to buy land from the city would pay 50 times the amount of the land tax for a given zone. No concessions on price were allowed.²⁵ In contrast, lease payments could be negotiated between the city and individual tenants, a practice ripe for bribes. Several categories of budget-supported organizations (e.g. cultural, scientific, humanitarian) were excluded from any land payments. The resolution

²² Rasporiazhenie vitse mera Moskvyy no. 51-RVM of 31 January 1992. *O poriadke predostavleniia i iz"iatiia zemel' v g. Moskve*. [On Procedures for the Provision and Confiscation of Land in Moscow City]. http://mosopen.ru/document/51_rvm_1992-01-31.

²³ See Chapter 4, Political Authority and the Legal Order, 1990-2000.

²⁴ RSFSR law “On Pyment for Land,” October 1991.

²⁵ Postanovlenie Pravitel'stva no. 174-PP of 31 March 1992. *O khode realizatsii meropriiatii po zemel'noi reforme v g. Moskve. O vzaimodeistvii Moskomzema i prefektur administrativnykh okrugov po regulirovaniu zemel'nykh otoshenii*. [On Implementation of Land Reform in Moscow City; On Interactions between Moscow Land Committee and Prefects of Administrative Okrugs on Regulating Land Relations]. http://mosopen.ru/document/174_pp_1992-03-31.

specified collection dates and fines for late payment; it also instructed that receipts be distributed to the budgets of the city and its rayons (districts), after deducting for the federal share.²⁶ In short, the Vice Mayor clearly understood the value of land; he quickly captured the rents.²⁷

One explanation of Luzhkov's preference for land lease could be his stated ideological opposition to land privatization. In contrast to 65.6% of his constituents who supported land privatization in the early 1990s, much higher than nationally,²⁸ Luzhkov proclaimed that "public ownership is the last refuge of social stability."²⁹ Continuity in public land ownership at times of political, social and economic upheaval can be a legitimate argument. However, his opposition to privatization did not extend to housing privatization, which also enjoyed majority support by Muscovites.³⁰ Stating his commitment to create a propertied middle class in Moscow, in ideological conformity with the Yeltsin reform team, Luzhkov launched the privatization of housing in September 1991, together with Mayor Popov. All permanent residents except those in condemned buildings or shared rooms could obtain a one-time right of ownership to their apartment or house for a nominal fee. As will be discussed in the section on public participation, this move enabled wealthier Muscovites and new elites to access the most prestigious living quarters at the same cost per square meter as residents of the dismal, Khrushchev-era, five-story concrete buildings.³¹ At the same time, the Moscow budget gained some breathing room, over

²⁶ The federal share specified in the resolution is 10 percent. See Attachment 5, paragraph 25 of *Postanovlenie Pravitel'stva № 174-PP of 31 marta 1992 goda*.

²⁷ Understanding land value was the exception in the dissertation's case studies. For at least a decade the leadership in St. Petersburg and Kazan did not appreciate land as a unique asset.

²⁸ Colton, *Moscow*, p. 703.

²⁹ Yuri Luzhkov, *My deti tvoi, Moskva* pp. 184 quoted in Colton, "Understanding Iurii Luzhkov," p. 19.

³⁰ 69.6 % randomly-surveyed voters during the 1993 local elections favored housing privatization on the whole or strongly. Colton, *Moscow*, p. 703.

³¹ Colton, *Moscow*, pp. 702-705, 713-18.

time, by reducing subsidies for housing maintenance and gaining property taxes.³² Finally, as we will see later, the Mayor was willing to bend his stated principle when it suited his purposes to sell land. Thus Luzhkov appeared to vary his position on privatization depending on the category of property and its concomitant benefits for city finances or those in the ruling coalition. This is the hallmark of Levi's predatory ruler: rather than exploit, he will predate to personal advantage.³³

Having secured a foothold in urban real estate, Vice Mayor Luzhkov consolidated his bargaining power with Yeltsin and with the legislature from June 1992 until end 1993. The first favor came from Yeltsin, who appointed Luzhkov Mayor when Popov resigned in June 1992, bypassing the election demanded by the Mossovet.³⁴ Mayor Luzhkov returned the favor in September-October 1993, when Yeltsin faced a violent stand-off with the state Duma. The Mayor cut off electricity, hot water and communications to the embattled White House, where the Duma was ensconced, and ordered city security forces to support the President.³⁵ Aside from defending Yeltsin, these actions also constituted a contingent threat: how would Luzhkov use this power in a future contest? ³⁶ Finally, after Yeltsin dissolved the Congress of Peoples' Deputies in 1993,

³² Two-thirds of regional subsidies in 1994, amounting to 4 percent of GDP, when to housing. Lev Freinkman, Daniel Treisman, and Stepan Titov, *Subnational Budgeting in Russia: Pre-empting a Potential Crisis*, World Bank Technical Paper no. 452, (Washington D.C.: World Bank, 1999), 23.

³³ Margaret Levi, *Of Rule and Revenue*, Berkeley and Los Angeles: University of California Press, 1988. Levi assumes that rulers are predatory (as distinct from exploitative) because they seek to increase their advantage in meeting personal objectives. Ruling and maintaining rule require resources, so raising revenue is the first priority after securing a monopoly of violence. But rulers cannot predate with impunity. To maintain power they need to bargain with agents in the bureaucracy and constituents. These take the form of contracts in a political market.

³⁴ Blair A. Ruble, "The Rise of Moscow, Inc." *Wilson Quarterly* (Spring 1998): 84-85.
<http://eds.b.ebscohost.com.proxy1.library.jhu.edu/ehost/delivery>.

³⁵ Lenta.ru, "Luzhkov, Yuri: Byvshii Mer Moskvyy." Accessed November 30, 2014, <http://lenta.ru/lib/14159332/full.htm>. Importantly, the Mossovet had voted nonconfidence in Luzhkov by 139 to 84 and had appealed to Yeltsin for a new election. Colton, Moscow, 669.

³⁶ Donald Jensen, "The Boss: How Yuri Luzhkov Runs Moscow," *Demokratizatsiya* (Winter 2000), p. 94. Jensen notes that Luzhkov also topped up the salaries of the MVD forces assigned to the federal government. Yeltsin could not trust loyalties of troops if he asked them to patrol Moscow streets.

Luzhkov took a similar action (backed by Yeltsin) and dissolved the Mossovet, calling for elections to a new, smaller Moscow City Duma that was easier for City Hall to manage.³⁷

Luzhkov scored a strategic win over Anatoly Chubais, the Yeltsin Administration's privatization champion, in the battle for control over Moscow property.³⁸ In 1994, the President decreed a "special procedure" (*особый порядок*) for privatization in Moscow by which 20 percent of the shares of privatized companies would be reserved for the state, and the Mayor received significant control over the privatization process.³⁹ At that point, the city owned about two-thirds of the real estate in the capital.⁴⁰ The decision gave birth to a municipal business empire. As Ruble describes:

"Luzhkov's city government now could assess the assets of Moscow's enterprises at a higher level than was standard everywhere else, and it could keep effective title to all of its real property in the city, with the right to grant long-term leases (up to 49 years). These two powers enabled the city government to micromanage land use and to manipulate rents and prices--and, together with the taxing power, to generate the vast sums of money Luzhkov has used to renovate his city. Thanks to his victory over the reformers, the municipality became the senior partner in all local economic activity. "Moscow, Inc." was born."⁴¹

Now Mayor of the capital, with control over two-thirds of its property and a "compliant and largely toothless" city Duma,⁴² Luzhkov set about building a corporatist economy to further strengthen his fiscal autonomy. Moscow typified a "third model"⁴³ practiced by regions in the early 1990s with respect to economic policies: rather than deepen market reforms or cling to socialist precepts, Moscow combined elements of each. Price liberalization and encouragement of foreign investment were accompanied by subsidization and control of enterprises and populist

³⁷ Colton, "Understanding Iurii Luzhkov," 19; Jensen, "The Boss: How Yuri Luzhkov Runs Moscow," 94.

³⁸ Colton, "Understanding Iurii Luzhkov," 18-19; Ruble, "The Rise of Moscow, Inc.," 81.

³⁹ Lenta.ru, "Luzhkov, Yuri: Byvshii Mer Moskvy: Na posty mæra Moskvy v 1990s," Accessed November 30, 2014, <http://lenta.ru/lib/14159332/full.htm>

⁴⁰ Ruble, "The Rise of Moscow, Inc.," 84-85

⁴¹ Ruble, "The Rise of Moscow, Inc.," 84-85.

⁴² Colton, "Understanding Iurii Luzhkov," 25.

⁴³ Lev Freinkman, Daniel Treisman, and Stepan Titov, *Subnational Budgeting in Russia: Pre-empting a Potential Crisis*, World Bank Technical Paper No. 452, (Washington D.C.: The World Bank: 1999), 12- 14.

housing construction. Luzhkov faced an economy in free fall in the early 1990s, as Moscow's industrial production plummeted by 71 percent from 1990 to 1996.⁴⁴ Real estate and construction offered an alternative revenue source. Moscow also benefited from an unusual fiscal regime that enabled it to collect profit tax from all companies registered in Moscow, even if their income derived from operations in other regions. By 1996, six major companies remitted 5.1 trillion rubles (US\$ 1 billion) to the budget; Gazprom alone comprised 11.4 percent of all tax revenues.⁴⁵ This tax advantage enabled Moscow to spend 2.5 times more than the average region, yet it surprisingly did not reduce transfers from the federal government that totaled 5 percent of the city budget in 1996 and 1997.⁴⁶ In the context of the mid-1990s, however, Moscow was vital to the center: it provided 20 percent of the federal budget while 30 other regions were withholding tax payments.⁴⁷

Having acquired a firm grip on the capital's real estate, the Mayor resisted federal incentives that promoted privatization. In December 1993, the new Russian Constitution guaranteed the right to private ownership of housing and land by citizens and businesses, and authorized the conversion of state and municipal land to private ownership. Decrees by President Yeltsin in 1994-95 encouraged enterprises to privatize the land they occupied. These legal acts led to rapid privatization of enterprise-attached land in over 50 regions, including St. Petersburg, where authorities took advantage of the flexibility allowed by law to lower land prices.⁴⁸

⁴⁴ The average national decline was 58%. Freinkman, et al, *Subnational Budgeting in Russia*, 11.

⁴⁵ Freinkman, Treisman and Titov, *Subnational Budgeting in Russia*, 14.

⁴⁶ Freinkman, Treisman and Titov, *Subnational Budgeting in Russia*, 14.

⁴⁷ The backdrop to the fiscal position of Moscow is the 'parade of sovereignties' of 1992-93 when 30 regions stopped tax remittances to the federal government. See Christine Wallich, *Russia and the Challenge of Fiscal Federalism*, (Washington, D.C.: World Bank, 1994), 248.

⁴⁸ Alexander Pusanov, *Development of the Real Estate Rights System in Russia in 1989-2009*, (Institute for Urban Economics: Moscow, 2009), 7. Leningrad Oblast, Kaluga, Samara, Vladimir, Astrakhan, and others were among the top twenty in level of privatization activity.

http://www.urbaneconomics.ru/eng/publications.php?folder_id=19&mat_id=86&from=fp&page_id=373

The Mayor carefully adapted the federal legal framework to suit city preferences. Within a month of the adoption of the Constitution, the Mayor pre-empted enterprise land privatization with his temporary resolution “On Issues Regulating Land and Property Legal Relations in Moscow City.”⁴⁹ As submitted to the city Duma, the Mayor declared that ownership of buildings by enterprises did not carry privileges to the underlying land, and that until federal legislation confirmed such legal rights, there would be no registration of private land ownership by enterprises. In fact, most enterprises held perpetual use rights that comprised the basis for a transition to legal ownership. The Mayor acknowledged this point by indicating that enterprises would have priority over other legal entities in acquiring title to the land. However, the mechanism to effect this conversion was not specified. To the contrary, it was contradicted by the spirit of the instruction, which media portrayed as a “ban” on privatization.⁵⁰

Luzhkov’s first election as Mayor in June 1996, which he won with a landslide victory,⁵¹ cemented his political autonomy relative to federal authorities and largely removed potential challenges to his land privatization policies. The Mayor’s fiscal position appeared to change when city revenues slumped during the severe financial crisis of 1998. Media reports indicated that the Mayor had ordered preparation of a new law allowing land sales to raise resources, with restrictions on foreign investors.⁵² There would have been scope to raise the share of land in the city budget;

⁴⁹ Rasporiazhenie mera Moskvy no. 23-RM of 17 January 1994. *O nekotorykh voprosakh regulirovaniia zemel’nykh i imushchestvennykh pravootnoshenii v g. Moskve*. [“On Issues Regulating Land and Property Legal Relations in Moscow City.”] http://mosopen.ru/document/23_rm_1994-01-17.

⁵⁰ Yevgenia Borisova, “Mayor Orders Law Allowing City Land Sales,” *The Moscow Times*, September 22, 1998. <http://www.themoscowtimes.com/news/article/mayor-orders-law-allowing-city-land-sales/284740>. Accessed September 2, 2014.

⁵¹ The share of vote is variously reported as 88.49 and 89.68. Yeltsin honored Luzhkov with the distinction of “мэскую цепь.” Lenta.ru, “Luzhkov, Yuri: Byvshii Mer Moskvy: Na posty мэра Moskvy v 1990s,” Accessed November 30, 2014, <http://lenta.ru/lib/14159332/full.htm>. Both Ruble and Colton describe the victory as exceptional in a period of divisive political allegiances.

⁵² An official in Zelenograd, a rayon of Moscow, reported that the Mayor was piloting privatization to find ways to raise revenues, while Vladimir Maximov, a deputy head of the Moscow land committee’s land policy department, is quoted as saying “We are only in the beginning of the preparation of the law.” Yevgenia Borisova, “Mayor Orders Law Allowing City Land Sales,” *The Moscow Times*, September 22, 1998.

in 1997, the city received Rub 704 billion from combined land taxes and lease payments out of total income of Rub 55 trillion (not including revenues kept off-budget).⁵³ Instead, the Mayor increased plans for sale of municipal property other than land⁵⁴ and relied on existing annual targets for land lease payments by quarter and per department (Moskomzem, prefects, Department of Finance). Land sales are not included in the targets.⁵⁵ However, he offered two exceptional opportunities to own land in special territorial units of Moscow: an experimental pilot to auction land in the town of Zelenograd,⁵⁶ and an option for investors to purchase land under certain conditions in the new financial business center, Moskva-City.⁵⁷ These appeased critics by opening selected land plots for investment.

By the end of the decade, leasehold became the dominant property rights structure. In 2000, out of 46,948 land plots registered in Moscow, 44,966 were subject to lease agreements. The minimum rent payment was Rub 2,808 per hectare; the average was Rub 154,538 per hectare.

<http://www.themoscowtimes.com/news/article/mayor-orders-law-allowing-city-land-sales/284740>. Accessed September 2, 2014.

⁵³ Rasporiazhenie mera Moskvyy no. 23-RM of 14 January 1998, *O plane finansovykh postuplenii ot raboty Kompleksa po ekonomicheskoi politike i imushchestvenno-zemel'nykh otnosheniiam v 1998*. [On Financial Income from Property and Land in 1998]. http://mosopen.ru/document/23_rm_1998-01-14. This does not include revenues estimated at 10 percent kept off the budget. See Freinkman, Treisman and Titov, *Subnational Budgeting in Russia*, 14.

⁵⁴ The Property Fund was to sell rented real estate and incomplete construction for total Rub 750 mln in 1998, only one tenth of the amount received from land payments. Efforts to increase this amount are described in Postanovlenie Pravitel'stva Moskvyy no. 556-PP of 21 June 1998, *Ob itogakh raboty Kompleksa po ekonomicheskoi politike i imushchestvennoo-zemel'nykh otnosheniiam v pervom polugodii 1998 goda po privlecheniiu resursov na finansirovanie gorodskikh program i merakh po povysheniiu effektivnosti upravleniia paketami aktsii (doliami), prinaldezhashchimi Moskve*. [On the results of the Complex on economic policy and property-land relations for the first half of 1998 on the attraction of resources to finance city programs and measures to improve the effectiveness of the management of enterprise shares owned by Moscow].

⁵⁵ Rasporiazhenie mera Moskvyy № 23-RM, *O plane finansovykh postuplenii ot raboty Kompleksa po ekonomicheskoi politike i imushchestvenno-zemel'nykh otnosheniiam v 1998*. [On Financial Income from Property and Land in 1998]. http://mosopen.ru/document/23_rm_1998-01-14.

⁵⁶ Zakon goroda Moskvyy no. 36 of 29 September 1999, *Ob eksperimente po prodazhe zemel'nykh uchastkov v gorode Zelenograde*, [On experimental sales of land plots in the city of Zelenograd.]

⁵⁷ Zakon goroda Moskvyy no. 30 of 12 July 1999. *O territorial'noi edinitse s osobym statusom "Moskovskii mezhdunarodnyi delovoi tsentr Moskva-Siti"*. [On the territorial unit with special status "Moscow International Business Center 'Moscow-City.'] http://mosopen.ru/document/30_zk_1999-07-12.

Lease periods ranged from 5 to 49 years.⁵⁸ The financial data reflect the underlying property rights structure: land rents became preferred over revenues through land taxes. As indicated in Table 1, income from leasing land progressively outstripped that from tax on privatized land, such that from 1998 to 2001, non-tax land income increased 4.6 times, while land taxes increased by 1.6 times. In 2001, land tax income was only 5 percent of payments from land leases, the right to conclude land lease agreements, and land sales.

Table 1: Income from Land in Moscow City, 1997-2001

	1997 rub mln	1998 rub '000	1999 rub '000	2000 rub '000	2001 rub '000
Total Income	55,154,934	50,233,805	107,589,448	195,851,481	233,396,209
Tax Income	49,065,463	45,691,620	79,324,008	132,295,333	165,225,676
--Of which property	4,311,323	4,608,659	6,657,803	10,759,972	16,211,072
--Of which land tax and land rents	703,953 ⁵⁹				
--Of which land tax		147,877	188,531	262,882	244,511
Non-Tax Income		1,012,699	1,353,534	2,024,338	2,600,329
--Of which land rents accruing to Moscow City ⁶⁰					
--Of which payments for right to conclude land lease agreement	27,824	22,928	126,201	816,761	2,139,316
--Of which land sales				1,456	7,066
Total Non-Tax Income - Land		1,035,627	1,479,735	2,842,555	4,746,711

Data in nominal rubles. Sources: Department of Finance, Moscow City, in annual resolutions "On Implementation of the Budget of Moscow City." <http://mosopen.ru>. Zakon goroda Moskvyy № 23 of 9 September 1998; Zakon goroda Moskvyy № 32 of 7 July 1999; Zakon goroda Moskvyy № 27 of 6 September 2000; Zakon goroda Moskvyy № 42 of 26 September 2001; Zakon goroda Moskvyy № 59 of 23 October 2002.

⁵⁸ V.V. Soldatenkov, Chief of Legal Department, Moscow City Committee for Land Use, "Pravovoe regulirovanie kupli-prodazhi prava arendy zemel'nykh uchastkov po konkursu v gorode Moskve," *Chernye dyry v Rossiiskom Zakonodatel'ctve*, Vol. 1, 2001, <http://www.k-press.ru/bh/2001/1/soldatenkov/soldatenkov.asp>. Accessed December 9, 2014.

⁵⁹ In 1997 land taxes and rents were combined under "taxes for use of natural resources"

⁶⁰ Until 2000, Moscow City received 80 percent; the federal share was 20 percent. This increased to 86.5 percent in 2005.

The casual reader of Moscow land law or observer of city real estate would not expect the municipality to be the monopoly landlord. Even the 1993 and 1994 resolutions that defer to leasing do not explicitly deny the right of private ownership; this would be inconsistent with federal law. But the intent of political authorities deliberately constrain privatization. In a 2001 academic article, a department head in Moskomzem explained the legal framework as follows:

Since the beginning of economic reform in the capital, about 100 normative acts were decided and introduced that reflected such important questions as the forms and types of land relations, including a quantitative and qualitative accounting of land; registration of rights on land; and a cadastral evaluation of land. While based on the Federal regulatory system, Moscow acts and decrees had, until recently, differed in one principal respect: in the main, they envisaged provision of urban land for lease; land for sale is not allowed.⁶¹

Moreover, the boom in real estate markets and refurbishment of the city's drab face brought Mayor Luzhkov strong public approval. There is consensus that Luzhkov dramatically transformed the image of Moscow.⁶² A respected Russian source credits the Mayor with these improvements: "First, the streets and courtyards became significantly cleaner. Second, since the change in leadership from Popov in 1992, Luzhkov discovered many urban buildings in deplorable condition and energetically demolished or renovated the old ones and built them anew. Third, the Mayor himself followed the weekly [Soviet-era] rule and personally went around cleaning up Moscow structures."⁶³

These positive outward signs of renewal notwithstanding, little changed institutionally in Moscow on land rights after a decade of economic reform. The state owners of land negotiated rents with enterprises and businesses that they also partially owned. This swelled the budget for construction, also run by a city enterprise with Soviet roots. The first deputy premier designated

⁶¹V.V. Soldatenkov, Chief of Legal Department, Moscow City Committee for Land Use. "Pravovoe regulirovanie kupli-prodazhi prava arendy zemel'nykh uchastov po konkursu v gorode Moskve." *Chernye dyry v Rossiiskom Zakonodatel'stve*. Vol. 1, 2001. <http://www.k-press.ru/bh/2001/1/soldatenkov/soldatenkov.asp>. Accessed December 9, 2014.

⁶²Ruble and Colton also share this view.

⁶³Lenta.ru. "Luzhkov, Yuri: Byvshii Mer Moskvy: Na posty mera Moskvy v 1990s." Accessed November 30, 2014, <http://lenta.ru/lib/14159332/full.htm>.

by Luzhkov to oversee land and property management, V.I. Resin, was the former head of industrial construction at Mosstroikomitet, the city construction agency, whom Gorbachev had put forward to head the Moscow Communist Party in 1989.⁶⁴ Within and across these projects, “the resultant tangle of ownership formulas and networks [was] opaque and all but immune to outside scrutiny.”⁶⁵ Also hidden from view were the opportunities for rent-seeking and personal enrichment created by reliance on City Hall for a postal address. A statement by Egor Gaidar regarding well-known corruption in dealing with municipal offices got him into trouble with Luzhkov, who sued but lost the libel case in court.⁶⁶

The theory of predatory rule helps explain why Mayor Luzhkov opted to lease rather than privatize land in the early 1990s. During this period, Luzhkov owed his political fortunes and appointment as Mayor to Yeltsin, over the objections of the elected City Council. He faced an industrial collapse in a city in which one-third of the territory was devoted to industry. His political and fiscal outlook was decidedly short-term. Leasing land provided an immediate source of revenue and opportunity to consolidate personal political control by granting land use rights to investors and city organs.

By 1996, the Mayor’s strong bargaining position, politically and fiscally, enabled him to sidestep national legislation and eschew land as a long-term source of stable tax revenue. Distortions in Russia’s regime of fiscal federalism contributed to the Moscow Government’s ability to delay reforms and spend 2.5 times the average amount of other regions. This outcome is in line with Zhuravskaya (1999), who demonstrates that the fiscal-federalist structure weakened

⁶⁴ Colton, *Moscow*, p. 603 and 905 fn103.

⁶⁵ Colton, “Understanding Iurii Luzhkov,” 19.

⁶⁶ Colton, “Understanding Iurii Luzhkov,” 19.

incentives to raise taxes locally, thus leading to excessive interference in local businesses by city administrators, who could defer difficult reforms.⁶⁷ Likewise, Desai, Freinkman and Goldberg (2005) show that regions with a lower tax retention rate (share of locally-derived taxes in the budget) reformed less than other regions. Moscow's tax retention rate was 45 percent from 1996 to 1999, the lowest in the nation except for two small, poor oblasts.⁶⁸ Consistent with the theory of predatory rule, such regimes become less accountable to voters over time.

Fiscal autonomy based on unearned income streams, rather than local taxes, enabled Moscow to retain land rights that benefited the budget and ruling elites in the 1990s. Mayor Luzhkov had no incentive to widen access to land rights to legal entities and citizens. The Mayor's stated ideological opposition to land privatization does not hold as a rationale, especially given privileged sales of municipal property to individuals of importance to political authorities.⁶⁹

Paradoxically, while Luzhkov had a high degree of autonomy, his political future was neither secure nor independent of the presidential apparatus in the 1990s. He defended Yeltsin when needed, as in the 1993 constitutional crisis. But twice his national political ambitions and independent positions met with stiff resistance from the Kremlin, either through unwanted financial audits or investigations by federal security services or media smear campaigns.⁷⁰ By

⁶⁷ Ekaterina V. Zhuravskaya, "Incentives to Provide Local Public Goods: Fiscal Federalism, Russian Style," *Journal of Public Economics* 76 (2000) 337–368. <http://www.elsevier.nl/locate/econbase>.

⁶⁸ The lower rates were in Kalmykia (33.5) and Gorny Altai (38.9). The national average was 65.2. Raj M. Desai, Lev Frienkman and Itzhak Goldberg, Fiscal Federalism in Rentier Regions: Evidence from Russia," *Journal of Comparative Economics* 33 (August, 200), pp. 828-832. www.elsevier.com/locate/jce.

⁶⁹ An advisor to Luzhkov and former KGB colonel, Yevgenii Bystrov, reportedly is a major property owner in Moscow; Vladimir Guzinksii, head of the Most financial group, reportedly received below-market prices for municipal real estate in 1994 in return for financing in support of Luzhkov's political ambitions. Colton, *Moscow*, 743-744.

⁷⁰ The two occasions are in 1994-1995, when he appeared to be making a run for the presidency, and in 1997-99, following his landslide mayoral election, when he formed an independent party, Otechestvo (Fatherland) in 1998 and took policy positions that offended the presidential apparatus. The Yeltsin Administration used its control over security forces and media to put pressure on Luzhkov. Jensen, "How Luzhkov Rules Moscow," 92-93.

1999, his relations with Yeltsin hit the breaking point, removing him from contention for a national appointment.⁷¹ Thus, a superficial view might interpret Luzhkov's political autonomy as iron-clad, giving him security in office and freedom to reform; in reality the mayor had a short-term perspective that militated against a long-term reform agenda. The expedient solution was to lease land rather than to privatize it. That this choice also conferred immense power over enterprises and investors could not have escaped his attention.

b. Bureaucratic Organization and Performance 1990-2000

Another aspect of the predatory rule theory concerns the transaction costs to negotiate and establish a land administration system. Negotiations entail the time and political resources needed to subsume control by ruling authorities; budgetary costs include setting up bureaus to measure, monitor, and record leases or sales. In assessing these costs, we need to consider the perspective both of the ruler and the users of the land administration system. This brings us into the micro-analytical level of the NIE literature pertinent to the governance of contractual relations, which determines the transaction costs of change. The unit of analysis at this level is the contract, because each agreement to lease, sell, or acquire the right to lease land represents a formal legal agreement between the city as landlord and a legal entity or individual as a tenant or buyer.

The first priority for the ruling coalition of Popov and Luzhkov in 1991 related to control: did the executive or legislative branch manage land allocation? And within the municipal bureaucracy, which agencies managed what functions? Were the Soviet model to prevail, the most powerful actor would become the Mossovet (Council of People's Deputies). It had exercised the authority to allocate land privileges; now these privileges had reappeared as rights under the

⁷¹ Colton, "Understanding Iurii Luzhkov," 21-23. Colton recalls the media campaigns on insider business deals to Luzhkov's wife, Elena Baturina, were mounted in early 1999. 26, fn 48.

RSFSR law of November 23, 1990, “On land reform.” Hence the first task for the Popov administration was to wrest control of land allocation from the Mossovet, newly elected in the democratic fervor of 1990.

The second task involved clarification of city agency functions. Of those involved in land and property, three renamed agencies carried over from the Soviet period: Moskomarkhitektura (responsible for the city’s General Plan and architectural planning), Moskomzem (land committee handling cadastral mapping and titling), and the Bureau of Technical Inventory (responsible for building assets). Other key players included the newly-formed Moskomimushchestvo (Committee on Property) and Economic Policy (which managed policy for land and property at the federal level). The former Soviet construction agency head and new First Deputy Premier of the Moscow government, V.I. Resin, received responsibility for all functions related to land, property, and construction on March 3, 1992.⁷²

Confrontation over legislative-bureaucratic roles on land policy came to a head in March 1992. As reported in *Kommersant*, the competing parties held a session with Vice Mayor Luzhkov on March 5, 1992 to discuss the division of responsibilities contained in Luzhkov’s decrees of January 31 and March 2, 1992. These had authorized Moskomzem to design the normative basis for land relations. At the March 5 meeting, Moskomzem spoke first, taking a broad view of its leadership role. Then the Mossovet land commission presented an alternative framework: the lead strategic roles would be assumed by Moskomarkhitektura and the Moscow Property Committee, which would negotiate contractual agreements on land use. Moskomzem was relegated to

⁷² Rasporiazhenie vitse mera Moskvyy no. 111-RVM of 3 March 1992, *O dopolnenii rasporiazheniia ot 31ianvaria 1992 g. N 51-PBM*. [On Amendments to the Resolution of 31 January 1992 No. 51-RVM]. http://mosopen.ru/document/111_rvm_1992-03-03.

technical support on mapping and registration. In addition, the Mossovet land commission expected to manage and receive all land payments. In a surprise change of mind, Vice Mayor Luzhkov reportedly switched sides, opposed the Moskomzem plan, and requested the legislative commission to detail the proposal further. The *Kommersant* reporter advised entrepreneurs not to rush to curry favor with Moskomzem until the Mossovet submitted its legislative package.⁷³

The Government Resolution “On Implementation of Land Reform in Moscow City,” signed by Luzhkov as Premier on March 31, 1992, struck a middle ground that reinforced a major role for Moskomzem while also strengthening other agencies. The program of implementation requires Moskomzem to coordinate all actions except on registration, where it assumed full authority. To strengthen this point, which also contradicted the Mossovet, the resolution ordered Moskomimushchestvo (Committee on Property) to stop preparing and registering land lease agreements and to turn over all such work within a week to Moskomzem. In a particular departure, the Mayor authorized the prefects, as an experimental approach, to make decisions on the granting of land plots in their respective territories with technical input from Moskomzem and Moscomarkhitektura. In short, the resolution recognized and also refuted positions advanced by the Mossovet land commission.⁷⁴

Having cleared the path for executive prerogatives on land policy, Luzhkov asserted authority over implementation by his appointees and bureaucratic agencies. In an unusual public reprimand issued in May 1994, he “strictly pointed out to A.M. Bryachikhin, prefect of the Western

⁷³ Dmitrii Skladchikov and Viktoriya Kharnas, “Luzhkov menyaet reshenie, a moskovskaya zemlya --- khozyaina,” *Kommersant* No. 110, March 9, 1992. <http://www.kommersant.ru/doc/3472>. Accessed November 30, 2014.

⁷⁴ Postanovlenie Pravitel'stva no. 174-PP of 31 March 1992, *O khode realizatsii meropriiatii po zemel'noi reforme v g. Moskve. O vzaimodeistvii Moskomzema i prefektur administrativnykh okrugov po regulirovaniu zemel'nykh otnoshenii*. [On Implementation of Land Reform in Moscow City; On Interactions between Moscow Land Committee and Prefects of Administrative Okrugs on Regulating Land Relations]. http://mosopen.ru/document/174_pp_1992-03-31.

administrative okrug, and V.N. Astsaturov, chairman of Moskomzem, that the lack of agreed actions and division of authority in the process of land reform was leading to violation of land legislation.”⁷⁵ The Mayor instructed First Deputy Premier Resin to clarify implementation arrangements and ordered the offending officials to correct their actions in line with regulations adopted by the prefect. At the same time, he obliged Moskomzem to exert stricter control over land use by bringing any recommendations for repeal or changes in decisions by executive authorities to City Hall in a timely manner.⁷⁶ As an appointee of the Mayor, the prefect received a lighter blow in the public reprimand than the head of Moskomzem. The message was nevertheless clear: the Mayor was the principal and all others were his agents.

The expenditure of political resources by Mayor Luzhkov to wrest control rights over land policy did not give him administrative capacity to fulfill his wishes. To institute a new property rights structure, he needed to consider transaction costs related to land administration. The trade-off was between the cost to administer land leases and sub-leases⁷⁷ and the cost to sell land (a one-time source of income) and collect taxes. Income from leases could be retained entirely by the region whereas taxes had to be shared with the federal government.⁷⁸ However, whether land is leased or taxed, the investment and administration costs for cadastral mapping, evaluation, registration and monitoring are substantial.⁷⁹ Even after doubling the income from concluding

⁷⁵ Rasporiazhenie mera Moskvyy no. 330-PM of May 12 1993. *O vzaimodeistvii Moskomzema i prefektur administrativnykh okrugov po regulirovaniu zemel'nykh otnoshenii*. [On Interactions between Moskomzem and the prefectures of administrative okrugs on land relations]. http://mosopen.ru/document/330_rm_1993-05-12.

⁷⁶ Rasporiazhenie mera Moskvyy № 330-PM of May 12 1993.

⁷⁷ Moscow was more advanced than other jurisdictions in allowing sub-leasing. The terms of a sub-lease remained the same as the original lease. Processing the sub-lease required the approval of Moskomzem and a three-way agreement. See Soldatenkov, V.V. Chief of Legal Department, Moscow City Committee for Land Use. “Pravovoe regulirovanie kupli-prodazhi prava arendy zemel'nykh uchastkov po konkursu v gorode Moskve.” *Chernye dyry v Rossiiskom Zakonodatel'stve*. Vol. 1, 2001. <http://www.k-press.ru/bh/2001/1/soldatenkov/soldatenkov.asp>. Accessed December 9, 2014.

⁷⁸ Foreign Investment Advisory Service of the World Bank and IFC. Business Location Report: Russia chapter 3, 11-2.

⁷⁹ For example, activities in 2000 included updating the land inventory, preparing land for lease, modernizing land records with information technology systems, and other administration. Postanovlenie Pravitel'stva Moskvyy no.

agreements to lease land (see Table 1),⁸⁰ land administration expenditures exceeded non-tax land revenues by 30 times.

To consider the counterfactual, how might Moscow have fared fiscally had it instituted a property rights regime based primarily on freehold land ownership? It is difficult to undertake such analysis with any confidence. During the 1990s, land taxes and lease rates were set administratively rather than by market assessment of land values. Regional administrations adjusted the lease rate within the boundaries set by federal law, providing an incentive or disincentive to privatize.⁸¹ Lease rates during this period were a multiple of the land tax, which were set locally by city dumas within the framework of federal laws.⁸² Based on available data, it is difficult to establish with any certainty whether the Moscow administration kept lease rates artificially low to discourage land privatization. The land tax is clear and set out in the law “On the Land Tax.” For example, the weighted average tax rate across the 69 territorial zones of Moscow was Rub 40,500 per hectare in 1998, ranging from a high of Rub 300,277 within the Moscow Garden Ring Road to Rub 5,578 in less favorable locations.⁸³ However, multiple amendments to the tax law and numerous evaluations by the Moscow Land Committee to

1196-III of 25 December 2001, *O vnesenii izmenenii i dopolnenii v postanovlenie Pravitel'stva Moskvy ot 20 fevralia 2001 goda N 157-III*. [On changes and additions to the postanovlenie of the Government of Moscow of 20 February 2001].

⁸⁰ Rates for the right to conclude a land lease are set out in government resolutions. Beginning in 2001, the charge was US\$7500 to allow an agreement to be negotiated for land within the Garden Ring Road.

⁸¹ Gregory Kisunko and Jackie Coolidge, “Survey of Land and Real Estate Transactions in the Russian Federation,” Policy Research Working Paper 4115 (Washington, D.C.: World Bank, 2007), 3, 5-6.

⁸² As discussed in Chapter 4, until 2008, regions set the price of land as a factor of the land tax, which varied by population size. Large cities with over 3 million residents could charge a multiplier of 5 to 30 times the land tax per unit of land. Cities that charged lower prices for privatization had higher levels of land sales. See Alexander Pusanov, “Development of the Real Estate Rights System in Russia,” 7, 12-13.

⁸³ *Zakon goroda Moskvy no. 1 of 21 January 1998, O stavkakh zemel'nogo naloga*. [On the Land Tax]. http://mosopen.ru/document/1_zk_1998-01-21.

differentiate land values within each zone complicate the task of drawing conclusions. Finally, subsidies on leases could be approved retroactively, depending on the budget.⁸⁴

Although it is difficult to judge forgone fiscal benefits from a freehold property regime in the 1990s, negotiated lease rates offered opportunities for arbitrary decision-making and corruption. For example, a Moskomzem employee was arrested on a charge of understating a long-term land lease by US\$1.3 million, benefitting the tenant (and, it is implied, the Moskomzem employee) at the expense of the city budget.⁸⁵

This brings us to transaction costs from the perspective of users of the new property rights system. In conditions where a rule-bound bureaucracy follows clear and published regulations, and where market prices are public information and easily available, transaction costs are reduced to the minimum specified in the Coase Theorem. That is, market prices will reflect optimal efficiency. However, if information asymmetries favor ruling elites and prices are negotiated, market exchange will be encumbered by high transaction costs. In short, a land market governed by political considerations reduces efficiency and raises costs for market participants.⁸⁶ Such conditions prevailed in Moscow in the 1990s.

For real estate developers and investors the transaction costs of acquiring land were extremely high in Moscow. In a temporary resolution on January 31, 1992 entitled “On Procedures

⁸⁴ Postanovlenie Pravitel'stva Moskvy № 1196-III of 25 December 2001. See also discussion of various steps undertaken by the Moscow Land Committee to improve estimation of normative land values in Soldatenkov, V.V. Chief of Legal Department, Moscow City Committee for Land Use. “Pravovoe regulirovanie kupli-prodazhi prava arendy zemel'nykh uchastov po konkursu v gorode Moskve.” *Chernye dyry v Rossiiskom Zakonodatel'ctve*. Vol. 1, 2001. <http://www.k-press.ru/bh/2001/1/soldatenkov/soldatenkov.asp>. Accessed December 9, 2014.

⁸⁵ Maksim Varyvdin, “Arestovan chinovnik Moskomzema: Biudzhel Moskvy nedopoluchil 1.3 milliona dollarov,” *Kommersant*. No. 038, March 26, 1997. <http://www.kommersant.ru/doc/174985>

⁸⁶ A summary of transaction cost theory applied to bureaucracies can be found in Terry M. Moe, “The New Economics of Organization,” *American Journal of Political Science*, Vol. 28, No. 4 (November 1984). <http://www.jstor.org/>. The general argument on how politically-motivated decisions increase transaction costs and reduce efficiency is in Chapter 4 of Douglass C. North, *Institutions, Institutional Change and Economic Performance*. Cambridge: Cambridge University Press, 1990.

for the Provision and Confiscation of Land,⁸⁷ the Vice Mayor outlined a complicated two-step procedure that must be followed by companies applying for land for construction or restoration projects. Moskomzem and the Chief Architect are key bureaucratic players in the process. On March 3, 1992, the Vice Mayor signed a separate resolution⁸⁸, with the additional proviso that all applications received by the Government of Moscow for land shall be addressed to the Deputy Prime Minister of the Moscow Government, V.I. Resin, who had the right to preliminary review before submission to the Commission on land and town planning regulation as represented by Moskomzem. The resolution dwells on actions that that can lead to loss of existing (Soviet) land privileges. Most significantly, all works must conform to the Soviet-era General Plan that was drafted in secret but not yet approved by the Central Committee in 1989. The primary implication of these procedures, as discussed in more detail in the period 2001-2013, was a high level of interference by the bureaucracy and long delays to acquire land.

Another level of transaction costs arose from the overlay of Moscow regulations on federal requirements for land auctions as a means of allocating land. Owing to a mismatch in definitions in the federal and city acts, the subject of the land auctions was open to interpretation. From the understanding in Moscow, a competitive auction only provided the right to conclude a lease agreement; land remained in ownership of the city government. This interpretation led to several complications. Most critically, according to Moscow procedures, the price of land was related to the overall commercial project, which first required pre-approval by several agencies for conformity with urban and environmental regulations before bidding could take place. Hence the

⁸⁷ Rasporiazhenie vitse mera Moskvyy no. 51-RVM of 31 January 1992. *O poriadke predostavleniia i iz"iatiia zemel' v g. Moskve*. [On Procedures for the Provision and Confiscation of Land in Moscow City]. http://mosopen.ru/document/51_rvm_1992-01-31.

⁸⁸ Rasporiazhenie vitse mera Moskvyy no. 111-RVM of 3 March 1992, *O dopolnenii rasporiazheniia ot 31ianvaria 1992 g. N 51-PBM*. [On Amendments to the Resolution of 31 January 1992 No. 51-RVM]. http://mosopen.ru/document/111_rvm_1992-03-03.

bidder for the right to conclude a land lease needed to prepare a full package of documentation with pre-approved technical specifications for the full construction project.⁸⁹ Not only was this process extremely costly from the point of view of the bidder, but it carried high risk, because the land lease contract still required a subsequent negotiation.

Given the complexity of bureaucratic procedures, it is not surprising that violations of land regulations occurred regularly. For example, the state land inspection unit in the first half of 2000 conducted 7614 inspections of conformance with the land law by holders of large plots (over 4,000 hectares) and found 4243 cases of violation of land laws and city regulations on land use, for which fines in six months amounted to Rub 17.2 million.⁹⁰

In the calculation of Mayor Luzhkov and the ruling coalition, the benefits of holding rights over land were greater than the transaction costs, both political and fiscal, of acquiring control. Once in control, the authorities then raised the transaction costs of acquiring land for firms and citizens. The control rights of politicians and bureaucrats posed the greatest challenge in the transition from communism to market, according to Schlieffer, raising a two-fold dilemma: “On the one hand, the necessary condition for establishing property rights is reducing the power of the bureaucrats. On the other hand, some power of the government and the bureaucrats is necessary to enforce private property rights.”⁹¹ As will be discussed in the next section on public participation,

⁸⁹ Soldatenkov, V.V. Chief of Legal Department, Moscow City Committee for Land Use, “Pravovoe regulirovanie kupli-prodazhi prava arendy zemel’nykh uchastov po konkursu v gorode Moskve.” *Chernye dyry v Rossiiskom Zakonodatel’ctve*, Vol. 1, 2001. <http://www.k-press.ru/bh/2001/1/soldatenkov/soldatenkov.asp>. Accessed December 9, 2014.

⁹⁰ Postanovlenie Pravitel’sva Moskvy no. 689-III of 29 August 2000, *Ob itogakh raboty Komleksa po imushchestvenno-zemel’nym otnosheniiam v pervom polugodii 2000 goda po privlecheniiu resursov v biudzheth goroda i na finansirovanie gorodskikh program*. [On the results of the complex on property-land relations in the first half year of 2000 in raising budget resources for financing city programs.]

⁹¹ Andrei Schleifer, “Establishing Property Rights,” Paper presented at World Bank: Annual Conference on Development Economics (Washington, D.C., April 28-29, 1994), 1-2, 22. Also see Douglass C. and Barry R. Weingast, “Constitutions and Commitment: The Evolution of Institutions Governing Public Choice in 17th Century England,” *Journal of Economic History* 49(1989):803-832.

civic interest in land and housing issues loomed large in the 1990s, yet were insufficient to diminish the control rights acquired by City Hall.

Public Participation in Decision-Making, 1990 to 2000

The premise of the dissertation is that greater public engagement will put political pressure on authorities and bureaucrats to open access to land and increase the security of land rights. The importance of civic organizations in influencing the security of property rights in Russia is empirically established.⁹² This section focuses on two arenas through which the public can take the initiative to influence land policy: the legislature and voluntary associations.

For three reasons, the Moscow legislative branch in the 1990s was too weak to challenge the Luzhkov administration on significant land policy matters. First, members were inexperienced compared to the power house of former communists and local government leaders that comprised the post-Communist coalition in the executive branch. Deputies in the Moscow City Council (Small Soviet, elected in November 1991) and the city дума (elected in December 1993) had more humble and less official roles prior to legislative service.⁹³

Second, the territorial and functional reform of Moscow's sub-city governments by Mayor Popov in 1991 created a vertical line of authority from the Mayor's office down to the grassroots. Prefects appointed by the mayor then appointed sub-prefects to new mini-districts; both were accountable for implementation of city hall commands.⁹⁴ Mayor Luzhkov somewhat rectified the democratic gap by introducing small elected assemblies in municipal districts in December 1993

⁹² See for example Timothy Frye, "Credible Commitment and Property Rights: Evidence from Russia." *American Political Science Review*, Vol. 98, No. 3 (August 2004): 453-465.

⁹³ Colton, *Moscow*, 679.

⁹⁴ Colton, *Moscow*, 687-690.

to advise and confirm the appointment of the sub-prefect.⁹⁵ While this leavened the top-down structure with some neighborhood yeast, it did not provide a forum for discussion of citizen concerns or communication with legislators or the mayor's office.

Finally, Yeltsin's authorization during the constitutional crisis in October 1993, giving the mayor power to rule by executive instruction (*rasporyazhenie*), eviscerated the spirit if not the letter of separation of powers. The "hypermayoral" system, as Colton terms it, required the Moscow City Duma to go to court if it fundamentally disagreed with an executive order. The legislature could suggest changes to orders and pass bills, but if vetoed by the mayor, a two-thirds majority was required to overturn it.⁹⁶ In short, the power structure in Moscow inverted the concept of citizens as the principal and government as the agent of the people. Accordingly, voter turnout to elections of the City Duma was low; almost half of citizens surveyed in 2000 believed the Mayor was fully in control and the Duma rubber-stamped his administration's decisions.⁹⁷ The disempowerment of the legislature also disenfranchised the population.

In spite of the power imbalance, the Moscow City Duma did its best to carve out a role on land policy. In 1994, it passed a law proposing a joint commission of deputies and executive representatives to oversee land rights, land payments, planning and zoning (including the General Plan) and dispute resolution (e.g. creation of a Moscow land court).⁹⁸ The commission was established in 1995. Two years later, the Duma required annual reports by the city administration on achievements and plans for land reform, including revenues from land payments and

⁹⁵ Colton, *Moscow*, 691-692.

⁹⁶ Colton, *Moscow*, 686.

⁹⁷ Yelena Shomina, Vladimir Kolosov and Viktoria Shukhat, "Local Activism and the Prospects for Civil Society in Moscow," *Eurasian Geography and Economics*. 43:3 (2002), p. 264-65.

⁹⁸ Postanovlenie Moskovskoi gorodskoi Dumy No 90 of November 16, 1994, *O podgotovke normativnykh dokumentov po voprosam pravovogo regulirovaniia v oblasti zemel'nykh i imushchestvennykh pravootnoshenii v Moskve*. [On preparation of regulatory documents on legal issues of land and property relations in Moscow]. <http://www.Mosopen.ru>.

expenditures on land administration.⁹⁹ The reports undoubtedly increased the accountability of the city administration; as will be discussed, the opposition politician, Boris Nemtsov, used the administration's own reports a decade later to expose corruption in land deals.

Another potential force for change emerged in the early 1990s as the privatization of housing, curtailment of new construction, and gradual shift of maintenance responsibilities onto residents prompted an outburst of civic activism in defense of housing rights and better living conditions. Shomina et al estimated that 3,000 housing cooperatives, 700 associations of flat owners, 500 housing partnerships and several hundred housing committees in municipal buildings had sprung up in addition to Soviet-era organizations that gained new adherents, including 120 MZhKs (youth housing complexes) and 120 KOS (committees of social self-engagement).¹⁰⁰ Additionally, many city-wide organizations appeared, such as the National Forum of Affordable and Decent Housing, formed by *Nash Dom* (Our Home), a group of residents formed in 1991 to take ownership of their apartment building. Considering the diversity and immensity of actions, Shomina et al stated that a true "housing movement" had formed in the capital, bringing Muscovites "the first lessons of market economy and democratic behavior."¹⁰¹

While Muscovites were slow to appreciate the responsibilities of private property rights, they were quick to organize when disparities raised questions of fairness. Due to the separation of land and buildings under Soviet law, citizens did not initially perceive the privatization of apartments as linked to land. Nor did they understand that the absence of affordable housing

⁹⁹ Postanovlenie Moskovskoi gorodskoi Dumi No 30 of May 7, 1997. *O vnesenii izmenenii i dopolnenii v postanovlenie Moskovskoi gorodskoi Dumi ot 31 maia 1995 goda N 34 "O komissii Moskovskoi gorodskoi Dumi i Administratsii goroda Moskvy po normativnoi baze zemel'nykh i imushchestvennykh pravootnoshenii."* [On amendments to the resolution of the Moscow City Duma on 31 May 1995 No. 34 On the Commission of the Moscow City Duma and Administration on the regulatory basis of land and property relations].

¹⁰⁰ Yelena Shomina, Vladimir Kolossov and Viktoria Shukhat, "Local Activism and the Prospects for Civil Society in Moscow," *Eurasian Geography and Economics*. 43:3 (2002), 252.

¹⁰¹ Shomina et al, "Local Activism," 250, 253.

options related to artificial constraints on land access due to the city's monopoly ownership. Perceptions would change in the next decade when the city administration exercised eminent domain and evicted residents from multi-story buildings to claim the underlying territory. The more immediate issues in the 1990s related to housing privatization, which split municipal residents into nearly equal groups of tenants and owners, and the acute social impacts of substandard living quarters, such as multiple families living in one flat. Despite having similar housing conditions, tenants had stronger legal protection than new owners, who had to assume responsibility for building maintenance without holding title to courtyards and common areas. "Ironically, privatization created a situation in which citizens felt that the only opportunity of being heard, treated fairly, and taking control was through collective action."¹⁰²

The swell of voluntary organizations aroused the interest and ire of the city administration. Seeing benefits in residential improvement initiatives, the city sought to stimulate neighborhood activism for maintenance and courtyard security. Battles arose when housing groups asserted authority over non-residential areas, which then raised the question of property ownership. According to Shomina, et al, "[l]ocal authorities, and particularly municipal maintenance agencies, do not want to lose control over property and public money and oppose any initiative from below....Later, conflict shifted to the field of land use."¹⁰³ An advisor to the Mayor, Professor Pavel Makagonov, conceded that the city administration needed residential cooperation but was at a loss how to engage citizen associations.¹⁰⁴ Groups that attempted to assume real power came into conflict with local authorities.¹⁰⁵

¹⁰² Shomina, et al, "Local Activism," 250. The share of the municipal rentals in Moscow's housing stock declined from 90 to 46 percent from 1991 to 2001. Since 1998, registered Associations of Flat Owners assume full responsibility for building maintenance but can participate in decisions on building use. This is becoming the dominant form of housing association, according to the authors (258).

¹⁰³ Shomina, et al, "Local Activism," 255.

¹⁰⁴ Shomina, et al, "Local Activism," 255.

¹⁰⁵ Shomina, et al, "Local Activism," 254.

Grassroots initiatives stimulated representative democracy and legislative action in the 1990s but ultimately did not solve the most vexing housing rights issues at the building level. Housing leaders who were elected to councils at the rayon (district) and prefecture levels were able to raise neighborhood property issues, while the Public Council on Housing Policy, created in 1994 under the umbrella of the Moscow City Duma, represented city-wide organizations. Though the Public Council lobbied for better laws in meetings led by the Commission Chair, Galina Khovanskaya, it was not able to address practical issues of tenant rights at the building level, such as lease agreements and forced evictions.¹⁰⁶

As of 2001, progress on access to better housing was glacial: almost 200,000 people still lived in shared flats and over 600,000 people remained on a list for improved housing.¹⁰⁷ Despite the sense of injustice that aroused the housing movement in Moscow, property rights failed to congeal as an agenda for political action in the 1990s. This raises a question: why do citizens not express grievances in terms of property rights? We will return to question at the end of the chapter.

3. The Land Governance Model in Moscow, 2001-2013

a. Political Authority and the Legal Order, 2001-2013

The political and fiscal autonomy that enabled Mayor Luzhkov to institute a property rights paradigm based on leasehold rather than private ownership came under pressure as Vladimir Putin came to power and recentralized political authority. As will be argued, the Luzhkov administration managed challenges from the Kremlin less effectively under the Putin presidency. Luzhkov's bargaining power declined, and his security in office became more tenuous. Political independence and city land practices ultimately cost the Mayor his job.

¹⁰⁶ Shomina, et al, "Local Activism," 253-4.

¹⁰⁷ Shomina, et al, "Local Activism," 251.

As in the previous decade, the primary political issue from 2000 to 2008 was competition between the capital's popular mayor and the occupant of the Kremlin. After meeting Prime Minister Putin in February 2000, Luzhkov stated that his Fatherland party could hardly support Putin as a presidential candidate, noting Putin was "a blank page...in essence, no one knows anything about him."¹⁰⁸ Thereafter, the investigative committee of the Ministry of Internal Affairs opened an inquiry into Luzhkov's economic activities. Luzhkov subsequently changed his point of view and came out in favor of Putin, who was elected President on March 26, 2000. Luzhkov's Fatherland party eventually teamed up with Putin's (Unity) to form United Russia, which captured two-thirds of the seats in the December 2003 elections, while Luzhkov was re-elected mayor with nearly 75% of the votes.¹⁰⁹ Up to this point, Luzhkov's bargaining power and policy independence remained solid.

The dynamic between the Mayor and the President changed when Putin ended the election of heads of regions in 2004. According to the biography of Luzhkov in Lenta.ru, tensions started to grow in 2005 as Putin became more uncomfortable with the gratuitous shows of independence of the Mayor. Putin started to appoint the mayor's key officials to posts outside Moscow (for example, Vice Mayor Shantsev became Governor of Nizhny Novgorod), thus breaking up the Mayor's team. Luzhkov's poor handling of the eviction of residents from their homes in Butovo (discussed below) triggered speculation that the dismissal of the Mayor was not far off. Putin nominated him to the mayoral position again in June 2006 for a fifth term, but the relationship remained rocky.¹¹⁰ After a meeting with President Putin in July 2007, press reports indicated that

¹⁰⁸ Ol'ga Korbel'nikova, «U 'Otecheshtva' net cvoego kandidata," *Trud* № 28, February 15, 2000. Accessed November 30, 2014.

¹⁰⁹ "Luzhkov, Yuri: Byvshii Mer Moskvyy." Lenta.ru. Accessed November 30, 2014. <http://lenta.ru/lib/14159332/full.htm>

¹¹⁰ "Luzhkov, Yuri: Byvshii Mer Moskvyy." Lenta.ru. Accessed November 30, 2014. <http://lenta.ru/lib/14159332/full.htm>.

“Putin and Luzhkov will go out together” when Putin’s second term ended in 2008.¹¹¹ In short, the appearance of numerous indirect threats to the mayor’s tenure indicated the balance of power had shifted to the Kremlin.

There is a significant difference between the 1990s and the Putin period in terms of Luzhkov’s security in office and political time horizon. While his relationship with Yeltsin deteriorated at the end of the decade, Luzhkov’s grasp on the capital was secured by landslide elections. That security evaporated when President Putin changed the rules on regional elections. With greater uncertainty in his future, Luzhkov had even less incentive to take the risk on far-reaching institutional reforms that would deprive him of his hold on land ownership in the capital.

The city of Moscow also faced new fiscal challenges following reforms of the fiscal federalist system in the early 2000s.¹¹² From 2002 to 2005, due to consolidation of the number of local taxes, regions lost nearly 10 percent of GDP in budget revenues. To compensate, federal transfers to the regions were expected to increase, and local governments were expected to maximize other sources of revenues, including from land taxes.¹¹³ The principal impact on Moscow was a reduction in the tax advantages it enjoyed in the 1990s and a recalculation of the fiscal transfer formula that required Moscow to contribute more to the federal budget. While Moscow retained some federal subsidies,¹¹⁴ it needed to fill the gap lost during the tax reforms. Moscow was able to tap capital markets to meet expenditure needs. In 2007, for example, Moscow city bonds raised US\$4.3 billion of the US\$8 billion in regional and municipal bonds placed in the

¹¹¹ Elena Kostiuhenko, “Putin i Luzhkov uidut odnovenno,” *Novaya Gazeta*, № 55, July 23, 2007.

¹¹² In 2001, the Government adopted the Strategy for Fiscal Reform to 2005 that was implemented in stages from 2002 to 2005. Migaro O. Da Silva, Galina Kurlyandskaya, Elena Andreeva, and Natalia Golovanova, *Intergovernmental Reforms in the Russian Federation: One Step Forward, Two Steps Back?* (Washington, D.C.: The World Bank, 2009), 29.

¹¹³ A. A. Alekseeva, A.A. “Rol’ Zemel’nogo Naloga v Oformirovanii Mestnykh Biudzhetrov.” *Probely v Rossiiskom Zakonodatel’ctve*, 2009 (4) 31-34. <http://cyberleninka.ru/article/n/rol-zemelnogo-naloga-v-formirovanii-mestnyh-byudzhetrov>.

¹¹⁴ Da Silva et al. *Intergovernmental Reforms in the Russian Federation*, 84-85.

market.¹¹⁵ As a consequence, the Luzhkov administration could afford to resist recommendations to increase revenues from land and property taxes.

During the early 2000s, as new fiscal federalist policies were introduced, numerous scholarly articles appeared in Russia that argued in favor of harmonizing the land and property tax into a single levy that should become the principal source of municipal finance, particularly in Moscow, which received less than one percent (0.33) of the budget from such taxes.¹¹⁶ In 2004, S.V. Orlov, deputy chair of the economic policy committee of the city Duma, and R.A. Kamaev argued strongly in favor of a unified real estate tax, noting that Russian tax law and Moscow practices were counter to market evaluation, contributing to inefficient land use. In particular, the formula for assessing property values was not based on market factors but on the 1991 assessment (in 1991 rubles) multiplied by a coefficient that was set annually by the city. In 2003, the coefficient of 15 ridiculously undervalued property values, according to the authors. At the same time, land taxes in 2003, at 35 rubles per square meter, were 50 times higher than land rents, the reverse of conditions in advanced economies. Nevertheless, they noted, land and property taxes comprised only 6.5 percent of the budget and 8 percent of all taxes in Moscow. In contrast, local governments in major Western countries received from 15-50% of tax income from real estate, even though the tax rate was lower. Furthermore, they argued, while there were start-up costs for administration, a unified property tax system would stabilize at about 5% of revenues, and thus be self-financing. The authors called for a wide discussion with members of society, the City Duma,

¹¹⁵ da Silva et al, *Intergovernmental Reforms*, p. 94.

¹¹⁶ A.A. Alekseeva, "Rol' Zemel'nogo Naloga." Moscow is compared to Belgorod and Krasnodar Oblasts that receive 6.5 and 5.25 percent, respectively.

and the Moscow government on these recommendations.¹¹⁷ Left unsaid, but implicit in the argument, was that the city should privatize more land.

As the predatory rule theory would predict, the Luzhkov administration rejected recommendations to sell land and thereby maximize revenue from property taxes. Given the city's strong fiscal position and the benefits of controlling land rights, the city administration could afford to adopt tax policies that created a strong incentive for leasehold while also favoring owners of elite properties. While Orlov and Kamaev were careful not to criticize City Hall, it is clear that low rental rates to lease land in comparison with high tax rates to own land would discourage privatization. At the same time, the separation of valuation functions between a cadastral agency (for land) and the Bureau of Technical Inventory (for real property) enabled Moscow to manipulate land and property values. The formula used did not account for the location, size or usage of the property. The result was paradoxical: expensive homes in prestigious locations received a low tax rate, while concrete-block units (of the Khushchev period) carried high rates.¹¹⁸

The Luzhkov administration continued the course set in the 1990s, despite the adoption of a Land Code in 2001 and other regulations by the Putin Administration that required competitive auctions for sale of unimproved or vacant municipal land plots. A study prepared for the Ministry of Economy and Trade in 2005 concluded that Moscow City, in contrast to fifteen Russian regions reviewed, held auctions only for lease rights up to 49 years, not for sale of land.¹¹⁹ A different

¹¹⁷ Orlov, S. V. and Kamaev, R.A. "O reformirovanii sistemy imushchestvennykh nalogov v gorode Moskvy." *Imushchestvennye Otnosheniia v Rossiiskoi Federatsii*. No. 2 (29: 2004) 3-9.

¹¹⁸ A. A. Alekseeva, "Rol' Zemel'nogo Naloga v Oformirovanii Mestnykh Biudzhetov." *Probely v Rossiiskom Zakonodatel'stve*, 2009 (4) 31-34. <http://cyberleninka.ru/article/n/rol-zemelnogo-naloga-v-formirovanii-mestnyh-byudzhetov>.

¹¹⁹ Methodological Recommendations on Conducting Competitive Land Sales (Auctions, Tenders), approved by the Letter of the RF Land Committee No. CC-902, as of 30 September 1999. Stephen F. Butler and Andrei Khakhalin, *Land Reform Privatization Procedures and Monitoring System: Final Report on Business Access to Land*. FIAS 2005, p 62.

assessment in 2006 specifically on Moscow observed that “obtaining ownership rights for land plots in Moscow city happens very rarely or does not exist.”¹²⁰

While the Luzhkov administration discouraged land privatization, reports published in 2008 and 2009 pierced the veil of secrecy over land markets in Moscow. First, in 2008, a former business partner of Elena Baturina, wife of then-Moscow Mayor Luzhkov, deposed to a high court in London that “Ms. Baturina's sphere of influence is such that no major project can succeed [in Moscow] without her backing.” The deposition contradicted Baturina’s long-standing rejection of claims that she had become the wealthiest woman in Russia due to her relationship to the Mayor.¹²¹ Thereafter, on September 8, 2009, opposition leader Boris Nemtsov issued a report called *Luzhkov: Conclusions*, that demonstrated how Baturina’s company, Inteko, benefited from control by the Mayor’s office over the property rights regime in Moscow.¹²²

Drawing on orders and decrees published on the official website of the Moscow Government (www.mos.ru), Nemtsov systematically detailed 23 cases from 2001 to 2009 where the Moscow Government ceded rights to Inteko to purchase, develop and build housing and office complexes throughout the city. In several cases, Inteko acquired the rights to the land plot under existing hotels in prime locations. Baturina received land on the secondary market, as a result of competition, but mainly through targeted programs for the removal of industrial sites and the freeing up of land under authority of federal departments. While these were all legal approaches, acquiring land and the rights to build on it was extremely difficult without connections to the

¹²⁰ Survey of land and Real Estate Transactions in the Russian Federation. Regional Report: Moscow. FIAS, October 2006, p. 6.

¹²¹ Luke Harding, “Yuri Luzhkov, Moscow Mayor with an Iron Grip, May Be Out of Time.” *The Guardian*, June 11, 2010. <http://www.theguardian.com/world/2010/jun/11/yuri-luzhkov-moscow-mayor-scandal>. Downloaded March 15, 2014.

¹²² Boris Nemtsov, *Nezavimimyi Ekspertnyi Doklad: “Luzhkov: Itogi,”* Moscow: Solidarnost, 2009. <http://www.rusolidarnost.ru/files/luzhkov-itogi/Boris-Nemtsov-Luzhkov.Itogi.pdf>

Government through her husband, according to Nemtsov. Even in the rare cases when developers acquired land, he notes, the simultaneous acquisition of municipal authorization to build was highly exceptional. Moreover, Inteko rarely paid for costs that were ordinarily the responsibility of developers in Moscow. As Nemtsov noted, the normal requirements that developers pay into the city budget for technical appraisal and utility connections were exempted. Moreover, the city would compensate the developer for any costs incurred for social and engineering infrastructure. This formulation was in line with the lease clause in the Vice Mayor's Rasporiazhenie № 110-VM, March 2, 1992 pertaining to cases when land was confiscated for city needs, not when it was sold for greenfield property development.¹²³

Finally, drawing on articles in *Vedomosti* and *Kommersant*, Nemtsov details the circumstances surrounding the mysterious sale of 58 hectares of land in western Moscow near the Kiev rail station by Baturina in July 2009. An unknown buyer purchased the land for 13 billion rubles, an astronomical 7.2 million rubles per hectare. Five days later, the same land appeared in “MoszemsynteZ,” a new Moscow city fund to develop land. Financing for the city to purchase the land came from an emission of shares in 2009 valued at 20 billion rubles by the Bank of Moscow, of which 75% was purchased by Moscow city using budget funds and the remaining 25% by a city insurance fund. After the emission, the city did not take control of the shares, which were held instead by private parties with ties to Mayor Luzhkov. In essence, Baturina acquired rights to city land at concessional prices; this land was then purchased from her by the city through directed credit from the Bank of Moscow and funds managed by the city.¹²⁴

¹²³ The clause states that “In cases associated with the confiscation (изъятия) of land for public needs, to guarantee that the Lessee is provided equivalent land in another location (agreed with the tenant) and compensation to the tenant for all costs associated with land development and the construction of buildings, structures, storage facilities, roads, etc., in accordance with estimates of the costs of the works.”

¹²⁴ Nemtsov, “Luzhkov: Itogi.”

Though Nemtsov faced judicial proceedings for implicating the Mayor in questionable land sales, his critique contributed to the most serious political crisis of Luzhkov's career. Following publication of *Luzhkov: Conclusions*, the Mayor filed a defamation lawsuit against Nemtsov in the Moscow Arbitration Court. Nemtsov welcomed the opportunity to meet the couple in court, but acknowledged that "we understand the way the Moscow courts operate, they have never ruled against the Moscow mayor and his wife."¹²⁵ Reports on the outcome of the proceedings differ, with Western media indicating that the courts favored Nemtsov and Russian media (*RIA Novosti*) stating that Luzhkov won the case.¹²⁶ However, after Luzhkov criticized President Medvedev in September 2010 for his decision to delay construction of the Moscow-St. Petersburg highway through Khimki forest (discussed below), federal television channels began airing damaging reports on the performance of Mayor Luzhkov. All of the issues raised in the media accounts could be traced back to the city's land management policies: congested traffic, destroyed cultural assets, and corrupt land sales. Elena Baturina figured prominently in the reports.¹²⁷ Shortly thereafter, Luzhkov wrote to the President, accusing him of anti-democratic behavior. On the morning of September 28, 2010, Medvedev issued a decree, relieving Luzhkov of his position "in connection with the loss of confidence of the President."¹²⁸

¹²⁵ Maria Antonova, "Luzhkov Sues Nemtsov Over Inteko Claims," *Moscow Times*, October 5, 2009. <http://www.themoscowtimes.com/printhttp://www.themoscowtimes.com/news/article/luzhkov-sues-nemtsov-over-inteko-claims/384779>. Downloaded March 15, 2014.

¹²⁶ Luke Harding, "Yuri Luzhkov, Moscow Mayor with an Iron Grip, May Be Out of Time," *The Guardian*, June 11, 2010. <http://www.theguardian.com/world/2010/jun/11/yuri-luzhkov-moscow-mayor-scandal>. Downloaded March 15, 2014. The summary of Russian media presented by Lenta.ru is as follows: "In November 2009, Luzhkov won his case on protection of honour and dignity against Boris Nemtsov and the publishing house "Kommersant". It was reported that, in the decision of the Court, the defendants would be liable to pay 1 million rubles. In addition, the publication and Nemtsov were obliged to refute information published in part in an interview with the newspaper and its policy report, *Luzhkov: Itogi*."

¹²⁷ "Luzhkov, Yuri: Byvshii Mer Moskvyy." Lenta.ru. Accessed November 30, 2014. <http://lenta.ru/lib/14159332/full.htm>

¹²⁸ "Luzhkov, Yuri: Byvshii Mer Moskvyy." Lenta.ru. Accessed November 30, 2014. <http://lenta.ru/lib/14159332/full.htm>

While the scale of corruption practiced by Mayor Luzhkov and Elena Baturnia in the richest real estate market in Russia was perhaps suspected, it only came to public attention in 2008 and 2009 following the deposition of a business partner and systematic analysis and publication of the facts by an opposition leader. It is unclear how long the practices continued, and whether the federal government condoned collusive practices in land access; if so, the role of President Medvedev in highlighting the importance of judicial process in the eviction of residents from Rechnik (discussed in Chapter 4) was an important turning point.

The predatory ruler may maximize wealth, Levi says, “but he cannot do as he pleases.”¹²⁹ Aside from pursuing policies that favored his family and those connected to his administration, Luzhkov’s urban land policies stifled the formation of land markets that are otherwise the oxygen of a dynamically-changing cityscape. Without the recycling of land for new and more efficient uses, land transactions became distorted and hardened into rigid patterns that slowed the transformation of Moscow from a socialist to market city. And without enlightened executive political authority and an associated legal order, there was no starting point for institutional change.

b. Bureaucratic Organization and Performance, 2001 to 2013

Despite debates at the national level over the appropriate structure to govern land relations, Mayor Luzhkov instituted a strict organizational hierarchy and process for land management early in his tenure. As a consequence of the political negotiations that enabled his administration to wrest control from the Mossovet, several Soviet-era units carried over and continued to perform selected tasks. Although these units reported to the First Deputy Premier with primary support from Moskomzem, coordination remained a serious challenge. Until the cadastral and registration

¹²⁹ Levi, *Of Rule and Revenue*, [insert first and last page of book]

functions were federalized beginning in 2008, leading to significant improvements in Moscow's bureaucratic performance, the early organizational effort contributed to high transaction costs and lower efficiency in Moscow property markets.

A report by the Foreign Investment Advisory Service of The World Bank Group in 2006 summarized performance in Moscow compared to fifteen other regions on formal procedures, required by law, to enable enterprises to acquire land or buildings for business expansion. The report foreshadowed the *Doing Business* benchmarking approach by quantifying the time, cost, and number of procedures required by subnational governments to complete a standard service to enterprises. About half of the procedures had legislatively defined business standards and costs, while the remainder fell under local interpretation.

As noted in the table below, procedures related to the acquisition of land were baffling in their complexity. Land and buildings were treated as distinct objects, and acquisition of land through a tender could proceed without the buyer knowing the location. It is worth listing the arcane procedural steps required by federal and local law in Russia for business location purposes.

**Procedures for Land and Property Transactions
Russian Federation, 2004**

Procedure no. 1	Obtaining (by lease) a land plot, which is currently state or municipal property, for construction on, with a preliminary agreement on the object location.
Procedure no. 2A and 2B	Obtaining (by purchase (2A) or lease (2B)) a land plot, which is currently state or municipal property for construction on, without a preliminary agreement on the object location, during auctions or tenders.
Procedure no. 3A and 3B	Obtaining ownership (3A) or lease (3B) rights on land plots that are currently state or municipal property, with premises, buildings or constructions, which are private property.
Procedure no. 4	Lease of a real estate object (premise, building or construction) which is currently municipal property, without the procedure of tender (including purposive appointment cases).
Procedure no. 5	Lease of a real estate object (premise, building or construction) which is currently the municipal property during tenders or auctions.
Procedure no. 6	Transferring a premise (building) from the residential use to non-residential one.
Procedure no. 7A and 7B	State registration of rights on real estate and real estate transactions (in the cases of (7A) buying or selling a real estate object (land plot, building or premise) in the secondary market, (7B) drawing a contract of a real estate object (land plot, building or premise) lease for the term of more than 12 months in the secondary market).
Procedure no. 8	Transferring a land plot from one category into another, changing designated use of a land plot.
Procedure no. 9	Privatization of a real estate object (building or premise) which is currently municipal property.

Source: PDF copied from Foreign Investment Advisory Service (FIAS) of The World Bank Group, *Survey of Land and Real Estate Transactions in the Russian Federation*, (Regional Report: Moscow,2006), 5.

Based on the time and cost for each step, as validated in interviews with enterprises, the study found several distinctions in Moscow compared to other regions. First, there was literally no experience with any procedure relating to land ownership (procedures 2A and 3A) and very little evidence of tenders (procedure 5), as required by law. Second, on procedures related to land acquisition by lease (procedure 1, 3B), the process either took longer or cost more in Moscow than

in other regions. Procedure 1, the most commonly used in Moscow, was both the least defined in terms of time and costs, and thus, led to the longest number of steps (24) and the highest level of unofficial payments. When asked which agency was most problematic among several actors – e.g. the Bureau for Technical Inventory, Moskomzem, Mosregistratsia – respondents summarized in one statement: “The Government of Moscow.”¹³⁰

Coping with a process that could take over two years under the best of circumstances led many companies to cut corners to conclude a transaction. The most commonly used were to call on insiders in government or to employ former officials in the business. However, the main factor reducing the time and cost of a transaction was the interest of the municipal owner in expediting a deal, for reasons that remain murky.¹³¹

Gaps in bureaucratic performance also surfaced in reports after Mayor Luzhkov left office. The Resolution “On approval of the property and land policy of the Government of Moscow from 2012 to 2018” signed by Mayor Sobyenin listed several shortcomings to be addressed in the new program. Management had been overly bureaucratic and transactions were scattered in different departments rather than in a single, official register. Moreover, city regulations were not in conformity with federal laws. For example, the city was renting out the basements of multi-storied buildings rather than forming a single property, including the underlying land. Of most importance for future management of land, the resolution raised doubts on the accuracy of land records:

Information included in the balance sheets are the result solely of documents which are updated mainly in a declarative manner; they do not always correspond to the actual situation. The existing land balance does not assess how much land from the cadastral records can be engaged in transactions since the plot was formed for temporary tasks (provision of construction, placement of municipal towns, repair of underground services, etc.) such that the plots intersect or overlap with one another.

¹³⁰ Foreign Investment Advisory Service (FIAS) of The World Bank Group, *Survey of Land and Real Estate Transactions in the Russian Federation*, Regional Report: Moscow, (2006).

¹³¹ FIAS, *Survey of Land and Real Estate*, 6-8.

Also, you cannot currently answer the question of how much and what type of land (unbuilt plots of land, or for real estate development, etc.) can be generated on lands that are not covered by the cadastral inventory, since not all territorial development projects have been included.¹³²

While there is a tendency for incoming administrations to question the preceding regime, the issues raised in Sobyanin's resolution point to the inadequacies of land administration under Luzkhov and a recognition of the importance of reputable records as the basis for secure property rights.

In summary, until the change in government in Moscow in late 2010, the efficiency and quality of land administration compared unfavorably with other regions, contributing to higher transaction costs for businesses and reducing the transparency of information. These factors would improve significantly in Moscow after 2010 as the registration and cadastral process was federalized. Until that point, to be discussed in Chapter 8, Moscow's bureaucracy exhibited no interest in promoting land privatization. To the contrary, officials erected procedural hurdles to stymie institutional change.

c. Public Participation in Decision-Making, 2001 to 2013

In advanced market economies, the main entry point for public participation in land development decisions is through public consultations on major development projects or plans that impact property rights. In post-communist countries, this tradition is not well established, partly because property rights remain diffused, but also because the General Plans that guided urban development in the Soviet period were regarded as state secrets. The state Duma adopted the Russian Town Planning Code in 2005 to encourage greater public participation in urban

¹³²Postanovlenie Pravitel'stva Moskvy of 20 September 2011 no. 430-III, *Ob utverzhdenii gosudarstvennoi programmy goroda Moskvy "Imushchestvenno-zemel'naia politika goroda Moskvy na 2012-2016 gg." (v red. postanovleniia Pravitel'stva Moskvy ot 22.02.2012 N 64-III)*. [On approval of the property and land policy of the Government of Moscow from 2012 to 2018]. Version of February 22, 2012 N. 64-PP.

development. It required all municipalities to develop and publish General Plans by 2008 that would guide strategic planning and land use and development rules, including zoning regulations. These plans and regulations are of interest to citizens, businesses and real estate developers as they point to locations that may become a focus of urban renewal.

There is a critical distinction between the planning approach of advanced and command economies. In particular, “In a command economy, the General Plan is a detailed blue print to be built as designed; in a market economy land use regulations establish only a building envelope within which developers are free to design and build what they want, provided they build within the limits imposed by the regulations.”¹³³ Many Russian municipalities have adopted General Plans and engaged the public in consultations, while others persist in viewing regulations as a control mechanism over construction. An important question in each municipal case study is whether the public was encouraged or allowed to comment on strategic plans, zoning regulations or individual (large) development projects.

In Moscow, the General Plan put forward by the Luzhkov administration in 2010 received widespread public scorn.¹³⁴ Until that point, the city was operating on a draft plan that was extensively debated but not approved as of 1989.¹³⁵ Despite the controversy over the new plan, which was intended to determine major investments in urban development, Mayor Luzhkov signed it in May 2010.¹³⁶ The General Plan came under review following the appointment of Mayor Sobyenin in late 2010.¹³⁷

¹³³ Alan Bertaud, “The Development of Russian Cities: Impact of Reforms on Spatial Development,” Mimeo for The World Bank, March 13, 2010, 14.

¹³⁴ “Luzhkov, Yuri: Byvshii Mer Moskvyy.” Lenta.ru. Accessed November 30, 2014. <http://lenta.ru/lib/14159332/full.htm>,

¹³⁵ Colton, *Moscow*, 724-727.

¹³⁶ “Yu. Luzhkov podpikal zakon o Genplane Moskvyy do 2025,” RBK, May 28, 2010.

¹³⁷ The deadline for completion of the review was extended twice and was due in December 2014.

In the absence of a clear picture of where development is heading and why, the public has reacted to individual projects on the basis of environmental, cultural or individualistic rather than collective private property concerns. Moscow has several cases where passionate fights have been waged against Mayor Luzhkov, who held opponents in contempt. However, according to a major study of civic protest in Moscow by Samuel Greene, including on housing issues, state protection for property rights never became a uniting theme of social movements because the injustice frame of protesters and activists is expressed as a gulf between the state and society. Even if property rights did emerge as a congealing ingredient, it would be insufficient to develop into a social movement in the absence of anticipation of success by protestors, according to Greene.¹³⁸

Three cases, reviewed briefly here, suggest there is more sustainability in the housing movement than may appear from the transient nature of each example. While the cases are motivated by a variety of grievances, each one enabled citizens to coalesce around a cause, supported by organizations that are strong advocates for protection of housing rights, land rights, cultural assets, or green development. The connective theme in these cases is the reliance by residents on sophisticated legal mechanisms to express opposition to city land use planning.

A highly-publicized case that put Mayor Luzhkov in an unflattering light involved the involuntary relocation of a mother and son (the Prokofiev family) from their privately-owned wooden home in Butovo, 5 kilometers outside Moscow center, in 2006. The residents claimed compensation not just for their homes, but also for the land, which they said they owned and on

¹³⁸ Samuel A. Greene, *Moscow in Movement: Power and Opposition in Putin's Russia*. Stanford, California: Stanford University Press, 2014. Kindle version, location 2844 and 3189. Greene hypothesizes that sustained social movements emerge from civic activity in Russia when they confront clear patterns of state interference. Two criteria must be met for sustainability. First, state policies must *coherently* impact citizens so they identify as a group rather than as individuals; second, the state must deal *consistently* with protesters, meaning, in ways that are predictable. An organization from the Soviet period, the Soldiers' Mothers, fit these criteria because the state, in the form of the military, presents a systemic entity that is coherent and cohesive in its policies of intrusion into private lives. See location 2138.

which they had paid land taxes. The city disagreed, insisting the land was municipal property, so compensation should only involve equal housing. The attempted eviction of the Prokofiev family, who held out against the authorities, led to a court case, a tent camp of protesters, a human defense brigade by Butovo residents against the bulldozers, and the engagement of the Public Chamber, a newly-created body to improve communications between authorities and society. Sergei Mitrokhin, a Deputy of the Moscow City Duma, warned that the actions of authorities represented a “time bomb” by violating property rights, while Vladimir Platonov, also a Deputy, declared that the city’s actions were legal and in line with court orders.¹³⁹ The case was eventually resolved when the Prokovievs accepted new housing. However, the underlying issue that stimulated the long legal battle was the absence of documentation that the land under the home had been registered. Without such documentation, the city was legally not in a position to evict the residents.¹⁴⁰

Following the Butovo case, the Luzhkov administration in 2007 submitted a bill to the city Duma to expand its powers of eminent domain so it did not have to engage in lengthy legal disputes. “The main problem,” said Sergei Belyakov, a lawyer who advises the Yabloko party in the city Duma, “is that the [Moscow] government does not allow people to privatize their property.”¹⁴¹ As a consequence, land plots were reserved by the city to indicate it was municipal property, explained Alexi Navalny, then a lawyer with the Committee for the Defense of Muscovites, an organization that represents landowners in legal disputes with the city government.¹⁴² These legal issues arose in the planned condemnation of 3 apartment complexes

¹³⁹ “Land Dispute in Moscow’s Butovo Sets Dangerous Precedent,” Ria Novosti, June 21, 2006.

¹⁴⁰ Natalya Krainova, “City Pushes for Broader Powers to Seize Land,” The Moscow Times, February 20, 2007. <http://www.themoscowtimes.com/news/article/city-pushes-for-broader-powers-to-seize-land/198924.html>, Accessed December 3, 2014

¹⁴¹ Krainova, “City Pushes for Broader Powers to Seize Land,” February 20, 2007.

¹⁴² Krainova, “City Pushes for Broader Powers to Seize Land,” February 20, 2007.

on Khoroshyovsky Proyezd in 2007 to make land available for school and kindergarten construction. The residents had received an assessment from the local prefect in 2005 that the apartments, built in the early 1950s, were in satisfactory condition. Two years later, they received an eviction notice because the buildings were condemned as dilapidated. The interesting aspect of this case is that the residents wanted to exercise their rights under the Land Code to acquire the land under the building, which would require the city to pay market rates to remove the residents. To acquire the land through city procedures would take more time than the deadline for eviction from their homes of 30 years. The residents intended to take the case to the Supreme Court if necessary. As of this writing the outcome is not known.¹⁴³

In another legal case, a deputy of Lefortovo district's municipal assembly, Alexandra Andreyeva, is fighting the decision to allow construction of a kindergarten in the Stroganov Estate Park, an 18th century heritage site, where development is prohibited by environmental protection and cultural heritage laws. An effort to stop the project by preservationists was overturned by Moscow's Presnensky Court, which decided in favor of the property developer, Terra Auri. Although the project started in 2010, City Hall passed an amendment to the City Development Code two years later, in April 2012, to allow daycare centers funded by the City to be constructed in protected areas. Andreyeva observed that "the authorities want to show that the residents mean nothing, and that they should not impede public projects."¹⁴⁴ Moreover, winning in court against a government department was difficult due to interference by the executive branch in judicial proceedings. Nevertheless, she said, the preservationists intended to file an appeal.¹⁴⁵

¹⁴³ Natalya Krainova, "Residents Fight Uphill Battle to Save Homes," *The Moscow Times*, March 22, 2007. <http://www.themoscowtimes.com/news/article/residents-fight-uphill-battle-to-save-homes/198260.html>, Accessed December 3, 2014.

¹⁴⁴ Yeugenia Kleiner, "Kindergarten Defeats Trees in Court Battle," *Moscow Times*, September 7, 2012, 7.

¹⁴⁵ Kleiner, "Kindergarten Defeats Trees."

Perhaps the most serious case of government suppression of private property rights relates to local opposition to the construction of a new Moscow-St. Petersburg highway through Khimki Forest in the northern Moscow suburb of Khimki. The case is notable due to the use of physical violence to intimidate the opposition leaders and journalists who exposed details of the proposed action, leading to beatings and the near-death of several protesters. Following a series of violent clashes in the summer of 2010, federal authorities intervened and President Medvedev ordered a temporary halt to construction, noting the need for more public discussion. Furthermore, a federal investigation led to the arrest of Andrei Chernyshev, the head of the municipal property department, and two others, for the life-threatening attack on an environmental protester and head of the local branch of Right Cause. Nevertheless, President Medvedev later allowed construction to continue, signaling the limits of local public participation in decision-making on major federal projects.¹⁴⁶

In his study, Greene reviews Butovo, Khimki, and other cases that are loosely related to housing rights, and observes that the state was coherent in intervening in people's lives. However, he concludes that housing/property rights never congealed into a social movement because the state was inconsistent in its policy *response to protesters*. In the case of Butovo, the state settled the demands of the Prokovievs by negotiating a better trade (a two-bedroom flat on Kutusovskii Prospekt). In the case of Khimki, the riot police cracked heads. In a different case, the district prefect was replaced. Whether planned or not, Greene says, the inconsistency in the range of responses, from acquiescence to brutal repression, prevented the formation of a movement committed to collective action.¹⁴⁷

¹⁴⁶ Michael Schwartz, "Official Among 3 Arrested in Beating of Russia Protester," *New York Times International*, December 29, 2010, A6.

¹⁴⁷ Greene, *Moscow in Movement*, Kindle version, location 3186.

While neither Greene's study nor this dissertation take a systematic view of housing and land-related protests, the quantitative evidence from Shomina et al¹⁴⁸ and Lankina¹⁴⁹ suggests that a movement is forming, loosely related to property rights, with a strong legal foundation. In Moscow, political authorities were fairly *coherent in obstructing the formation of private rights and responding to protestors*. Nevertheless, it is difficult to conclude that grievances are articulated in terms of failure of the state to protect property rights. This may be due to the inconsistency between urban land policies advocated nationally and those implemented in Moscow. For residents of the capital, where both battles played out, confusion over legitimacy of land institutions would be understandable. As Kurzman observes, during times when institutions are in flux, and rules of the game suddenly change, confusion is created, confounding efforts to interpret grievances.¹⁵⁰ Moreover, to expect public protests to stop corruption in real estate development is naïve, since the high return from each investment will continue to motivate new projects. This does not lessen the potential for individual protests to have an iterative impact over time if they represent major victories over state entities.¹⁵¹

Following the appointment of Mayor Sobyenin in September 2010, land relations as practiced by the Luzhkov Administration have changed, and so has the transparency of information. The Mayor has outlined a detailed plan for land administration to 2016. Cadastral, registration, and financial data related to land ownership and use are published electronically. The response time for clients to register land is improved in local offices of the federal registry

¹⁴⁸ Shomina, Yelena, Vladimir Kolossov and Viktoria Shukhat. "Local Activism and the Prospects for Civil Society in Moscow." *Eurasian Geography and Economics*. 43:3 (2002), 244-270

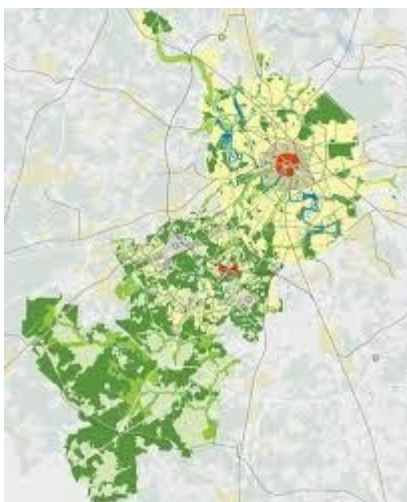
¹⁴⁹ Lankina, Tomila. "Daring to Protest: When, Why, and How Russia's Citizens Engage in Street Protest." PONARS Eurasia Policy Memo No. 333 (August), 2014.

¹⁵⁰ Kurzman 2004, page 335 quoted in Green, *Moscow in Movement*.

¹⁵¹ Maria Lipman, personal interview, September 7, 2012.

(Rosreestr). Full information is available on the city’s website on the income sources of city officials involved in real estate, in conformance with federal anti-corruption laws. There continue to be troubling signs of state preference for land leasing as opposed to land privatization in Moscow, and the General Plan is still not public. Data on the outputs and impacts of land administration are reported for the three case study cities in Chapter 8.

As of 2013, while developers still view investment projects in Moscow with extreme caution, the dynamic also changed due to an unexpected development: the proposal by Mayor Sobyenin and Moscow Oblast Governor Gromov in July 2011 to increase the territory of Moscow (then 1000 sq. km.) by 2.5 times. As announced, “New Moscow” would extend to the southwest



towards Vnukovo Airport to the border of Kaluga Oblast and this sparsely-populated, primarily forest area with only 250,000 residents would house the presidential administration, federal agencies, the Moscow municipal government, and villages of officials (*chinovniki*).¹⁵² A visiting international panel of the Urban Land Institute found such a proposal “perplexing” considering the strong need for

modernizing the cityscape within Moscow, but observed that if the intent was to harmonize the vision of city and oblast development there may be merit, so long as all stakeholders were consulted on expansion plans.¹⁵³ In fact, there were no public hearings or consultations, and polls conducted from June (before details were published) to August 2011 showed increasing skepticism about the proposal among Moscow City residents, while those living in the Oblast hoped the result

¹⁵² Robert Argenbright, “New Moscow: An Exploratory Assessment,” *Eurasian Geography and Economics* 52:6(2011): 857-8.

¹⁵³ Urban Land Institute, *An Advisory Services Panel Report*, (Moscow, Russia, December 4-9, 2011), 25.

would be an improvement in socio-economic conditions and infrastructure such as water, sanitation and roads.¹⁵⁴

Aside from declarations of intent to relieve overcrowding and improve congestion, the annexation of territory to construct a government district was unprecedented because “no country has built a new “satellite” capital adjacent to its old capital....Officially, New Moscow merely says “Old Moscow is dysfunctional.”¹⁵⁵ Russian commentators expressed a wide range of possible motivations for the 20-year mega-project, but most focused on two key issues: power and profit. Following the long tenure of an independent-minded mayor, who enriched himself on Moscow real estate, several believed the Kremlin wanted stronger control over politics, economic development, and the wealth of the capital.¹⁵⁶

Expert international opinion on the planned expansion of Moscow highlighted the negative consequences for urban development:

Based on analysis and consultation, the Panel found that the proposal to move significant amounts of new employment and government into this area will result in several unintended consequences. While there may come a time when new construction in this area is necessary, the Panel did not believe that time is now, and may not be for several generations. There is much work to do inside of MKAD (the Moscow Ring Road), and plenty of opportunities are still present to develop the city. Redirecting talent and capital to the development of greenfield areas is an exercise many other cities have previously attempted and, after decades of effort, they are universally seen as a failure in their ability to create vital and economically dynamic communities. These new areas fail to create new economic value or increase the competitiveness of the cities they replaced, and are often viewed as the least desirable places to live.¹⁵⁷

As the legal, economic and financial implications of the original project became clearer, the idea of creating a federal enclave within a poorly developed region died a quiet death. By 2013, reports flourished of a more residential, single-family development¹⁵⁸ that harkened back to Medvedev’s proposal to create a Federal Fund for Housing Construction Development in 2010. In fact, the

¹⁵⁴ Argenbright, “New Moscow,” 867.

¹⁵⁵ Argenbright, “New Moscow,” 861.

¹⁵⁶ See Argenbright, “New Moscow,” for views of Masha Lipman, Nikolai Petrov, Sergei Udaltsov, Natalya Zubarevich, and Sergei Chernyakhovskiy.

¹⁵⁷ Urban Land Institute, *An Advisory Services Panel Report*, (Moscow, Russia, December 4-9, 2011), 25.

¹⁵⁸ Mark Gay, “Plans for Greater Moscow Gains Stronger Residential Flavor,” *The Moscow Times Real Estate Quarterly* Q1 2013, p. 9.

Fund became an important tool to increase federal ownership of land in New Moscow. As of 2013, only 3% of the new territory (4,000 out of 148,000 hectares) belonged to the City of Moscow and was suitable for building in terms of water, sanitation, power, and transport connections. About half belonged to the forest fund, and the remainder was owned privately. As a result, the share of private ownership by citizens shot up from 0.5% in 2011 to 14.1% in 2012, putting Moscow in one of the highest municipal rankings for citizen ownership.

Will higher rates of private home ownership in New Moscow increase the political influence of property owners? Early indications are not promising. As land values are rising dramatically (from 50-100 percent) due to demand for development, the Duma is considering the adoption of a law, similar to one used in Sochi for the Olympics, to accelerate the process whereby the State can enforce court rulings to claim rights to develop private land for public purposes. In other words, "...no matter how long you may argue about the indemnification amount, while you are doing so, some highway may be under construction on your land plot."¹⁵⁹ Such an extraordinary legal measure would multiply the power of the state to deal with opposition to development such as occurred in the Stroganov Estate Park, Butovo, or Khimki Forest cases. Equally significant was the agreement by the Federal Fund for Housing Construction Development to grant federally-acquired land to Mayor Sobyanin for housing development in New Moscow. The criteria for allocating land to Moscow would depend on the scale of investment required for development. If the intention is to build single-family housing, the land will remain in the Federal Fund. However, if more complex projects are envisioned that include infrastructure and commercial property, the land will be allotted to Moscow.¹⁶⁰ In all likelihood, more massive state

¹⁵⁹Vitaly Mozharovski and Maxim Popov, "Moscow Land Tax, Rent and Privatization Prices Rise," *Moscow Times Real Estate Quarterly*, March 12, 2013. <http://www.themoscowtimes.com/realestate/article/moscow-land-tax-rent-and-privatization-prices-rise/476782.html>

¹⁶⁰"Braverman podkinet Sobianiny zemli," RBK Daily, January 31, 2013.

projects will crowd out smaller private housing, and in the battle for rights to land, the bigger developers with connections to city officials will be able to resolve issues related to indemnity in return for preferences on future projects.¹⁶¹

4. Conclusion

Moscow is emblematic of municipalities in institutional stasis because the land governance model retains more elements of the Soviet past than of modernizing, market economies. In such municipalities, “the state and its agencies were simultaneously owner, client, financier, designer, and builder of all real estate objects, and conflicts that arose among stakeholders were not resolved at “arm’s length” on the basis of law.”¹⁶² The path of change was determined in the early 1990s when the Mayor of Moscow built his political base and city finances on leasing urban land and property; once he became secure, politically and fiscally, he had no incentive to sell land that conferred power and rents. As predicted by the predatory rule theory, the more entrenched rulers become, and the more they rely on rents, the less accountable they become to constituents. Even had 49-year leases been fully marketable, the municipality would have remained the ultimate owner.

By applying the analytical framework of the land governance model to Moscow, it is evident that there has never been alignment at all levels in favor of land privatization. Political authorities and the bureaucracy strongly resisted land privatization in both periods, before and after adoption of the Land Code. At the end of the latter period, the new mayor demonstrated more awareness of public concerns, and bureaucratic performance improved, which may signal the

¹⁶¹ Mozharovski and Popov, “Moscow Land Tax.”

¹⁶² Foreign Investment Advisory Service (FIAS) of the World Bank and IFC, *Business Location Decisions in Russia*, Report #32704, Chapter III: Locating the Business, 2001.

beginning of more secure land rights through professional standards of title registration. In both periods, society, as represented by the Mossovet (City Council) and civic organizations, challenged the state's hegemony in land use decisions. During Luzhkov's tenure, public officials failed to consult the population on land planning, regulations and zoning, and attempted to stifle the public's voice through the courts and physical violence. Yet the repeated use of legal channels and public protests by civic organizations and citizens had some effect, as evidenced by greater public outreach and market information by the Sobyenin Administration.

In the absence of increased land sales in Old Moscow, the boundary expansion of New Moscow will inhibit rather than improve the spatial efficiency of the capital. Were the suppression of private land ownership and increase of territory merely a matter of power or profit for a few officials in a single municipality it would be sorry enough; the fact that the capital is the locus of such policies has wide-ranging consequences for the entire economy, relegating Russia to a lower level of growth and prosperity than would otherwise be possible.

Chapter 6 St. Petersburg: A Case of Incremental Institutional Change

From its origin as a planned city in 1703, to an over-planned city under the Soviets, St. Petersburg today is struggling more than elsewhere to dissemble the painful spatial distortions of the Socialist legacy, without marring the beauty of its imperial past. A wide swath of aging industry, taking 40% of the territory, hugs the small historic center, covering a mere six percent, while distant from the core lies another ring of rapidly-depreciating multiunit apartments.¹ Though the Soviet authorities of then-Leningrad invested mightily in a series of General Plans² aimed at coordinating physical plant and human resources, they underinvested in consumer services, particularly housing, leaving a major social project for the new authorities of renamed St. Petersburg to tackle. A key indicator of an incomplete task today is the queue of over a quarter-million families and 120,000 residents in shared apartments who are waiting for improved municipal housing,³ despite the achievement in St. Petersburg of higher floor area per capita than the national average.⁴ The solution to St. Petersburg's housing dilemma, along with its spatial stress, is more efficient land markets, which in turn requires more efficient land rights.

The chapter argues that contradictory land privatization policies, combined with over-reliance on an outdated General Plan, laid the basis for incremental institutional change that hampered the efficiency of land rights. Periodization is more difficult in St. Petersburg because political authorities alternated more frequently than in Moscow and Kazan. Nevertheless, a pattern

¹ World Bank, *Russia: Reshaping Economic Geography*, (Washington, D.C.: Report No. 62905-RU, 2011), 63.

² The General Plan determined what could be constructed and for what purpose on every land parcel in every large municipality, while a labyrinth of ministries, state agencies, land committees, and state-owned construction companies allocated and developed each parcel. The more powerful or influential the ministry or industry, the more desirable was the location of the land plot it received for development.

³ World Bank, *Russia: Reshaping Economic Geography*, (Washington, D.C.: Report No. 62905-RU, 2011), 63.

⁴ In 2010, the national average was 22.6 square meters of housing area per person while in St. Petersburg it was 23. Rossiiskii Statisticheskii Ezhegodnik 2013, 182.

of contradictory policies characterizes both the 1990s and 2000s. Despite an initial pro-land-privatization stance that made St. Petersburg an early leader in land sales to enterprises, political authorities adjusted land policies opportunistically in response to federal incentives and local fiscal needs. Where political authorities had full authority to innovate, on the General Plan, they instead perpetuated a Soviet-era planning and land allocation bureaucracy and used the Plan as a tool to favor former state-controlled industries in distributing land rights. Exceptions to the General Plan by the municipal government stimulated civic sentiment against zoning rules that favored powerful enterprises and threatened preservation of St. Petersburg's cultural heritage after 2006. Thus, despite early advances that put St. Petersburg at the forefront of urban land privatization in the 1990s, failure to adapt land privatization policies and the General Plan to the dynamics of a market economy constrained the development of land rights.

The structure of the chapter follows the land governance model. The influence of political authorities, the bureaucracy, and society on the development of land rights institutions is presented and compared over two decades.

1. The Land Governance Model, 1990-2000

a. Political Authority and the Legal Order, 1990-2000

Political authorities established a favorable legal framework for land privatization in 1994. With 44 percent of its territory occupied by industrial enterprises and the election of Anatoly Sobchak in 1990, arguably the most liberal municipal leader of the period in Russia, two of Pyle's conditions for a high rate of enterprise land privatization appeared at the outset of the transition to

market: a strong industrial lobby and a pro-privatization policy environment.⁵ Nationally, privatization occurred as a two-step process. First, small, medium and many large enterprises became private starting in 1991, but the land they occupied could only be acquired after adoption of the new Constitution in 1993 and decrees by Yeltsin in 1994. Mayor Sobchak acted quickly in 1994 to establish local regulations and administrative procedures to enable the sale of land, prompting strong interest by enterprises.⁶ However, St. Petersburg's desire to speed up the pace of land privatization was hampered by federal controls on land prices, which were set too high for newly-privatized enterprises.⁷ On May 11, 1995, Presidential Decree 478 eliminated a major obstacle to the privatization of industrial land by reducing the purchase price.⁸

Land sales proceeded at a fast clip in 1995-1996, including to foreign investors. The lower price allowed by federal law stimulated 50 regions to sell urban land rapidly.⁹ St. Petersburg became a leading region for privatization, applying so-called “normative” prices derived from land

⁵ Pyle found that municipalities were motivated to privatize enterprise land plots more rapidly where the economic and political costs were lowest for municipalities to divest their control rights. This would be the case in municipalities where: i) land values were relatively low; ii) industry had a high share of regional output; iii) politicians were sensitive to industrial and social interests; and iv) the policy environment was relatively liberal. Controlling for firm location and other factors, lower purchase prices tended to lead to higher enterprise land ownership. Overall, local policies and the self-interest of municipalities and firms are correlated with the pace of enterprise land privatization. William Pyle, *The Ownership of Industrial Land in Russian Cities: Explaining Patterns of Privatization Across Regions and Firms*, National Council for Eurasian and East European Research, 2011. <http://www.nceer.org>

⁶ Mayoral Instruction 1049-p was issued on October 19, 1994, giving St Petersburg City full powers to sell land parcels and outlining the procedure of processing legal documentation. The statutory right to acquire land was vested only in citizens, enterprises, and other entrepreneurial associations that: (1) owned the structures that they occupied, having exercised the buyout option; (2) were not more than 25% owned by a state or municipal government; or (3) were open joint-stock companies in which 75% of the stock had been sold under the provisions of the privatization laws. Marie Howland and A. M. Katkhanova, "Changes in St Petersburg's industrial belt after land privatization" *Environment and Planning C: Government and Policy* **18**(3) p. 273.

⁷ Maxim Kalinin, quoted in Julie Tolkacheva and Rachel Katz, "Unilever to Be First Foreign Firm to Buy Land," *Moscow Times*, May 4, 1995.

⁸ Julie Tolkacheva and Rachel Katz, "Unilever to Be First Foreign Firm to Buy Land," *Moscow Times*, May 4, 1995.

⁹ Alexander Pusanov, *Development of the Real Estate Rights System in Russia in 1989-2009*, Institute for Urban Economics, (Moscow, 2010), 7.

http://www.urbanecomics.ru/eng/publications.php?folder_id=19&mat_id=86&from=fp&page_id=373

tax rates that in fact had no relation to market forces.¹⁰ In April and May 1995, Unilever became the first foreign investor to buy land in Russia and its subsidiary, Severnoye Siyaniye, a cosmetics company, bought 7,959 square meters of downtown land from the St. Petersburg Property Fund. Reflecting on the purchase, General Director of Severnoye Siyaniye, Yury Borisov, noted that in “dangerous times” there was greater security in having full ownership of the land. He noted this would also avoid paying rent to the city that could be arbitrarily increased at any time.¹¹ As of July 1995, 600 companies had filed to purchase their land plots and Mayor Sobchak reportedly aimed to have all enterprises apply by September 1995.¹² Enterprises that were going bankrupt under market conditions also could sell land as a financial safety valve, and many sold to wealthy investors to keep the business going.¹³

While the process held initial promise, conflicting signals by political authorities and flaws in the legal order retarded land privatization and opened avenues for abuse. Three principal issues arose from 1996-2000 that set the city on a course of incremental institutional change. First, fiscal incentives shifted from land privatization to leasing, making the policy environment unpredictable. Second, the legal and regulatory environment for acquisition of land rights was uncertain and non-transparent. This led to the third factor: discriminatory land practices favored large enterprises that reduced overall land revenues and access to land by small and medium enterprises (SMEs).

¹⁰ Tat'iana Vladislavovna Vlasova, *Predpriatiya kak subekty rynochnykh zemel'nykh otnoshenii*. Doklad dlya 3-ei Mezhdunarodnoi konferentsii, “Reformirovanie obschestvennogo sektora,” provodimoi Stokgol'mickim Universitetom, SECID, sovmestno s Fakul'tetom menedzhmenta Sankt-Peterburgskogo Gosudarstvennogo Universiteta. Sankt-Peterburg. 2-3 iunia 2000 g.

¹¹ Tolchakova and Katz, “Unilever to Be First Foreign Firm to Buy Land.”

¹² Rachel Katz, “St. Petersburg Firms Flock to Buy Location Land,” *Moscow Times*, July 6, 1995.

¹³ Howland and Katkhanov, “Changes in St Petersburg's industrial belt after land privatization.”

The cumulative effect was to worsen both municipal finances and the business investment environment.¹⁴

First, consistent with the predatory rule theory, political authorities adjusted incentives for land privatization in order to maximize land revenues in response to fiscal needs. Just as demand was increasing, the Sobchak Administration started to adjust land taxes, which rose by 14 times in the city center.¹⁵ A major reason was to capture the gains from rising demand, mainly in the center, which would also address fluctuations in the municipal budget balance. St. Petersburg had a fiscal surplus in 1991, but dipped into deficit in 1992, and regained a small surplus in 1994.¹⁶ The city then experienced one of the country's most dramatic and surprising swings into red ink. By 1996, it had a budget deficit of 23.67% of net revenues, putting it well above the 15% limit then under discussion in the federal draft budget code, hampering its ability to borrow externally.¹⁷

The loss of Mayor Sobchak to Governor (renamed from Mayor) Yakovlev in the 1996 municipal elections coincided with a decided policy shift in favor of land leasing. The Yakovlev Administration took advantage of Yeltsin's decree that allowed regions to set land prices, and raised them so high that leasing became a more attractive option, particularly for enterprises that did not have a strategic interest in land as an asset.¹⁸ After strong demand in 1995-6, land purchases started to taper (Table 1). Ultimately, the land tax rose above the land lease rate. By

¹⁴ These factors are discussed in depth in the following sources: Leonid E. Limonov, Nina Y. Oding, and Tatyana V. Vlasova, "Land Market Development in St. Petersburg: Conditions and Peculiarities," (Lincoln Institute of Land Policy Working Paper No. WP00LL1, 2000) and World Bank, *Project Appraisal Document on a Proposed Loan in the Amount of US\$161.10 Million to the Russian Federation for a St. Petersburg Economic Development Project*, (Washington, D.C.: Report No: 25550-RU, April 15, 2003).

¹⁵ Tolchakova and Katz, "Unilever to Be First Foreign Firm to Buy Land."

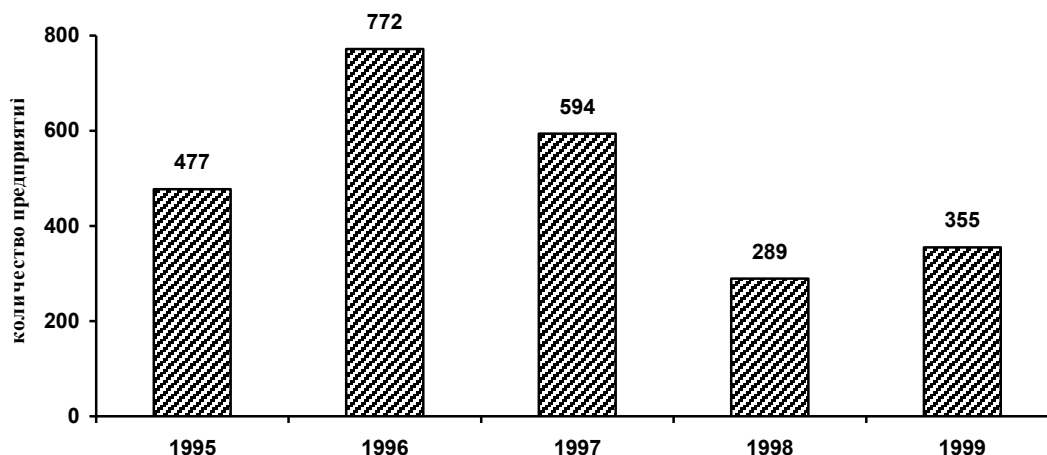
¹⁶ Christine I. Wallich, *Russia and the Challenge of Fiscal Federalism* (Washington, D.C.: World Bank, 1994), 275, 278.

¹⁷ Lev Freinkman, Daniel Treisman, and Stepan Titov, *Subnational Budgeting in Russia: Pre-empting a Potential Crisis*, World Bank Technical Paper No. 452, (Washington D.C.: World Bank Group. 1999), 40. St. Petersburg also operated commercial banks, against federal law.

¹⁸ The purchase price of land increased every year in line with the rising rate of the land tax set by local authorities, which formed the normative basis for land values. Vlasova, *Predpriatiya kak subjekty rynochnykh zemel'nykh otnoshenii*.

early 1998, land lease agreements (137,000) vastly exceeded land plots privatized (1,843) while tax rates on land had more than doubled, thus dampening incentives to purchase.¹⁹ After Mayor Sobchak promoted privatization by low purchase prices, the decision by Governor Yakovlev to reverse course created uncertainty surrounding ownership of property. The taxation and pricing process was not straightforward or fully transparent.²⁰ By 2000, only half of enterprises had privatized their land; the rest retained permanent (perpetual) use rights. Their experience was mixed; the few that had purchased the land for a specific purpose, such as to increase investment, realized their goals.²¹

Figure 1. Land Plot Purchases by Enterprises in St. Petersburg



Source: Vlasova, *Predpriatiya kak subekty rynochnykh zemel'nykh otnoshenii* (2000), 4.

Second, the legal and regulatory framework raised uncertainties that created risks for investors due to a confluence of federal and local factors. The initial failure to unite buildings and land into one object of real estate was an error of federal legislation. In principle, long-term leases

¹⁹ Limonov, Oding and Vlasova, "Land Market Development in St. Petersburg," 15, 22-24.

²⁰ Maxim Kalinin, Partner, Baker and McKenzie. Interview. St. Petersburg, Russia, July 30, 2013.

²¹ This is the conclusion of Vlasova, *Predpriatiya kak subekty rynochnykh zemel'nykh otnoshenii*; Limonov, Oding and Vlasova, "Land Market Development in St. Petersburg,"; and Howland and Katkhanova, "Changes in St Petersburg's industrial belt."

by the city could have provided the tenure security of private ownership. In practice, uncertainty over the marketability of leases and commitment of political authorities to abide by lease terms created tenure insecurity, as evidenced by the reluctance of banks to accept lease agreements as collateral for mortgages.²² In addition, while progress was made during the decade on a land inventory and cadastre, the case-by-case delimitation of land as either municipal or federal property in St. Petersburg raised the question of which party was legally in a position to sell or lease the land plot. As of 2000, an estimated 30-40% of land in St. Petersburg was federal, a much higher level than elsewhere due to federal buildings and major cultural sites.²³ In addition, while the law allowed a three-year period to buy land in installments, ownership in St. Petersburg could not be registered until the process for purchase was completed, raising the power of municipal authorities over property owners just as ownership rights were being established in the early years of land market formation.²⁴

Finally, the Yakovlev Administration implemented discriminatory land practices that decidedly promoted land leasing. Presidential decree 478 in 1995 had lowered land purchase prices but also provided a subsidy for land occupied by privatized (former state-owned) enterprises established prior to the Gorbachev perestroika period. Emerging entrepreneurs were put at a competitive disadvantage because they did not qualify for the lower price and had to pay twenty times more for their land than previously state-owned firms.²⁵ After 1997, land prices could be

²² World Bank, Appraisal document, *St. Petersburg Economic Development Project*, 9.

²³ Kalinin, interview, and World Bank, Appraisal document, *St. Petersburg Economic Development Project*, 9. Mayor Luzhkov resolved this issue early in the 1990s through agreements on ownership of selected sites and by the agreement with President Yeltsin in 1994 that Moscow would retain a 20% share of privatized buildings, giving it also a claim on the underlying land.

²⁴ Limonov and Vlasova, eds., *Upravlenie Nedvizhimostiu i Zemel'nimi Resursami Predpriati*, 3; V. N. Miagkov, "Otsenka iavnykh i kosvennykh tranzaktsionnykh zatrat pri investitsiakh v nedvizhimost' i stroitel'stvo. Sravnitel'nyi analiz regionov," *Mezhdunarodnaia konferentsiia 'Zemel'naia reforma i razvitie rynkov nedvizhimosti v Rossii'*, Lincoln Institute of Urban Affairs and Leontief Center, St. Petersburg, 2002. Mimeo.

²⁵ Howland and Katkhanova, "Changes in St Petersburg's industrial belt."

adjusted locally, but the bias against SMEs remained in St. Petersburg.²⁶ For those enterprises that continued to hold permanent (perpetual) use rights to land, the authorities subsidized lease rates as part of an economic and industrial policy that received greater impetus from the 1998 financial crisis, which hit the city's defense-oriented industrial sector particularly hard.²⁷ Thus, the Yakovlev Administration reduced leasing rates by up to 75% for large industries located in the center that occupied more than 24,000 hectares of land. In addition, commercial entities owned by the city received subsidized rates. In all, 50% of centrally-located businesses received a preferential leasing or tax rate, reducing land revenues to the city by 3% of Gross Regional Product by 2002. The opportunities for abuse were rife, both on the part of enterprises, which could rent out their excess land on informal markets, and on the part of political authorities, which did not report or justify which firms received preferential rates.²⁸

Another important distinction between the Sobchak and Yakovlev administrations concerned the shift from competitive tenders to arbitrary procedures for acquisition of city land or properties by private firms. Sobchak's Order N585-p, "On allocation of property rights on investment conditions" (June 1994), had required that open competitions be used for commercial projects. In April 1997, Governor's Order N283-p allowed exceptions to competitive tender, either if a waiver was approved by Yakovlev himself, or if the purchaser agreed to pay twice the fair market value for the property. While the option of leasing or owning was offered in the Order,

²⁶ Dmitri Babiner, Partner and Head of Tax and Law Department, Ernst & Young (CIS), St. Petersburg, Russia, Interview July 31, 2013; Limonov and Vlasova, *Upravlenie Nedvizhimosti i Zemel'nimi Resursami Predpriati*, 2-3.

²⁷ The industrial sector led a decline of 5.4% of Gross Regional Product in 1999 compared to - 4.9% of GDP at the national level. World Bank, Appraisal document, *St. Petersburg Economic Development Project*, 7.

²⁸ World Bank, Appraisal document, *St. Petersburg Economic Development Project*, 9-10, 12; Limonov, Odling and Vlasova, "Land Market Development in St. Petersburg," 22-24;

the practical result was to freeze land sales. From 1997-2001, 384 out of 385 land plots transferred to legal entities were leased, and 98% of real estate approvals were done by exception.²⁹

Contradictory land privatization and fiscal policies illustrate the different perspectives of two predatory rulers. While the progressive land privatization policy of Sobchak began to alter on the eve of a fiscal deficit crisis, the Yakovlev Administration pursued a decidedly anti-privatization policy by raising land taxes above lease rates and giving incentives for large industries to remain as tenants. Essentially, Yakovlev created an artificial land scarcity by raising land taxes, but then allocated land for twice the offering price through exceptions to the law on tenders. From the perspective of the predatory ruler, Yakovlev's motive for preferential leasing discounts was surely not fiscal in the short-term, since it came at the expense of the budget, but it was an excellent means of setting up a stream of rents for the city in the longer term. It also rewarded allies in the business sector for his successful 1996 election and shored up the base for his successful re-election bid in 2000.³⁰

An important implication of land privatization policy instability in the 1990s was that political authorities did not build a normative or administrative basis for land as a revenue source, even though land taxes and leases comprised a growing share of the municipal budget by the end of the decade. Specifically, the "value zones" established for taxation purposes did not set a

²⁹ Competitive tenders took place only for development of residential housing on municipal land. After construction was completed, the land under the buildings could be privatized. In contrast, in cases where city land was allotted for investment projects, such as rehabilitation of buildings, the city would grant a 49-year lease for the land upon conclusion of construction, but would not specify options for lease extension. Foreign Investment Advisory Service (FIAS) of World Bank-IFC, *Business Location Report, Russia* (2001), III-P, 8-11.

³⁰ In 1996, then Deputy Mayor Yakovlev was backed by conservative advisors to Yeltsin in the Kremlin and Mayor Luzhkov, but opposed by associates of Sobchak, including Vladimir Putin, who was Sobchak's campaign manager. Putin attempted to raise funds from businessmen for the campaign, reportedly in return for the benefits they had received from property privatization. The effort failed and the business elite supported Yakovlev. See Clifford Gaddy and Fiona Hill, *Mr. Putin, Operative in the Kremlin*, Chapter 8, section on "Politics and Business in the Kremlin."

transparent link between location, cadastral value, and tax and lease rates.³¹ Until the authorities and enterprises factored land into all aspects of investment planning its impact on economic development would remain limited.³²

An equally serious consequence of the policy uncertainties of the 1990s was that the process of recycling land to more efficient uses stalled. Aside from fiscal motives, another objective of the Sobchak Administration in raising land taxes in 1995 was to push industry out of the center to open space for new investment.³³ Contrary to expectations, significant displacement of enterprises to outer regions did not take place.³⁴ One reason is because the early enthusiasm of Mayor Sobchak for land privatization succeeded in unleashing a first wave of land sales, freeing a valuable asset for acquisition by privatized enterprises and citizens. During the early transition from communism to capitalism this policy choice enabled non-competitive enterprises to use buildings and land for income.³⁵ Land that was sold or leased by struggling or failing enterprises started to change the economy in the city center and industrial belt, with new high-value services (logistics, insurance, legal, accounting), office buildings, and small manufacturers of basic necessities (e.g. food) taking the place of rust-belt Soviet factories.³⁶ This allowed some adjustment of the density of St. Petersburg in response to market forces.³⁷ However, it also enabled

³¹ Limonov, Odling and Vlasova, "Land Market Development in St. Petersburg," 22-24, 27. Taxes and fees on property constituted 15-17% of total revenue to the city budget in 2000.

³² Vlasova, *Predpriatiya kak subekty rynochnykh zemel'nykh otnoshenii*.

³³ Maxim Kalinin, Partner, Baker and McKenzie. St. Petersburg. Interview July 30, 2013.

³⁴ St Petersburg's industrial belt occupies prime land, 4 to 8 km from the city center. In a market economy, the land-intensive manufacturing and warehousing, and even some farming, activities which are carried out in this belt would have been decentralized to the city fringe and would occupy less city space overall. Howland and Katkhanova, "Changes in St Petersburg's industrial belt."

³⁵ For example, a large optics manufacturer that had employed 20,000 in the Soviet period drastically reduced its workforce and in 2008 reported rental income of 20 million dollars from various inherited properties. (Pyle 2011, 15)

³⁶ Howland and Katkhanova 2000, 283

³⁷ Alain Bertaud, *The Development of Russian Cities: Impact of Reforms on Spatial Development*, Draft Report #2 prepared for the World Bank. Mimeo. March 13, 2010; Howland and Katkhanova, "Changes in St Petersburg's industrial belt."

many industries to stay put and survive on land rents. Thus, land that could have been recycled to more efficient uses was locked up in rusting industries or laid fallow.³⁸

b. *Bureaucratic Organization and Performance, 1990 - 2000*

The bureaucracy imposed constraints to land market development by raising both the risk and the costs of investing in urban land. Given St. Petersburg's early rapid privatization, which freed land for transactions, two land markets are relevant and can be compared: primary (sale or lease by the city) and secondary (sale or lease by new private landowners).³⁹ Land administration practices of greatest concern for investors on the primary and secondary markets involved the inter-related steps of land registration and land permits for urban development projects.⁴⁰ While St. Petersburg had a "relatively efficient" title registration system by the end of the decade, which was a public resource, it depended on an inventory of surveyed land plots in a cadastre, which was only 30% completed and inaccessible to investors.⁴¹ Moreover, the quality and accuracy of the database on land plots remained questionable in the absence of delimited land boundaries and urban planning and zoning regulations to ensure that construction on a given plot was not encumbered.⁴² Generally, companies active on the small secondary market regarded land titles as secure, though the time to register rights took longer than for transactions on the primary market, while privatized enterprises holding lease or land ownership rights from primary market

³⁸ World Bank, Appraisal document, *St. Petersburg Economic Development Project*, 10; Limonov, Odling and Vlasova, "Land Market Development in St. Petersburg," 22.

³⁹ St. Petersburg was one of very few cities with a small but active secondary real estate market in the 1990s. See Foreign Investment Advisory Service (FIAS) of World Bank-IFC, *Business Location Report, Russia* (2001), Appendix III-25.

⁴⁰ Limonov, Odling and Vlasova, "Land Market Development in St. Petersburg," 55.

⁴¹ FIAS, *Business Location Report*, Appendix III-P-4, 21.

⁴² Lincoln Institute of Land Policy, "Real Estate Developments: A Variety of Perspectives," (Paper presented at a course titled "Land Reform and Emerging Property Markets in Russia," May 29-30, 2001, St. Petersburg, Russia), 3.

transactions had greater doubts about tenure security.⁴³ The difference in these markets relates directly and primarily to arbitrary bureaucratic practices in the primary market.

The arbitrariness of land use decisions related to the absence of transparent urban land regulations, which was at “the root of widespread complaints about inefficiency, unpredictability, bureaucratic arbitrariness and alleged corruption.”⁴⁴ Opportunities for officials to obstruct issuance of land use permits existed at each step of the process to approve an urban development project. The process inverted market practices in advanced market economies whereby secure land rights are provided before construction begins. The first step in St. Petersburg (as elsewhere in Russia) entailed agreement with municipal officials on the project concept and its technical parameters, including a preliminary decision by administration officials on the land plot. In the second phase, developers designed the project and received the right to lease land for up to 50 years. Construction of the object began. In the last phase, only after completion of the project and approval by technical supervisors, the agreement on long-term lease rights received final approval, and land rights were registered.⁴⁵

The absence of transparency in land acquisition and baffling bureaucratic procedures opened avenues for corruption at each step in the permit process. It is worth reviewing the steps for land acquisition to underscore how seriously bureaucratic disorganization and performance weakened urban land privatization and land development in St. Petersburg in the 1990s. The initial phase involved two agencies, the Committee on City Planning and Architecture and the Committee

⁴³ Limonov, Odling and Vlasova, “Land Market Development in St. Petersburg,” 33-34.

⁴⁴ World Bank, Appraisal document, *St. Petersburg Economic Development Project*, 9.

⁴⁵ V.N. Miagkov, *Otsenka iavnykh i kosvennykh transaktsionnykh zatrat pri investitsiakh v nedvizhimost' i stroitel'stvo. Sravnitel'nyi analiz regionov*, (Mezhdunarodnaia konferentsiia ‘Zemel’naia reforma i razvitie rynkov nedvizhimosti v Rossii.’ Lincoln Institute of Urban Affairs and Leontief Center, St. Petersburg, 2002).

for Land Resources and Usage (further, the Architecture Committee and the Land Committee). First, the Architecture Committee provided a draft topographical map to the enterprise or project developer, who contracted with a licensed firm to turn the draft into a topographical survey and a land cadastral map with boundaries. The developer then submitted the cadastral plan to the Land Committee. After approval, the Architecture Committee forwarded the cadastral map to an office that reviewed its compatibility with the St. Petersburg General Plan. Any restrictions on land use would be attached to the project. The Architecture Committee then sent the documents back to the Land Committee, which prepared draft instructions; once approved, these went back to the Architecture Committee and a third Committee -- for Monument Conservation and Protection -- to ensure compatibility with city cultural heritage traditions. Any of the three committees could decide at any time to disapprove the land plot privatization or to place restrictions on land development. In parallel, the developer submitted an application to purchase land to the City Property Management Committee, which calculated the land price based on zones in the General Plan. Once all documentation was in order, the enterprise or developer received a purchase contract, on which basis it could request a land ownership certificate from the Land Committee.⁴⁶

As a consequence of excessive approvals and competition among bureaucratic offices, accessing land for urban development was more time-consuming in St. Petersburg than in other regions. While it was possible to pay fees to accelerate each step, enterprises reported that in St. Petersburg, without additional payments, the process took 2 to 2.5 years to complete.⁴⁷ According to a different study, with payments for the assistance of a city-run agency, the time could be reduced to 15-18 months, which was longer compared to 8.5-10 months in Novgorod and 10.5-

⁴⁶ V.N. Miagkov, *Otsenka iavnykh i kosvennykh transaktsionnykh zatrat pri investitsiakh v nedvizhimost' i stroitel'stvo*.

⁵³ Howland and Katkhanov, "Changes in St Petersburg's industrial belt after land privatization," 276-77.

13.4 months in Leningrad Oblast.⁴⁸ The time and cost undermined the business investment climate and prevented land access particularly by SMEs.⁴⁹ Recognizing the problems posed by numerous approvals, the municipal administration reduced the number of steps between project application and final building permit from approximately 125 to 50 days from 1994 to 2000.⁵⁰ Despite these measures, bureaucratic performance lagged other regions. While lengthy approval procedures are also common in advanced market economies for major urban projects, in St. Petersburg “the main causes of delay are uncooperative attitudes on the part of city personnel, failure to enforce strict time discipline in the process, and unreasonable positions taken by bureaucrats who are immune from effective challenge.”⁵¹

Authorization for projects on a case-by-case basis, rather than by zoning, also increased the arbitrariness of land use decisions. The argument of municipal land administration authorities against a simple legal zoning regime was that it was inappropriate for an historical city. In fairness to the authorities, project approval was complicated by additional reviews to protect Russia’s largest historic preservation district, an area of approximately 7,000 hectares in central St. Petersburg containing about 5000 historic buildings and objects.⁵² In this area, sensitivity to cultural harmony was warranted. However, such oversight was not required on the remaining 139,000 hectares of the city’s territory.⁵³ In those areas, the question was simply procedural: should regulations be designed and issued by project or by broad, multi-use land zones? The preference in St. Petersburg was to issue approvals on an ad hoc basis, which also raised risks for

⁴⁸ St. Petersburg Center City Rehabilitation Project (Loan 4144 RU) Implementation Completion Report (ICR) No. 25014, World Bank, 2002, p. 9.

⁴⁹ World Bank, Appraisal document, *St. Petersburg Economic Development Project*, 9.

⁵⁰ FIAS *Business Location Report*, III-P-14.

⁵¹ FIAS *Business Location Report*, III-P-15.

⁵² FIAS *Business Location Report*, III-P-3.

⁵³ FIAS *Business Location Report*, III-P-16. Novgorod, for example, created a transparent zoning system in harmony with the historic center.

investors. This approach was “dramatically inefficient” because it allowed micro-management into project purpose, as opposed to a broad zoning system that gave a wide range of project choices.⁵⁴

A more flexible zone-based system would conflict with infrastructure and industrial zones in the Soviet-era General Plan and require a solution to the expensive problem of who paid for infrastructure to support land use.⁵⁵ In the 1990s, zoning for major inter-city infrastructure needed to follow requirements in the 1945 General Plan, while inner-city projects should conform to infrastructure zoning requirements in the 1986 General Plan, providing room for interpretation depending on location of the project. The commonly-used city practice was to require advance payments for public infrastructure (e.g. for utilities, roads) in large-scale projects. For example, in 2000, developers wishing to bid for lease rights on 16,300 square meters of land in Kalininsky Raion for a housing project were required to pay \$380,000 into the budget, plus an infrastructure investment of \$32,000, plus \$1,000 into the Property Fund (to defray the cost of the auction), plus \$41,000 to a designated firm to prepare the tender documents. To participate in the auction, the preliminary project documentation had to be pre-approved by the administration.⁵⁶ These investments would be lost if the developer did not win the bid, undermining any incentive to participate in the auction. As a consequence, the City had greater control over which party received the rights to develop urban land. In the absence of specific regulations, investors lobbied city administration officials and bureaucrats for multiple projects, and those with good connections gained access to land without payments into the budget.⁵⁷ Until a new General Plan was proposed in 2005, the Soviet urban design was the guidepost for investment, where some industrial uses

⁵⁴ Lincoln Institute of Land Policy, “Real Estate Developments.”

⁵⁵ Financing for infrastructure in urban development projects is handled in diverse ways internationally. The question for the municipality is how to maintain the integrity of city infrastructure and share costs with private investors so that the process is fiscally affordable, rule-bound, and transparently managed.

⁵⁶ Miagkov, 28 fevralya 2000, No.204-r (reshenie ITK No. 210 ot 7.7.99), in *Otsenka iavnykh i kosvennykh transaktsionnykh zatrat pri investitsiiakh v nedvizhimost' i stroitel'stvo*.

⁵⁷ Sergei Nikeshin, Chairman of Legislative Committee on Land, Interview (St. Petersburg, Russia, August 2, 2013).

were allowed and others were not valid. The plan was a profitable way for the city (and city officials) to reap income; it was adjusted according to the ‘dizhurnyi’ plan – the plan of the day.⁵⁸

To reduce arbitrary decision-making through urban regulatory reform, the St. Petersburg authorities implemented a Center City Rehabilitation Project from 1997 to 2002, financed with a US\$31 million loan by the World Bank.⁵⁹ It included pilot schemes to introduce new mechanisms for the city to develop land commercially. The World Bank loan had financed infrastructure upgrades, including roads and utilities, to make unutilized urban land more attractive to private investors, with the aim of putting in place a process that would increase private land rights while creating future revenue streams for the municipal budget. In the Block 130 pilot, four lots were successfully auctioned by the city in 2001 for the right to develop 6,590 square meters for US\$2.26 million, or US\$34.3 per square meter.⁶⁰ This was the first time the City had auctioned improved land for investment.⁶¹ However, the World Bank later assessed this component of the project as unsatisfactory because the model for commercial land development was not replicated or adopted through municipal regulations, even though it was preferred by developers because the technical condition of infrastructure improvements and development costs were predictable.⁶²

⁵⁸ Leonid Limonov, Director General, ANO ICSEER "Leontief Center" St Petersburg, Russia, Interview, (St. Petersburg, Russia, August 1, 2013). The constraints posed by infrastructure investments and zoning also were corroborated by Babiner (Interview) and Howland and Katkhonova, "Changes in St Petersburg's industrial belt after land privatization."

⁵⁹ The project development objectives were to "(a) further develop and agree with the City Government and the Government of the Russian Federation on a strategic plan and an investment program for city center rehabilitation; (b) continue regulatory reform to assure competitive real estate markets and a competitive business environment in the city center; (c) initiate a program of public information and participation in the decision-making process for city development and investment; and (d) assist cultural organizations in the city to improve their ability to generate non-budget revenue." World Bank, Implementation Completion Report (ICR) No. 25014 (November 12, 2002), 2.

⁶⁰ The final lease price after construction was US\$70 per square meter per year. World Bank, St. Petersburg Center City Rehabilitation Project (Loan 4144 RU) Implementation Completion Report (ICR) No. 25014, 10.

⁶¹ World Bank, St. Petersburg Center City Rehabilitation Project ICR, Annex 8, Borrower's Contribution to the ICR, (2002), 44.

⁶² World Bank, St. Petersburg Center City Rehabilitation Project ICR, 11.

Ultimately, St. Petersburg paid a price for arbitrary decision-making. The city acquired the reputation of being inhospitable to business due to “lack of a level playing field” and “lack of easy access to land and commercial real estate.”⁶³ Unregulated requirements for developers to pay into the municipal budget for infrastructure costs in return for land leases further dampened enthusiasm for urban development. In short, “the attitudes and behaviors of St. Petersburg bureaucrats were an impediment to investment.”⁶⁴

c. Public Participation in Decision-Making, 1990-2000

A central premise of the dissertation is that public participation can advance the pace of institutional change if the public has a role in influencing decision-making by executive authorities and the bureaucracy. In the last hours of the Soviet Union, civic activism swelled in defense of historic preservation in St. Petersburg, as discussed in Chapter 3. A point of contention was the secrecy surrounding approval of the General Plan without adequate time or information for public input.⁶⁵ Celebrated protests for historic preservation had provided an apolitical cause for civil society to exercise public authority against the state.⁶⁶

Despite demand by civil society to be consulted on major urban development decisions, or perhaps because of the risk such consultations posed, St. Petersburg officials continued a closed-door approach during two failed attempts at strategic planning in the 1990s.⁶⁷ The first, led by Anatoly Chubais in 1991, aimed to turn the city into an economic free zone that could stimulate growth through privatization, liberalization of prices, introduction of a tax-free regime and land

⁶³ World Bank, Appraisal document, *St. Petersburg Economic Development Project*, 9

⁶⁴ FIAS *Business Location Report*, III-P-2.

⁶⁵ Blair A. Ruble, *Leningrad: Shaping a Soviet City* (University of California Press, 1989), 107.

⁶⁶ Leonid Limonov, Interview.

⁶⁷ This paragraph is drawn from Leonid Limonov and Tatyana Vlasova, eds, *Upravlenie Nedvizhimostiu i Zemel'nimi Resursami Predpriati*. Leontief Center, St. Petersburg, 2002. *Mimeo*.

use planning, thereby encouraging foreign investment in the modernization of the city and earning income from renting and selling real estate. The planning effort collapsed with the Soviet Union, but elements of the plan carried forward both at the municipal and national levels. Now renamed St. Petersburg, the city restarted the planning effort in 1992, but without changing the secretive format employed earlier. A narrow circle of well-intentioned officials labored on detailed economic growth and urban development targets, without the benefit of public input or media attention. By 1996, Mayor Sobchak's loss at the polls to Governor Yakovlev signaled a shift in public concerns from privatization to protection of local industry. With society divided, and a more conservative mood descending on the city, no agreement was reached on a new strategic plan that would frame land-use decisions.⁶⁸

The failure of the five-year process stimulated local experts to undertake a more broad-based approach to strategic planning based on public consultations. Supported by international institutions, including through the World Bank loan for a St. Petersburg Center City Rehabilitation Project,⁶⁹ the City Government embarked on an ambitious outreach campaign to engage citizens in the economic development planning effort, led by the Leontief Center, a non-profit research institute. In-depth surveys of experts and citizens identified priorities for development and key factors influencing socio-economic development and city competitiveness were analyzed, leading to establishment of 14 thematic commissions that proposed public policy solutions. Intensive debate accompanied each phase through media and a web-site in two languages. Citizen calls and letters were encouraged through a hot-line.⁷⁰ Based on these inputs, the City Government adopted

⁶⁸ Limonov and Vlasova, eds, *Upravlenie Nedvizhimostiu i Zemel'nimi Resursami Predpriati*. Leontief Center, St. Petersburg, 2002. *Mimeo*.

⁶⁹ See World Bank 2002, op. cit.

⁷⁰ Limonov and Vlasova, eds, *Upravlenie Nedvizhimostiu*.

the Strategic Plan on December 1, 1997.⁷¹ In September 1998, the City sponsored a conference to initiate an Investment Strategy for the Rehabilitation of the Center of St. Petersburg. It was adopted by City Government in April 1999 after receiving 1,000 inputs from stakeholders through public consultations and the internet.⁷²

The World Bank's ex-post evaluation of the St. Petersburg Center City Rehabilitation Project⁷³ deemed the final Strategic Plan and Investment Strategy to be of high quality; both influenced municipal government policy and resulted in a stronger inclination by city officials to engage the public in decision-making. The Territorial Information and Analytical System (TIAS) in Russian and English dramatically increased public access to information on land, buildings, infrastructure and cadastral maps, receiving 3,000 visitors per month as of 2002, of which 15-20 percent were potential foreign investors. The data were collected by the City Government's Construction Committee from 34 entities that agreed to share information, marking a "major step forward." With budget funding for TIAS, the system was likely to be sustainable and open opportunities for real estate development to smaller investors that lacked connections or inside knowledge.⁷⁴

Nevertheless, implementation fell short of expectations and the World Bank rated the US\$31 million- project unsatisfactory on overall outcomes and Bank and Borrower performance. City Government was rated poorly due to the slow-down in regulatory reforms governing the real estate market and unclear ownership rights, including minimal progress on zoning reform. More

⁷¹ Although coordinated with the World Bank-financed project, the Strategic Plan was prepared by the Leontieff Center primarily with USAID support. See World Bank, St. Petersburg Center City Rehabilitation Project ICR, 8.

⁷² World Bank, St. Petersburg Center City Rehabilitation Project ICR, 40.

⁷³ All World Bank-financed projects are independently evaluated within six months after completion to assess development outcomes. Both World Bank and borrower performance are rated. Occasionally, as in the case of the St. Petersburg Center City Rehabilitation Project, the borrower's view differs from the World Bank evaluation.

⁷⁴ World Bank, St. Petersburg Center City Rehabilitation Project ICR, 8-9.

fundamentally, the City legislature did not approve key legal and regulatory initiatives, delaying improvements to real estate and land markets.⁷⁵

Among other project design issues, the Bank team was rated poorly for overlooking the influence of the Legislative Assembly on the reform environment.⁷⁶ While individual legislators participated in the strategic planning process, the Assembly as a whole was not integrated from the beginning, and thus did not feel part of the process.⁷⁷ In addition, the Bank “significantly underestimated the political difficulties of advancing the reform agenda within the City Government....With turnover in executive branch officials and a recalcitrant Legislative Assembly, the reforms envisioned by the project progressed much less rapidly than anticipated. Finally, City Government agencies were sometimes disinclined to coordinate among themselves, which hindered project progress.”⁷⁸

Vice Governor Vakhmistrov, and Head of the Construction Committee, vigorously objected to these conclusions, noting that institutional reform was at the center of the investment strategy. Among other points, he noted that 66 laws and nearly 1700 normative acts had been adopted to regulate real estate and urban development, and that “[s]takeholders and citizens are regularly informed and involved in the investment decision-making process affecting interests of the citizens.” He disputed the lack of coordination among city government agencies, observing that the strategic planning process had brought them together in thematic working groups to agree on investment and reform priorities.⁷⁹ The Foundation of Investment Projects (FISP) of the Government of St. Petersburg also prepared a 12-page assessment⁸⁰ that, among other points,

⁷⁵ World Bank, St. Petersburg Center City Rehabilitation Project ICR, 15.

⁷⁶ World Bank, St. Petersburg Center City Rehabilitation Project ICR, 16.

⁷⁷ Limonov and Vlasova, eds, *Upravlenie Nedvizhimosti*.

⁷⁸ World Bank, St. Petersburg Center City Rehabilitation Project ICR

⁷⁹ World Bank, St. Petersburg Center City Rehabilitation Project ICR, 17-18.

⁸⁰ The assessment includes a list of draft laws, decrees, and regulations that were prepared and received expert review but not yet approved or adopted. See World Bank, St. Petersburg Center City Rehabilitation Project ICR, 40.

positively evaluated the experience gained by the city in working with private real estate developers on rehabilitation projects in the historic city center. Beneficial new practices included public hearings at the outset of new projects, which raised awareness; competitive tendering, which created savings; and investment auctions based on upgraded urban planning regulations, which included financing for public infrastructure.⁸¹

Despite the difference of views between the World Bank and City Government on the pace of institutional reform, both credited the strategic planning processes with increasing public participation in the decision-making process. This in turn empowered the *gradozashchitniki*, or city defenders (of cultural heritage), and laid the basis for greater public voice on Government projects and zoning laws that would reduce green spaces or mar the urban landscape.⁸² The presence of civic activism was fundamental to the pace of institutional change in St. Petersburg in the next decade.

3. *The Land Governance Model, 2001-2013*

a. *Political Authority and the Legal Order, 2001-2013*

Beginning in 2002, the Yakovlev Administration recognized that fiscal instability and a poor regulatory environment for real estate were hampering much-needed private investment. Given its highly educated workforce and geographic proximity to the EU, St. Petersburg was not realizing its potential as a “Window to the West.” Persistently weak municipal finances and a poor investment climate were mutually-reinforcing: without funds to upgrade obsolete infrastructure,

⁸¹ World Bank, St. Petersburg Center City Rehabilitation Project ICR, 44.

⁸² Kalinin gave the example of opposition to plans by Governor Yakovlev for a large church and Nikishin noted the successful effort to halt the practice of building so-called “birdhouses” above existing buildings in an effort to get more floor space from land plots.

the city could not attract new business investment; and without investors, the city could not raise revenues.⁸³ The adoption of the Land Code in 2001 removed legal excuses used earlier by the Yakovlev Administration to block land privatization.⁸⁴ The time was ripe to level the playing field for outsiders.

Political authorities decided to strengthen fiscal stability by improving land and real estate markets and exploiting the economic potential of St. Petersburg's rich cultural heritage. In a letter to World Bank President Wolfensohn on February 11, 2003, Governor Yakovlev stated that efforts had begun to improve city finances through better management of municipal property, but that "much more should be done. Therefore, we try to improve operation of the land and real estate markets to enhance competitiveness of St-Petersburg, to engage new enterprises more actively and thereby contribute to economic development of the city."⁸⁵ To improve market conditions, he said the City would increase land in private ownership or long-term lease in compliance with the Land Code, including by reducing prices for privatized land; remove tax concessions and preferential rents on commercial real estate and harmonize tax and rental rates; simplify land development regulations; and complete an inventory of municipal land and buildings that would be made available publicly. In the policy matrix attached to his letter, the Governor also committed the City Government to initiate auctions for sale of municipal land and premises. The expected outcome was to lay the foundation for private land and real estate markets and enable private transactions

⁸³ Revenues as a share of Gross Regional Product declined from 20.8 to 19.1 percent from 2001-2002, with 2003 projected at 19.2 percent. World Bank, Appraisal document, *St. Petersburg Economic Development Project*, 11.

⁸⁴ FIAS *Business Location Report*, III-P-3.

⁸⁵ World Bank, Appraisal document, *St. Petersburg Economic Development Project*, 57-58.

to grow by 5% annually compared to the base year of 2002.⁸⁶ The commitments laid the political basis for a US\$161 million loan from the World Bank in 2003.⁸⁷

The early departure of Governor Yakovlev from St. Petersburg led to the election on October 5, 2003 of Valentina Matviyenko, who came to office promising to double the city's budget revenues in three years. Upon taking office, Matviyenko declared that improvement of the investment climate was her highest priority. She announced that the General Plan would be updated to meet new economic development demands and that land auctions would replace the former, non-transparent land allocation methods, thereby contributing to higher budget revenues.⁸⁸ She additionally declared that the fee charged by the city for allocation of land for commercial development would be reduced to US\$80 per square meter, from rates that ranged from US\$100 to US\$500 per square meter, depending on the location.⁸⁹ Evidence indicates that her administration supported legal changes to simplify procedures for making properties available to investors, to reduce property tax rates, and to assist in making land available for strategic projects.⁹⁰ These were important measures that led to increased land privatization and, particularly in the case of land auctions, improved the legal framework in line with the 2001 Land Code. Urban land area owned by private firms more than doubled from 2000-2005, from 4.7 to 11.1 percent, while the share owned by the City Government declined from 86.8 to 82.7 percent.

⁸⁶ World Bank, Appraisal document, *St. Petersburg Economic Development Project*, 45.

⁸⁷ The City Government initiated discussions with the World Bank in December 2000 for a St. Petersburg Economic Development Loan (SPB-EDL) valued at US\$161 million to support three objectives: (a) improve the business climate by creating new private sector enterprises, increasing private ownership and transactions of land and real estate, and improving land use planning; (b) strengthening the City's financial management and ensuring the long-term stability of its fiscal revenue base; and (c) rehabilitating cultural assets to enhance tourism. World Bank, Appraisal document, *St. Petersburg Economic Development Project*, 4.

⁸⁸ Angelina Davydova, "City Shares Economic Plan," *St. Petersburg Times* (x) 2003

⁸⁹ Simone Kozuharov, "Real Estate Market Sees Growth in All Areas," *St. Petersburg Times*. Issue #940 (8), February 3, 2004.

⁹⁰ Lev Pushchansky, Investment specialist at ICB-Invest Group, Special to *The St. Petersburg Times*, September 6, 2005 (Issue # 1102)

From the perspective of the predatory ruler, Matviyenko's motivation to expand property rights related to fiscal as well as political exigencies. The fiscal case is unequivocal, based on the foregoing evidence, while the political logic may be inferred from the conditions of Matviyenko's rise to elected office. In 2000, she had been Putin's candidate for the position but failed to garner even one percent of voter support based on pre-election polls. She withdrew from the competition. In 2003, the increasingly-powerful President Putin appointed Mr. Yakovlev to a position as deputy prime minister for housing and communal services, opening the race for Governor in St. Petersburg, one year early. A Putin protégé, Ms. Matviyenko was appointed as the President's envoy to the Northwest District in March 2003 before running for Governor in October 2003, winning 63 percent in the second round with low voter turnout (28%).⁹¹ Given the new Governor's close relationship to the President, we can assume that federal policies carried greater weight compared to Yakovlev, given his tense ties with Putin.⁹² Even had she wanted to rebuff presidential policies, she lacked the fiscal and political autonomy to do so.

While Matviyenko implemented meaningful land and real estate reforms early in her tenure, a pattern appeared in 2005-6 of arbitrary land-related decisions and exceptions to zoning requirements in the General Plan, often linked to preferences for oil and gas interests.⁹³ The pattern persisted until she left office in 2011. Fiscal and political motivations again appear to be intertwined. First, she became more indebted to President Putin after he nominated her as

⁹¹ "Matviyenko, Valentina Ivanova." Akademik.ru, http://dic.academic.ru/dic.nsf/enc_biography. Accessed February 20, 2015.

⁹² As the campaign manager for former Mayor Sobchak, Putin left St. Petersburg when Governor Yakovlev assumed office in 1996. In 1999, Yakovlev was a founding member, together with Mayor Luzhkov, of the anti-Kremlin movement, All Russia, which then formed the Fatherland-All Russia Party. "Yakovlev, Vladimir Anatol'evich, Prezident Rossiikogo soiuza stroitelei," Lenta.ru, <http://lenta.ru/lib/14159670/>, accessed February 20, 2015.

⁹³ Matviyenko actively sought strategic agreements with large industrial investors, including oil and gas interests. Her 2003 campaign was reportedly financed by Lukoil. "Oil Club: Land Auction Rigged," St. Petersburg Times, March 1, 2005 (Issue # 1048)

Governor in 2006, a year before her term was to expire.⁹⁴ During the same period, Sibneft, acquired by Gazprom in 2005, relocated its headquarters to St. Petersburg, bringing with it fiscal benefits.⁹⁵ Moreover, strong economic growth contributed to a rapid rise in real estate values, raising tax receipts.⁹⁶ With fiscal constraints declining,⁹⁷ and her political career increasingly in the orbit of presidential power, Matviyenko could take exception to federal rules where it benefited her benefactor and long-term political career.

An example of the Matviyenko Administration's tendency to allocate land arbitrarily rather than through transparent rules involves abuse of state ownership rights over cultural assets. In 2004, two historic properties, Gardener House and Literary House, were acquired without auction by the then-largest vodka holding company, Veda. Two reporters for *Kommersant* detailed the complex transactions that enabled the properties to pass from federal to municipal and then to private ownership. The two properties in St. Petersburg were among many that were linked to a scandal involving Minister of Defense Serdyukov, who was accused of massive theft of state property and fired by President Putin in November 2012. As detailed by the reporters, formerly federal or municipal property would be acquired by state-controlled companies and then sold at extremely discounted prices to real estate developers with offshore accounts. The state-controlled

⁹⁴ Gubernatorial elections were abolished in 2004 and reinstated in 2012 in response to mass protests. Leonid Peisakhin, "Russia's Local Elections: A Sign of Things to Come?," *Washington Post*, October 1, 2014.

⁹⁵ Legal entities pay taxes in the location of registration as well as in other regions in accordance with distribution of operations. After acquiring Sibneft, Gazprom refused to pay taxes to Chukotka, the base of Sibneft's operations. Migaro O. Da Silva, Galina Kurlyandskaya, Elena Andreeva, and Natalia Golovanova, *Intergovernmental Reforms in the Russian Federation: One Step Forward, Two Steps Back?* (Washington, D.C.: The World Bank, 2009), 74. Lev Freinkman, Daniel Treisman, and Stepan Titov, *Subnational Budgeting in Russia: Pre-empting a Potential Crisis*, World Bank Technical Paper No. 452, (Washington D.C.: The World Bank: 1999), 12- 14.

⁹⁶ Property values in St. Petersburg quadrupled to US\$1800 per square meter in 2005. John Varoli, "Property Battle Rages Over City's Historic Center," *Bloomberg*, September 12, 2006 (Issue # 1203).

⁹⁷ For this reason the Matviyenko Administration restructured the component of its World Bank loan from budget support to investment in cultural assets. The World Bank reported that the policy matrix was largely implemented. No details were provided regarding progress in land rights and real estate reforms.

companies collected kickbacks from the developers, who invested in luxury real estate projects. One such project, the Literary House, caused an outcry in St. Petersburg because the 19th-century property had been listed in 1999 for historic preservation but was destroyed for construction of a hotel complex. The Matviyenko Administration facilitated such purchases by the lack of transparency in land allocation decisions. Alexander Vakhmistrov, who was the Deputy Governor in charge of construction at the time that the building was transferred to the investor in 2005, later became the head of the real estate company that was assigned by Governor Matviyenko to supervise the hotel construction project.⁹⁸ The Ministry of Defense scandal, as it is referred to in St. Petersburg, revealed how lack of clarity of ownership rights between municipal and private owners raised risks for all private investors.⁹⁹

The Matviyenko Administration fostered an environment where exceptions to zoning requirements in the General Plan came to be expected. In 2005, it had revised the 1986 General Plan without the intense public input that had characterized the strategic planning process in the late 1990s, and without addressing serious issues such as the removal or renovation of industrial zones close to the city center.¹⁰⁰ The 2005 General Plan reflected the instincts of Soviet planners, prescribing a construction blueprint for specific plots rather than a broad zoning framework for urban development.¹⁰¹ First, the plan constrained investment in individual zones of St. Petersburg in a manner that was not conducive to market development, particularly for small business. For

⁹⁸ Andrei Ershov and Anna Pushkarskaya, "Ofshor proavil liubov' k kul'turnomu nacleddiu." *Kommertsant Gazeta*, July 29, 2013. The Ministry of Defense scandal is also reviewed in Andrew E Kramer, "Former Official Stole Millions in Real Estate, Russia Says," *New York Times*, December 25, 2012, and Cory Flintoff, "Russian Scandal Hints at Larger Political Battle," *National Public Radio*, December 11, 2012.

<http://www.gpb.org/news/2012/12/11/russian-scandal-hints-at-larger-political-battle#>, downloaded August 7, 2014.

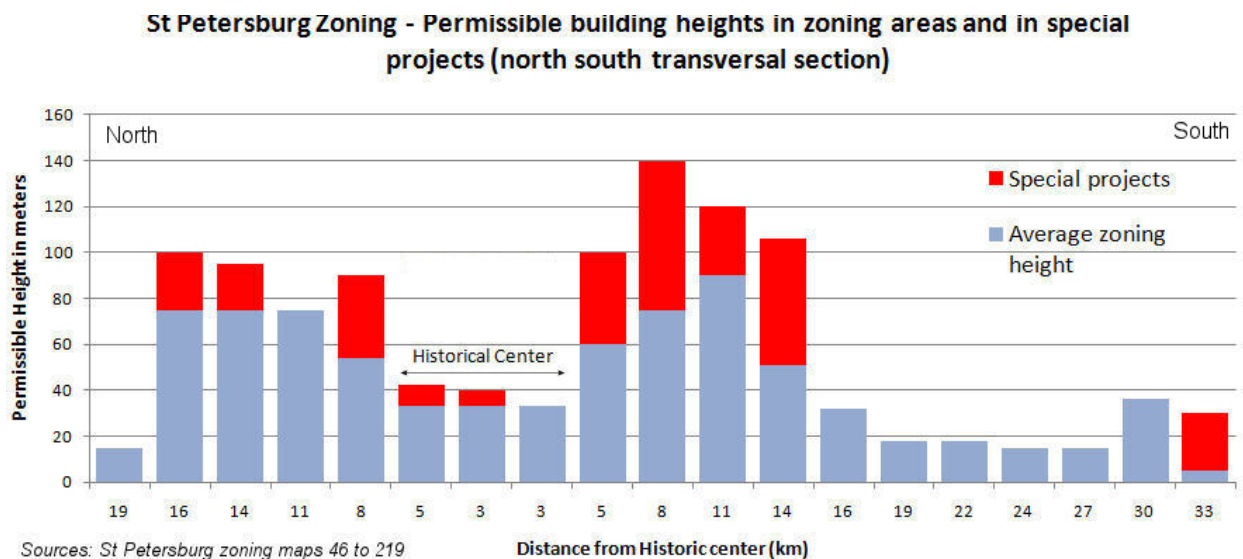
⁹⁹ Maxim Kalinin, Interview July 30, 2013, St. Petersburg

¹⁰⁰ Vladimir Gryaznevich, political analyst with *Expert Severo-Zapad* magazine, "The Best Laid Plans," *St. Petersburg Times*, December 20, 2005 (Issue #1132). This editorial was previously broadcast on *Ekho Moskvyy* in St. Petersburg.

¹⁰¹ Bertaud, "The Development of Russian Cities "

example, both industrial and micro-activities were needlessly segregated according to inputs, i.e., any activity that used paper (including publishing) could not be located near activities that used wood or leather. Second, to balance the tension between redevelopment of the aging industrial zone and the adjacent historic city center, urban planners prescribed height limits to preserve views and architectural harmony in locations near the city center. While this approach was appropriate, height limits were set arbitrarily and did not reflect demand for density in a given location. Exceptions to height limits were numerous in selected zoning areas and for special projects, as demonstrated by Figure 2.

Figure 2.



Source: Alain Bertaud, “The Development of Russian Cities: Impact of Reforms on Spatial Development,” (Mimeo for World Bank, 2010), 17.

Exceptions to the General Plan that impacted objects of cultural heritage raised particular concern in St. Petersburg. Many historic objects were in disrepair but the city lacked funding for renovation; when property values in St. Petersburg quadrupled in 2005, following seven years of strong economic growth in Russia, property developers had an incentive to purchase and upgrade real estate. Tension rose, however, between preservationists and developers over disposition of the properties. Under the Matviyenko administration, many objects that had been slated for

historic preservation became subject to development. For example, in August 2004, all twelve tsarist-era Preobrazhensky Regiment barracks were removed from the preservation list; several were demolished and replaced with modern buildings rather than restored to original architectural styles. The reaction to these exceptions had political overtones:

"I'm not against new construction and architectural styles, but just don't do it in or near the historical center," said Alexander Margolis, head of the St. Petersburg Historical Preservation Foundation. "City Hall makes too many concessions to developers, and if this continues, in 15 years the city will lose the architectural harmony that makes it one of the most beautiful cities in the world...." "The people who run our city are above the law," said Margolis. "In the 1990s, St. Petersburg was crumbling and threatened by a lack of investment, but now it's threatened by too much money in the hands of too few people who have unlimited power to do whatever they want."¹⁰²

In 2008, politically-oriented citizen groups protested proposed amendments to the General Plan that would remove green areas from municipal protection through exceptions to zoning regulations. Alluding to President Putin's appointment of Governor Matvienko, the extent of the exceptions arose due to the lack of elections for Governors, according to Olga Kurnosova, the local coordinator of United Civil Front and pro-democracy coalition, The Other Russia.¹⁰³ The most exceptional waiver, proposed by City Hall in 2009 to allow Gazprom to erect a structure in the city center in violation of zoning regulations, will be discussed in the section on public participation. In summary, the Matviyenko Administration followed contradictory policies that kept St. Petersburg on a course of incremental institutional change. She laid the basis for an improved legal and regulatory environment upon assuming office but failed to implement it impersonally. Land privatization patterns reflect the conflicting policy environment. In terms of land area, enterprises increased their holdings from 2000-2005 by 157 percent; from 2005-2010 the rate slowed to 17 percent. Similarly, the share of private land ownership grew by about 8 percent in

¹⁰² John Varoli, "Property Battle Rages Over City's Historic Center," Bloomberg, September 12, 2006 (Issue # 1203)

¹⁰³ Sergey Chernov, "Residents Gather to Decry Planning Law," St. Petersburg Times, April 1, 2008 (Issue #1361)

the first half of the decade, exceeding the national rate of increase, but slowed to 4 percent in the second half of the decade (Table 1).

Table 1. Changes in Private Land Ownership, 2000 to 2010
(percent)

	2000	2005	2010
Individuals	1.2	2.1	3.8
Legal Entities	4.7	11.1	13.5
Total Private	5.9	13.2	17.3
Total Municipal	94.1	86.8	82.7

Zemel'nyi Fond Rossiiskoi Federatsii of January 1, 2000; Goskomitet po zemel'noi politike RF 2000: 4-6, 178-183; Zemel'nyi Fond Rossiiskoi Federatsii of January 1, 2005; Rosnedvizhimost' 2005: 42-49, 245-247; Zemel'nyi Fond Rossiiskoi Federatsii of January 1, 2010; Rosreestr 2010: 247-249.

The contradictory policy environment after 2001 retarded the institutional development of secure property rights. Land was allocated arbitrarily or through irregularly-held auctions; exceptions to zoning regulations benefited state-connected companies, sometimes at the expense of cultural objects; and land acquisition procedures discouraged privatization of municipal property. As noted by local experts, the Matviyenko Administration strengthened the “oligarchic overtones” of land ownership because the beneficiaries of major municipal projects tended to be large rather than small or medium enterprises.¹⁰⁴

b. Bureaucratic Organization and Performance, 2001 - 2013

Performance by bureaucratic offices bifurcated in the 2000s: on one hand, obstacles increased in land use and planning offices; on the other hand, transaction costs declined for land administration and registration. In its appraisal of the St. Petersburg Economic Development Loan the World Bank judged that “the principal risk for a successful implementation [of the policy part]

¹⁰⁴ Maxim Kalinin, Partner, Baker & McKenzie, St. Petersburg, Interview July 30, 2013, Leonid Limonov, General Director, Leontief Institute, St. Petersburg, Interview August 1, 2013, and C. Nikeshin, Chair, Committee on Land Issues and Urban Economics, St. Petersburg Legislative Assembly, Interview August 2, 2013.

.... will come from the possible resistance to changes in the City bureaucracy where officials at various ranks may attempt to maintain the *status quo* and protect vested interests.”¹⁰⁵ This assessment was fulfilled for the Committee on City Planning and Architecture rather than the Committee for Land Resources and Management, where there is evidence of improvement in bureaucratic performance.

Increased obstacles to acquire land for commercial development are likely to be related to the rising value of real estate in St. Petersburg. According to a study by Kisunko and Coolidge, the more costly and complex the urban development project in Russia, the greater and more frequent were unofficial payments to acquire land to complete the project. Regression analysis demonstrated that this relationship was statistically significant in St. Petersburg at the one percent level.¹⁰⁶ Similarly, a 2006 study by the Foreign Investment Advisory Service (FIAS) of the World Bank-IFC found that 72 percent of all firms in St. Petersburg made unofficial payments for at least one stage of land and real estate transactions. The highest payments were made by privatized enterprises that owned their premises but not the underlying land; they either wanted to obtain lease rights or to buy the land that was municipal property.¹⁰⁷ These enterprises had the most to gain from use rights, and hence the cost imposed by the municipality was the highest.

In view of obstacles to acquiring land from the City Government (the primary market), builders preferred to access land from the secondary market, even though costs were higher. Several issues led to this conclusion. According to a survey of builders and consulting companies conducted from October to December 2010, auctions by the municipality were irregular and

¹⁰⁵ World Bank, Appraisal document, *St. Petersburg Economic Development Project*, 41.

¹⁰⁶ Gregory Kisunko and Jacqueline Coolidge, “Survey of Land and Real Estate Transactions in the Russian Federation,” Policy Research Working Paper 4115, (Washington, D.C.: World Bank, 2007), 28-29.

¹⁰⁷ Federal Investment Advisory Service (FIAS) of the World Bank and IFC, *Survey of Land and Real Estate Transactions in the Russian Federation. Regional Report: Saint Petersburg City*, May 2006, p. 18.

unreliable, with timing often changing during the year. Once the right to develop land was acquired, there was a high risk of losing the plot before the period expired for construction due to long delays in completion of the survey work. This raised the risk of corruption because unofficial payments were needed to accelerate approvals, which could cost from 30-50% of the project value.¹⁰⁸ The option to lease land was not necessarily more attractive, since land plots with “a full packet of documentation,” including legal subdivision, registration, and clarification of third party rights and environmental clearances, was very costly, albeit with very low risk. In contrast, leasing without full documentation was faster and less costly but carried very high risk, mainly due to uncertainty over ownership rights, as the Ministry of Defense scandal revealed. For these reasons, the preferred method of land acquisition was through existing private owners on the secondary market.¹⁰⁹

In contrast to experience in land use and development, the adoption of significant reforms in land registration at the national level also contributed to dramatic performance improvements in local land registration offices of federal agencies in St. Petersburg (Rosreestr). Evidence from national surveys, local interviews, and comparative regional data confirm that these improvements provided positive impetus to development of land markets. Barriers to land privatization declined in St. Petersburg consistent with national trends. According to one survey, key improvements nationally included the delimitation of land by government level (declined in importance as a barrier from 20.3 to 15.4 percent) and government registration of rights to land (declined from

¹⁰⁸ The average time for project development as of 2010 was from 2 to 2.5 years. This was the same amount of time required in 1999 without additional payments for services.

¹⁰⁹ Leonid Limonov, “Sobstvennoct’ na zemliu v Rossii: Problemy registratsii i spetsifikatsii prav,” *Dachnaya amnitsiya: problemy, provably, territorial’nye ocobennosti*. Leontief Center, 14 fevraliya 2012 g.

18.8 to 9.9 percent).¹¹⁰ Interviews in St. Petersburg in 2013 confirmed these trends.¹¹¹ Previously, the process of transferring land titles from municipal to private ownership was prone to bribes to the head of the district office; now it was difficult to find someone who would take a bribe. Electronic filing had changed the incentive environment and simplified the process. There were no major issues with land administration in local offices of the federal registration agency, Rosreestr. In addition, the regional information system that was initiated in 1998 under the St. Petersburg Center City Rehabilitation Project had evolved into a “fabulous” resource in Russian and English on cadastral values, city planning regulations and restrictions, and sanitation zones (requiring environmental clean-up).¹¹² This resource removed access to information as a barrier for real estate development because it provided investors a guideline on where to locate a particular business and what was needed in terms of documentation to manage the process.¹¹³

Comparative regional data indicate that St. Petersburg improved more on bureaucratic performance on property registration compared to other cities after 2008. Research undertaken by the World Bank and IFC found that St. Petersburg had demonstrated the fastest rate of improvement on property registration between 2009 and 2012, reducing the number of days to register property from 117 to 44, while it still remained the slowest compared to ten cities, together with Moscow and Perm.¹¹⁴ In addition, following the 2006 federal amnesty on registration of dacha property rights, 77 percent of citizens in St. Petersburg had registered their property by 2012,

¹¹⁰William Pyle, *The Ownership of Industrial Land in Russian Cities: Explaining Patterns of Privatization Across Regions and Firms*. National Council for Eurasian and East European Research. <http://www.nceer.org>, Table 5, 30.

¹¹¹ Dmitri Babiner, Partner, Head of Tax and Law Department, Ernst & Young (CIS), St. Petersburg, Interview July 31, 2013 and Maxim Kalinin, Partner, Baker and McKenzie, St. Petersburg, Interview July 30, 2013.

¹¹² The website (rgis.spb.ru) is managed by the Committee on Land Resources and Land Management.

¹¹³ Helena Tabala, director of Knight Frank, an international real estate agency that entered the St. Petersburg market in July 2004, noted that the lack of market information was a major barrier because it required buyers to rely solely on the opinions of experts. St. Petersburg Times, September 17, 2004.

¹¹⁴ World Bank and IFC, *Doing Business in Russia Subnational: Comparing Regulation for Domestic Firms in 30 Cities and with 183 Economies*, www.doingbusiness.org/subnational, 2012 [add page].

compared to a national registration rate of 45 percent. According to survey results, the primary motivation of citizens to register property titles was to strengthen the security of ownership rights; the higher levels of registration correlated with lower transaction costs in individual raions included in the survey. Those citizens who did not register either had confidence that their current rights would be protected, or else they lacked information about the rationale for property registration. The research also showed a correlation between Russian regions with higher levels of economic growth and higher rates of registration of all forms of property between 2000 and 2007.¹¹⁵

The positive change in bureaucratic performance on property registration in St. Petersburg after 2008 represented a counterbalance to continuity in arbitrary land allocation decisions by political authorities and to bureaucratic obstacles to land access. Improvement by the Rosreestr municipal office and the Committee on Land Resources and Management contributed to a faster pace of institutional change and property ownership, particularly by citizens.

c. Public Participation: 2001-2013

Discernment of the public interest is difficult in St. Petersburg due to its high industrial density and the close association of big business and the state. In the 1990s, a rare combination of citizen-focused public officials and a civic orientation among the population created the basis for meaningful public engagement on urban development during preparation of the Strategic Plan and Investment Strategy. The question in this section is whether the public was in a position to influence the implementation of those plans by municipal authorities in the 2000s. Public

¹¹⁵ Elena Khmel'nitskaya, *Prava sobstvennosti i administrativnye bar'ery: opyt analiza "dachnoi amnistii."* Panel on Administrative Barriers to Ownership Rights, Leontief Center. Powerpoint. February 14, 2012.

participation is most critical before urban development projects impact the local community. This is the general practice in advanced market economies. Land use decisions in Russia would stand a better chance of representing the broader public interest rather than narrow lobbies if city authorities followed the requirements in the Land Code and Town Planning Law to conduct hearings before initiation of major projects.¹¹⁶ Representation of public interest in Russia, however, depends on whether: i) public hearings are conducted and used appropriately to garner community input on major projects, and ii) there is a common understanding of “public interest.” As Tatiana Vlasova, Deputy Director of the Leontief Center asked, “If the Government and private investor are on one side, who is on the other? Finding a balance in public and private interests as would be revealed through public hearings is not obvious.”¹¹⁷

Just as political authorities and the bureaucracy diverged in their perspectives and actions on land privatization, so too did society, as represented by elected deputies and civil society organizations. On one occasion, the Legislative Assembly took a major step forward in transparency by publishing the Rules on Land Use and Development, pursuant to the General Plan.¹¹⁸ More generally, the Assembly represented City Hall more than citizen interests.¹¹⁹ Civil society, on the other hand, slumbered during preparation of the new General Plan during the early 2000s. As noted by political analyst Vladimir Gryaznevich:

Unfortunately, the inhabitants of St. Petersburg are proving slow in attending to their own interests. We only have ourselves to blame, then, if there are any oversights in the General Plan. And despite all its drawbacks, the Plan has one undoubted advantage — the fact that it will cover such a long period of

¹¹⁶ Leonid Limonov, Interview August 1, 2013, St. Petersburg

¹¹⁷ Tatiana Vlasova, Interview August 1, 2013, St. Petersburg

¹¹⁸ Earlier plans were only available in hard copy from the office of the Chief Architect. Moreover, the zoning plan provided more certainty for investors regarding allowable uses of specific land plots. Alain Bertaud, *The Development of Russian Cities: Impact of Reforms on Spatial Development*, Draft Report #2 prepared for the World Bank, March 13, 2010. Mimeo.

¹¹⁹ Members of the majority party (United Russia) in the Legislative Assembly approved whatever changes to the plan or projects were requested by the office of the Mayor. Leonid Limonov, Interview August 1, 2013, St. Petersburg.

time, reaching far beyond current state programs or the strategies of companies. This will make it a basis for the creation of our plans in the shorter term.¹²⁰

Although the General Plan received approval without a public wimper in 2005, citizens reacted more angrily thereafter. For example, in 2008, protesters demonstrated against amendments to the General Plan proposed by Governor Matviyenko, which had passed the Legislative Assembly on the first reading. A series of protest marches, with representatives of civil society organizations and political parties, raised concern about authorization to replace parks and recreational areas with shopping malls.¹²¹ Nevertheless, the new zoning regulations were approved by the St. Petersburg Legislative Assembly in February 2009.

Of particular importance for public participation, the new Rules on Land Use and Development limited the maximum height to 100 meters for land at the proposed site of the Okhta Center, a major development project led by Gazprom.¹²² Sponsors of the project immediately declared their intention to seek an exemption from the height limit in order to permit construction of a 300-meter skyscraper (later increased to 403 meters) at the site. The proposed project quickly drew the ire of historic preservationists because the skyscraper would stand three times higher than Saint Isaac's Cathedral and alter the skyline on the banks of the Neva River in the historic district. The project originated in November 2005 when Gazprom Board Chairman Alexei Miller met with Governor Matviyenko and agreed to shift the registration of Sibneft from Omsk to St. Petersburg, thereby bringing tax revenues to the region. In March 2006, the St. Petersburg Legislative

¹²⁰ Vladimir Gryaznevich, political analyst with Expert Severo-Zapad magazine, "The Best Laid Plans," St. Petersburg Times, December 20, 2005 (Issue #1132).

¹²¹ Sergey Chernov, "Residents Gather to Decry Planning Law," St. Petersburg Times, April 1, 2008.

¹²² This section is based on Boris Vyshnevsky, *Sankt-Peterburg protiv Gaz-Putinburga*, Special to the Pskovskaya Guberniia, <http://gubernia.pskovregion.org/number460/06.php>. This article by a Petersburg journalist and activist with Yabloko was reproduced on a Feed on Land and Real Estate Development (2009) at <https://chtodelat.wordpress.com/tag/valentina-matvienko/feed/>.

Assembly passed a bill proposed by Governor Matviyenko that would enable Sibneft to receive a 60-billion ruble subsidy from 2007 to 2016 to construct a major commercial center that would become the property of Gazprom Neft (as Sibneft was reregistered in May 2006).¹²³

When the project was officially made public in mid-2006, it set off a public furor, pitting cultural, architectural, and political figures against the Governor and Gazprom. Opponents included the Russian and St. Petersburg Architects Union, the Petersburg Branch of the All-Russia Society for the Preservation of Historical and Cultural Landmarks, and Director of the Hermitage Museum Mikhail Piotrovsky. Political movements opposing the skyscraper project included Yabloko, the Communist Party, and the United Civic Front. In 2007, the opponents called for a referendum to let the public decide whether the project should receive an exemption to the height limitation, but it was blocked by the Legislative Assembly.¹²⁴

According to the federally-approved Town Planning Code, exemptions are permitted to height limits in certain cases where construction at the proposed building height is not possible. In line with the Code's requirements, City Hall sponsored a public hearing on September 1, 2009 on whether to authorize an exemption to the height limitation. The hearing was conducted with high security, including police dogs and OMON troops, and debate was heated. While participants in the packed 300-seat hall appeared to be carefully selected to favor the project, expert opinion was allowed, and in the four-day period required for public comment, numerous written objections were submitted to the District Land Use and Development Commission. The Commission rejected the requests to deny permission to exempt the project from the height limitation and did not fully reference objections in the public report, against requirements in the law.¹²⁵

¹²³ Boris Vyshnevsky, *Sankt-Peterburg protiv Gaz-Putinburga*.

¹²⁴ Boris Vyshnevsky, *Sankt-Peterburg protiv Gaz-Putinburga*.

¹²⁵ Boris Vyshnevsky, *Sankt-Peterburg protiv Gaz-Putinburga*.

On September 22, 2009, thirteen members of the City Government led by Governor Matviyenko met and voted unanimously to grant the height exemption. Earlier, the Urban Economics Institute, which had supported drafting of the federal Town Planning Code, had published a report that the application for exemption by sponsors of Okhta Center did not meet the legal requirements of the Code.

Following the vote in favor of exemption, the defenders of the city, the *gradozashchitniki*, increased the pressure on the City Government through a court appeal, a petition to President Medvedev signed by 4,618 people, and a massive March in Defense of Petersburg on October 10, 2009. The exemption allowing Gazprom to build a skyscraper in an historic district was ultimately rescinded in late 2009 through the efforts of the *gradozashchitniki*. UNESCO had announced in September 2009 that the skyscraper could threaten the listing of St. Petersburg by UNESCO as a World Heritage Site.¹²⁶ The unexpected opposition of the Russian Minister of Culture, Alexander Avdeev, in September 2009, also contributed, as did negative programming on the primary state television channel in early October 2009.¹²⁷ The project was moved to a new location that is technically outside the city, and it will still be the tallest building in Europe. While not all residents are fully satisfied, observers credit the *gradozashchitniki* with an exceptional success in overturning a decision of City Government.¹²⁸ Thus, to answer the question posed at the beginning of this section, the public was indeed able to influence an important zoning decision, despite a flawed process of public consultations and opposition by arguably the most powerful company in the country.

¹²⁶ Simon Shuster, "The Battle over a New Skyscraper for St. Petersburg," *Time*, October 6, 2009

¹²⁷ Boris Vyshnevsky, *Sankt-Peterburg protiv Gaz-Putinburga*.

¹²⁸ Dmitri Babiner, Partner, Head of Tax and Law Department, Ernst & Young (CIS), St. Petersburg, Russia. Interview July 31, 2013.

Paradoxically, the Ministry of Defense scandal and actions of the *gradozashchitniki* are contributing to more secure land rights in St. Petersburg, according to Maxim Kalinin.¹²⁹ Most enterprises in 2013 preferred to buy land but the decision depended, first, on the relative values of the land tax versus the lease rate, and second, on an assessment of hidden risks in purchasing privatized land that could be subject to ownership disputes, due to the uncertain legal environment of 1990s. The Ministry of Defense scandal had turned into a key criminal case where land sales from illegal privatizations were now being invalidated in the courts; this was teaching investors not to rely on connections for sales but on the law. As of 2013, disputes had increased on the sale and purchase of existing private parcels, but litigation was a positive development in clarifying ownership rights. Likewise, the *gradozashchitniki* were contributing to more secure property rights by demanding that public interest be considered more consistently and transparently during selection of projects under the General Plan, which should reduce arbitrary decisions. In the past, the interpretation of the General Plan by municipal government raised risks for investors because implementation was on a case-by-case basis, and predictability was important for investment decisions.

At the instruction of Governor Poltavshchenko, who was appointed in late 2011, City Hall imposed an informal moratorium on land auctions as part of an effort to revise the General Plan and improve land governance. The specific goals were to: i) enable the municipality to introduce more fiscally-affordable methods to manage infrastructure related to land investments; ii) address public tensions over density and green space, linked to allegations over previous misuse of land; and iii) demonstrate that, once revised, the General Plan would be taken more seriously than in the past, when industry got used to lax interpretation of zoning requirements. As of August 2013,

¹²⁹ Interview July 30, 2014, St. Petersburg, Russia. Kalinin has been a prominent participant and observer of St. Petersburg land and real estate development since the mid-1990s. This paragraph summarizes his views.

2000 applications for land auctions were being held up while decisions were reached on such issues as cost-sharing by the public and private sectors for infrastructure (roads, power, water and sanitation) in major complex projects that were needed for territorial development.¹³⁰

The chair of the legislative committee on land, Sergei Nikeshin, agrees that adoption of a serious General Plan that attracted private investment while meeting infrastructure needs was an urgent priority. At the same time, he believes that any new regulations must apply equally to all landowners and real estate developers, regardless of their size or market power. The largest landowners wielded the most power and had more negotiating power with City Hall on financing of infrastructure for urban development projects. Change required strong political will from the Governor's office to overcome large bureaucratic interests for projects¹³¹ and a more active legislative branch, which could not keep pace with fast-moving markets. Finally, he said, legal vehicles were needed to empower the community of landowners to be both responsible for property as well as to know the boundaries of ownership. Not all political decisions should be motivated by the interests of landowners.¹³²

4. *Conclusions*

Two decades of contradictory land privatization policies in St. Petersburg established and perpetuated a course of incremental institutional change. Early privatization policy choices created a secondary real estate market that operated in parallel to a primary market dominated by large industries with connections to city authorities. One side competed in private markets; the other

¹³⁰ Babiner and Kalinin, *op. cit.*

¹³¹ According to Maxim Kalinin, the most influential actors in St. Petersburg land markets are the Committee on Industry and Investment (of the City Government) and related large enterprise unions rather than small business and its representative, OPORA. Interview July 30, 2013.

¹³² Nikeshin noted that, as a result of the oligarchic overtones in the market, "time will tell whose interests Yeltsin and Putin were protecting when advocating urban land privatization."

“worked in the old soviet system of administrative allocation of state land.”¹³³ Failure to reform the General Plan froze the St. Petersburg urban landscape as effectively as its northern latitude. With the opening of the secondary market, however, new landowners could begin to invest in more efficient land uses.

The motivation for rapid land privatization during brief windows in 1994-96 and 2000-2005 oscillated with fiscal imperatives and political interests, largely in line with the theory of predatory rule. Mayor Sobchak was ideologically inclined to privatization and encouraged land purchases by using the lowest price allowed by law in 1995. He started to raise land taxes to capture rising land values just when the budget surplus swung deeply into deficit in 1996. Governor Yakovlev then raised the land tax above the lease rate in 1997 and erected administrative barriers to land sales, creating incentives for leasing that provided a stream of rents. When this strategy worsened the investment climate and the budget deficit, he initiated a new land privatization strategy that Governor Matviyenko followed until the fiscal crisis abated. With her career increasingly dependent on President Putin, her tendency was to make exceptions to land rules for large projects that benefited political interests.

Never during the two-decade period were political authorities, all sides of the bureaucracy, and society aligned on land privatization policy. While political authorities promoted land privatization early in the 1990s, the bureaucrats resisted it; after 2001, conditions reversed, with political authorities resisting privatization for all but state-controlled industries, while bureaucrats promoted faster registration of property rights by firms and citizens. Public participation in the 1990s focused on strategic planning more than urban land rights, but this experience contributed

¹³³ V.N. Miagkov, *Otsenka iavnykh i kosvennykh transaktsionnykh zatrat pri investitsiakh v nedvizhimost' i stroitel'stvo. Sravnitel'nyi analiz regionov*, Mezhdunarodnaia konferentsiia 'Zemel'naia reforma i razvitie rynkov nedvizhimosti v Rossii.' Lincoln Institute of Urban Affairs and Leontief Center, St. Petersburg, 2002. *Mimeo*.

to greater public input in the 2000s, and an exceptional victory in 2009 demonstrated that the public interest could influence decision-making on urban land use.

As of 2013, the stimulus provided by public activism and the response of political authorities are positive developments that hold promise for improvements in land governance. The alignment among political authorities, the bureaucracy, and citizens is strengthening in favor of institutional change in urban land rights. Private transactions in land are increasing and the municipal government is reducing its role in land markets.¹³⁴ If this trend continues, institutional change may accelerate, leading to more competitive private land markets, and a more dynamically-developing urban environment.

¹³⁴ From 2009-2012, the number of transactions by citizens and firms increased from 1,856 to 2,734, while municipal land transactions declined from 1,879 to 1,534. Ministry of Economic Development of Russian Federation and the Federal Service for State Registration, Cadastre and Cartography (Rosreestr). "Gosudarstvennyi doklad o sostoianii i ispol'zovanii zemel' v Rossiiskoi federatsii v 2009 godu." (Moscow, 2013), 246-47 and (2012), 244-45.

Chapter 7 Kazan: A Case of Rapid Institutional Change

In the early 1990s, it would be difficult to predict that Kazan would become an outstanding case of rapid institutional change. The high rate of urban land privatization in Kazan is surprising for two reasons. First, urban land in Kazan, the capital of the Republic of Tatarstan, was neither seen as an asset nor as a priority for privatization in the 1990s. Rather, Kazan possessed extremely valuable industrial assets, including the Kamaz truck factory and an advanced aviation and military complex dating from the 1940s.¹ As a closed city dominated by a military-industrial complex that was run out of Moscow, the concept of value in municipal land did not exist.² Second, like other municipalities, Kazan lacked autonomy as a self-governing community; it was administratively delimited but financially and politically under the authority of the Republic of Tatarstan. Even had the Mayor of Kazan wanted to initiate privatization of land or of industrial assets, as did Mayor Sobchak in St. Petersburg, he was not empowered to do so.³

How Kazan transitioned from a closed city shaped by its national security assets to a case of rapid institutional change based on privatized land assets is the subject of this chapter. Kazan benefited from the fiscal and political autonomy of the Republic of Tatarstan in the 1990s, which increased the security in office of its leader, President Shaimiev. Kazan also gave birth to a land market in the 1990s as the unintended consequence of a program to eliminate dilapidated housing

¹ Tatarstan possessed over 1000 industrial, transport and agricultural industries when the Soviet Union collapsed. Julia A. George, *The Politics of Separatism*, (Palgrave MacMillan, 2009), 64. In Kazan, 25-25% of manufacturing employment was in the military-industrial complex in 1991. Nadir Kinossian, "Urban entrepreneurialism' in the Post-socialist City: Government-led Urban Development Projects in Kazan, Russia." *International Planning Studies*, Vol. 17, No. 4 (November 2012), 337.

² Airat Rafkatovich Nurutdinov, Advisor to the President of the Republic of Tatarstan, Interview, Kazan, Tatarstan, Russian Federation. July 3, 2014.

³ Kazan had no local self-governing experience until after the adoption of Federal Law № 131-FZ dated October 6, 2003, "On Key Principles of Local Self-Governance in the Russian Federation," (World Bank, 2007). Implementation Completion and Results Report (Loan/Credit No: 47660) on a Loan in the Amount of US\$125.00 Million to the Russian Federation for a Kazan Municipal Development Loan. Report No: ICR0000556.

from the city center. Consistent with the predatory rule theory, Kazan's municipal finance crisis after 2003 triggered a decisive acceleration in land sales. But the key distinguishing feature of Kazan compared to other cases in the study is that political authorities and the bureaucracy pursued consistent policies and actions in support of urban land privatization. The chapter follows the structure of the land governance model in detailing how this alignment occurred in the two periods under review.

1. *The Land Governance Model in Kazan, 1990-2000*

a. *Political Authority and the Legal Order, 1990-2000*

The political and legal environment for institutional development of land rights in Kazan was shaped by President Mintimer Shaimiev's success in achieving political autonomy for the Republic of Tatarstan, and subsequently, in laying the legal and regulatory foundations for private land ownership.

In 1990, the Republic of Tatarstan audaciously declared its independence from the Soviet Union, marking the beginning of a three-year political negotiation that ended in a formal treaty of autonomy within the Russian Federation in 1994. President Shaimiev, then a respected communist official and leader of the largest non-slavic ethnic group in Russia, engaged in an artful battle of wits with Boris Yeltsin that included refusal to sign the federation treaty in 1991, official non-participation in the June 1991 election that elevated Yeltsin to President of Russia, and sponsorship of a referendum on state sovereignty in 1992. The referendum resulted in adoption of a constitution that associated the sovereign state of Tatarstan with the laws of the Russian Federation and gave citizens of the republic the right to Russian citizenship. "The referendum and

constitution, both significant and fairly assertive separatist acts, were mechanisms to ensure serious and rewarding negotiations with the Russian government over the status of Tatarstan.”⁴

The consolidation of political authority within an autonomous republic shaped federal-republic relations and internal policies. From the perspective of federal relations, the negotiations resulted in specific agreements to the fiscal benefit of Tatarstan, including the full income from the proceeds of privatization and tax revenues from sales of oil and gas. In contrast, in the Soviet period, less than 3 percent of Tatar industrial income accrued to the republic. From an internal perspective, the referendum on sovereignty revealed an urban-rural divide that could potentially disrupt stable political development. Predominantly rural and ethnically Tatar citizens overwhelmingly voted for sovereignty while a majority of the urban and ethnically Russian population voted against.⁵ Over time, Shaimiev developed policies on land reform that rewarded each of these constituencies with private land rights, giving them a stake in the stability of the republic.

Two key decisions in the 1990s set Kazan on a path to becoming a leader of urban land privatization in Russia. First, in 1995, Shaimiev declared a program to relocate all residents living in dilapidated housing in the city center of Kazan. These citizens, largely ethnic Russians, received new housing within or near the city borders for free. As will be noted, this decision was highly consequential for the development and privatization of urban land in Kazan. Second, Tatarstan adopted a progressive land code in 1998, well before passage of the Land Code by the federal Duma in 2001, which notably allowed privatization of land even for agricultural use. As a member of the Federation Council, Shaimiev thus aligned the republic with the federal land

⁴ Julie A. George, *The Politics of Ethnic Separatism in Russia and Georgia*, (Palgrave Macmillan, 2009), 61-64.

⁵ George, *The Politics of Ethnic Separatism*, 68.

privatization policies advocated by President Yeltsin, and staked out a progressive national leadership role on the contentious topic of land privatization.

i. Program to Liquidate and Reconstruct Dilapidated Housing (1995)

The dilapidated housing program in Kazan derived from social needs and political necessity. Distinct from Moscow and St. Petersburg, which were partially evacuated during World War II, Kazan received industrial plants relocated from cities closer to the front. These industries were placed in the city center along with evacuated factory workers, scientists, musicians, writers, and artists. After the war, Kazan consolidated as an industrial, scientific and cultural center, and the population increased steadily. Communal housing in the city center became overcrowded and deteriorated into slums with the onset of economic crisis in the early 1990s.

In July 1991, when the Supreme Soviet of the Russian Federation decided to privatize the nation's housing stock, followed by similar legislation in Tatarstan in 1993, it fundamentally changed the role of the state in the housing sector.⁶ Difficult legal issues arose, particularly in the military-industrial complex in Kazan, where companies privatized or went bankrupt but left dilapidated housing assets in the unwilling hands of municipal authorities. Whereas the national legal framework envisioned a single family taking ownership of an apartment or home, in the center of Kazan, multiple families shared dormitories (*obshchezhitia*) that could not be privatized easily.⁷ Having inherited property that was depreciated beyond repair, the Kazan authorities still

⁶ Adel' Raisovich Valeev, 2012. *Zhilishchnoe stroitel'stvo v Tatarstane v 1990-2000-gg: istoriko-pravovoi aspekt*. Dissertatsii na soickanie uchenoi ctepeni kandidata istoricheskikh nauk. Institut Tatarskoi entsiklopedii Akademii nauk Respubliki Tatarstan. Kazan', Republic of Tatarstan, Russian Federation, 3, 20-21.

⁷ Valeev, *Zhilishchnoe stroitel'stvo*, 21.

needed to fulfill national and regional laws by improving living conditions while allowing families the opportunity to privatize their residences.

The solution came in the Program to Liquidate and Reconstruct Dilapidated Housing in Kazan (1995-2002), authorized by the Kazan Council of People's Deputies on November 1, 1995, following a decree by President Shaimiev for a republic-wide program.⁸ After completing a detailed analysis of the affected families, the Council approved: i) work by the City Administration to establish a legal basis for the program; ii) mechanisms for funding it, including through attraction of foreign investment; iii) an object-by-object engineering and construction plan, and the quarter-by-quarter project development schedule including communication and communal services.⁹ Uniquely for Tatarstan, the program involved the resettlement of 50,000 families, primarily through demolition and construction of new housing rather than rehabilitation.

The unintended consequence of the program was to free up large areas of land in the city center that municipal authorities enhanced with infrastructure and communal services, thereby stimulating a new private industry in housing construction.¹⁰ As in the rest of Tatarstan, the Kazan program "joined the interests of industry, investors, municipal authorities, and citizens...Housing construction inevitably led to the development of different industries and to the financial-credit field in Tatarstan."¹¹ The allocation of new housing to resettled families, for free, reflected an extreme choice in the 1990s, whereas public-private partnerships are now considered more

⁸ *O merakh po ulusheniyu zhilishchnikh uslovii prozhivayushchikh v vetkhom zhilishchnom fonde i rekonstruktsii kvartalov vetkhovo zhil'ya* [insert decree number]

⁹ Kazanskii Soviet Narodnyi Deputatov. 1996. "O Programme likvidatsii vetkhogo zhilogo fonda i rekonstruktsii kvartalov vetkhogo zhilya v g. Kazani" 30 oktyabrya 1996 g. N 1-5 <http://docs.cntd.ru/document/917004315> Downloaded 9/5/14

¹⁰ Vladimir Ivanovich Gritskikh, Interview, Kazan, Republic of Tatarstan, July 2, 2014.

¹¹ Valeev, *Zhilishchnoe stroitel'stvo*, 23.

appropriate, to share costs and risks.¹² The effect, however, was to give the poorest residents a stake in the new political and legal order in the form of property rights.¹³

The dilapidated housing program distinguished Kazan from both Moscow and St. Petersburg, where industrial land existed within city limits, but not slums in the historic city center. In contrast, as described by an advisor to the program, “Dormitories had been built for working families from livestock stables and in 19th-century buildings, but no one minded at the time because the first priority was to end the war. After forty years these deteriorated into unlivable slums, with one family per room, no internal plumbing, and latrines on the street.”¹⁴ Fortuitously, the timetable for reconstruction happened to coincide with the celebration of the Kazan millennium, to take place in 2005. As noted by President Shaimiev, “Kazan has been turned into a large-scale building site, and it is very important that we are finishing the dilapidated housing program by Kazan’s 1000th anniversary.”¹⁵ The millennium enabled the city to attract huge federal funds that were invested in construction, infrastructure and innovation, especially in the historic center of Kazan.¹⁶

As another unintended consequence of the dilapidated housing program, land became traded as a commodity, and the beginnings of a land market appeared. “At that time, no one considered land as an asset,” noted Vladimir Gritskikh, then an advisor to the program. “It was seen in the framework of Soviet economics. There were no borders to the land plot; banks did not

¹² Institute of Urban Economics, *Effective Models and Instruments Of Municipal Administration*, (December 2005). https://www.google.com.tr/?gfe_rd=cr&ei=KeGvU-TrJqy18QenyoG4CQ&gws_rd=ssl#q=institute+of+urban+economics+kazan downloaded 6/29/14. See section on “Privately Financed Renovation And Development Of Construction Projects In Place Of Demolished Dilapidated Multifamily Housing With Resettlement Of Citizens To Suitable Dwelling.”

¹³ Gritskikh advocated partial payment by the residents when the program was developed, to instill responsibility for property ownership. He continues to feel that the free transfer was a mistake.

¹⁴ Gritskikh, interview.

¹⁵ Mintimer Shaimiev, “Kazan to have a Renewed Historical Center and Underground by its 1000th Anniversary,” Interview with Interfax on Official Website of the President of Tatarstan, August 5, 1999. <http://shaimiev.tatar.ru/eng/pub/view/867>

¹⁶ Rustam Kamil’evich Nigmatullin, First Deputy Director of the Executive Committee of the City of Kazan, Interview. Kazan, Tatarstan, Russian Federation. July 1, 2014 and Gritskikh, interview.

use it for collateral. Land was space to be mined or cultivated. Only the structure on it – the factory or building – was considered a hot asset.”¹⁷ A land market developed organically, according to Gritskikh. “First, land was provided to developers by the city in exchange for a share of built apartments. The city would receive rent from the apartments in compensation for the land. Later, developers saw it was more profitable not to make this exchange. Instead, the developers decided to buy the land from the city and to determine the rent for the real estate, both land and buildings. The city administration began to see that the land had value, apart from the structures on it, and that the exchange process was becoming corrupted. The city administration also feared making mistakes. Was it right to receive payment for land in the form of apartments? Perhaps it was so valuable the city should ask for much more than 10% of apartments built in exchange? The desire of both sides (developers and municipal authorities) to fix the right price led to trading of land as a market commodity. Later, banks started using land as the basis for financing development, putting land into use for finance.”¹⁸ The development of the land market was an unintended consequence that in turn became fundamental to the success of the dilapidated housing program. As noted by Rustam Nigmatullin, then in charge of [x], “In Samara, in contrast to Kazan, it was not economically profitable to resettle citizens from the barracks to new houses financed by the city. In Kazan the market enabled us [the city administration] to do that.”¹⁹

The growing recognition of the value of urban land stimulated demand for a legal and regulatory environment to manage land as a municipal asset. Municipal land had never been traded like a commodity; at the national level in the mid-1990s, there was no cadastral or registration law to determine demarcation and ownership, and no land or civil code to guide the buying and selling

¹⁷ Gritskikh, interview.

¹⁸ Gritskikh, interview.

¹⁹ Nigmatullin, Interview.

of land. Once an enterprise had been privatized or sold off, particularly in the military-industrial complex, it was not known what to do with the land, because at that time, there were no clear borders, and it was not clear who was the owner.²⁰ The city then became preoccupied with the legality of using land plots with unclear borders for sale or lease. Gritskikh credits Rustam Nigmatullin with actively laying down a regulatory system for cadastral accounting: “the appearance of strictly-delimited borders suppressed conflict and enabled the market to work more effectively. In this manner, land became an operational asset.”²¹

ii. Adoption of Tatarstan Land Code (1998)

As an early supporter of progressive land reform laws, President Shaimiev represented a staunch ally to President Yeltsin during Duma debates on the federal land code. In 1997, Yeltsin vetoed the first version of the land code passed by the Duma and Federation Council because it did not allow for the development of a free market to buy and sell land. When the Duma passed a revised version in April 1998 that would also encumber land markets, he counted on supporters such as President Shaimiev in the Federation Council to block the advance of the bill.²²

Land reform was both a personal and an economic issue for Shaimiev. His first motivation was to transform rural Tatarstan and the agricultural economy, where he spent his youth and early professional life. Nevertheless, he understood the connection between the rural and urban economies. For Shaimiev, land represented “my joy, my hope, and sometimes my pain.” To put it briefly, he said, “Land is everything to me. Land is the basis of life...it is the moral beginning of mankind.” There were two critical issues, however, that he believed Russia needed to address.

²⁰ Gritskikh, interview.

²¹ Gritskikh, interview.

²² Jamestown Monitor. April 23, 1998. “Duma Passes Revised Land Code.” Volume: 4 Issue: 78.

http://www.jamestown.org/single/?tx_ttnews%5Btt_news%5D=17588&tx_ttnews%5BbackPid%5D=212&no_cache=1 downloaded 9/5/14

First was that in developed countries, land had a real owner, with private land rights. From this arose the second issue: a well-functioning market mechanism for agriculture in trade relations between village and town.²³

In the long absence of a federal land code, regional legislation on acquiring land was enacted over a number of years in the regions where the regional administration allowed land ownership.²⁴ Five Russian regions (Kaliningrad, Primorske, Saratov, Samara, and Tatarstan) enacted their own land codes and took the position that they could sell all kinds of land, including agricultural land, into private ownership.²⁵ At the direction of President Shamiev, Tatarstan began to develop a legal framework for land market relations in both urban and rural areas. The framework included five laws: a land code, a law on land reform, a law on payment for land, a law on the farm economy, and a law on the administrative responsibility for infringement of land legislation. As he said, “while in many regions all around Russia there are debates about the fate of land as society is reformed, while various draft laws about land “amble” around the Ring Road in Moscow, in Tatarstan today we are working with full force on five laws.”²⁶

The adoption of a progressive land code in Tatarstan in 1998 set a high standard for the national land reform process.²⁷ The first region to pass a land code, Saratov, restricted the purchase of land to Russian citizens. Tatarstan’s Land Code went further by allowing foreign nationals and companies to buy land.²⁸ At the same time, many cities throughout Russia did not allow owners

²³ Shamiev, “Kazan to have a Renewed Historical Center,” August 5, 1999.

²⁴ Institute of Urban Economics (IUE), December 6, 2011.

²⁵ Foreign Investment Advisory Service (FIAS) of the World Bank and IFC. *Business Location Decisions in Russia*. Report no. 32704, (Washington, D.C., 2001), III-9.

²⁶ Mintimer Shamiev, “Zemlya u nac na vcekh odna,” *Respublika Tatarstan*, 156 v 157 (23933-23934), August 5, 1999

²⁷ The Federal Land Code passed in 2001 supersedes all regional codes, though when issues are not stipulated in the Federal Code, local authorities may refer to their own land policy for resolution. (IUE, December 6, 2011)

²⁸ Jamestown Monitor. April 16, 1998. “Tatarstan Legalizes Free Sale of Land Sale and Purchase.” Volume: 4 Issue: 73

of buildings to obtain ownership rights of the underlying land, despite federal law to the contrary. Occasionally, cities would permit enterprise land privatization but then obstruct the process.²⁹ In Tatarstan, privatization of premises and land went together, starting with auctions where appropriate.³⁰ The Tatarstan Land Code also empowered municipalities to implement regulations to enable the purchase and sale of land and required them to follow federal legislation in all respects, including on land use planning and development and on encouragement of registration of land for all owners of buildings.³¹

Distinct from other regions at the time, the Tatarstan Land Code also aimed to attract both foreign and domestic investment. “Why throughout all Russia is Tatarstan considered a more favorable region for investment?” President Shaimiev asked rhetorically in an interview. “Because in the republic there is the beginning of action on land ownership. This goes beyond the political and social-economic stability that is being preserved in Tatarstan.”³² The abundance of black-earth agriculture represented an important target for foreign investment, against the strong opposition of the Communist and Agrarian parties. While development of urban land rights took longer to develop, the task of forming land parcels for private ownership in agriculture was seen as critically important.³³ Shaimiev challenged the assumptions of Russian politicians both on privatization of agricultural land and on the benefits of private land to attract foreign investment. For Shaimiev, it was clear that land relations were at the heart of foreign investment, and that the separation of land

http://www.jamestown.org/single/?tx_ttnews%5Btt_news%5D=17642&tx_ttnews%5BbackPid%5D=212&no_cache=1 downloaded 9/5/14

²⁹ FIAS, *Business Location Decisions in Russia*, III-9.

³⁰ Administration of President of Republic of Tatarstan. November 11, 1999. “Glavnyi kriterii – interesy naroda.” <http://shaimiev.tatarstan.ru/pub/view/643> Downloaded 9/6/14

³¹ Gosudarstvennyi Sovet Respubliki Tatarstan, Zemel’nyi Kodeks Respubliki Tatarstan of July 10, 1998 no. 1736 with the amendments of January 12, 2013. [Land code of the Republic of Tatarstan]. http://rosreestr.tatarstan.ru/rus/file/pub/pub_194541.docx.

³² Administration of President of Republic of Tatarstan. August 13, 2004. “Kazan to have a renewed historical center and underground by its 1000th anniversary.” <http://shaimiev.tatar.ru/eng/pub/view/867>

³³ Gritskikh, interview.

and buildings represented a serious problem in Russia. Investors would not put their funds where they could not put their feet – on the ground where they owned property.³⁴

In summary, President Shaimiev provided enlightened leadership on a highly contentious issue during a period when land privatization faced stiff opposition throughout Russia. Based on Shaimiev's understanding of the value of private land ownership for economic development, it is noteworthy that Tatarstan did not follow the path of either Moscow or St. Petersburg in rapidly privatizing or leasing land in the 1990s, particularly for industrial enterprises.³⁵ Rather, the Republic and capital city followed a steady and gradual path of enterprise land privatization, preceded by a formative period of legislative and regulatory development.

c. Bureaucratic Organization and Performance 1990-2000

The general understanding by scholars of relations between republican and municipal authorities in Tatarstan during the first decade of the post-Soviet period is that:

successful rent-seeking bargaining of the regional elite with the federal Center contributed to its organizational unity around the leadership of the President of Tatarstan, Mintimur Shaimiev. Under these circumstances, agents of local government did not emerge at all. Local government in the region turned into local branches of regional government, and city mayors were simply appointed (and dismissed) by Shaimiev. No organized municipal opposition to Shaimiev was established in Tatarstan, and rebellions by city mayors were quashed without serious resistance.³⁶

Clearly, Shaimiev exerted executive leadership on matters that involved the capital city. At the same time, without the development and implementation of land regulations by responsible municipal executive officers and bureaucrats in Kazan, it would not have been possible to transform urban land into a valuable asset. Moreover, several actions taken by municipal

³⁴ Shaimiev, August 5, 1999, Op. cit.

³⁵ The link between the pace of enterprise land privatization and Shaimiev's policies on state-led capitalism deserves further investigation, but is beyond the scope of this dissertation.

³⁶ Vladimir Gel'man, "In Search of Local Autonomy: The Politics of Big Cities in Russia's Transition," [International Journal of Urban and Regional Research](#), v. 27, issue 1, (March 2003), 52.

authorities contest the proposition that agents of local government did not exercise autonomy in Kazan.

Several efforts to put order into land relations began in the 1990s at the initiative of municipal agencies. The Land Inventory was initiated in 1993 by the City Land Committee, one of the first to do so in the country, and the requirements of the market after the start of the dilapidated housing program accelerated the process.³⁷ Likewise, following the renovation and opening of the city center in 1995, cadastral boundaries and an accounting of city land began in earnest.³⁸ Regulations were developed for zoning and to manage land use, stimulated by the beginnings of a market for real property. Kazan was one of four cities to put the generic concepts of the Town Planning Code of the Russian Federation (№ 73-FZ, dated May 7, 1998) into concrete regulations based on a law adopted by the local parliament. The federal code was later amended in 2004, based on experience in Kazan and other advanced municipalities.³⁹ By being one of the first cities to adopt the Town Planning Code in 1998, the city engaged the local parliament to address gaps that affected the development and building process.

Nevertheless, the development of a dynamic market was initially not easy to regulate, according to city officials involved in the process at the time. The process gave rise to the so-called “landlords” with direct ties to the municipal land and property management administration, who received the “sweetest” deals.⁴⁰ It also demonstrated to the President that the construction industry was good for the economy, allowing him to intervene actively in the emerging market.⁴¹

³⁷ Nigmatullin, Interview, and Land Code of the Republic of Tatarstan, July 10, 1998, № 1736

³⁸ Gritskikh, Interview. He credits Nigmatullin with completing the work on the cadastral inventory.

³⁹ Alexander Pusanov, *Development of the Real Estate Rights System in Russia*, (Institute of Urban Economics, Moscow, Russia), 9.

⁴⁰ Gritskikh, Interview.

⁴¹ *Ibid.* An example of Shamiev’s interest in the construction industry is the creation of the TAIF investment company in the Kazan Kremlin with participation of President Shaimiev in February 1996. Its subsidiary building company, Meta-TAIF, founded in June, 1996, “actively participated in the implementation of the President’s Program of liquidation of dilapidated habitation,” according to the TAIF website.

Over time, “developers learned it was equally profitable to build housing in greenfield sites further from the city center where land lots were less expensive and easier to acquire, with less bureaucratic interference. People flocked to buy them.”⁴² Questions also arose regarding who was benefiting the most from the land privatization process. Evidence became available through an open-source data base developed by the local cadastral administration that identifies the holdings of the top landowners in the republic and capital. “Today there is limited interest in such research, since it would reopen questions about the accumulation of the initial shares and the acquisition of property.”⁴³

Municipal agencies in Kazan stepped into a void to establish a regulatory framework for land relations. It is important to recall that the federal law on registration of property was adopted only in 1998, and in that one year, responsibility for land cadastral boundaries and registration shifted three times among federal agencies. In contrast, during the same decade, republican and municipal agencies in Kazan such as the Committee on Land and Property Relations and the Land Committee were advancing rapidly in putting the foundations of a land planning and use rights system in place. The adoption of a regulatory framework increased the appreciation of municipalities and enterprises for land rights, laid a precise basis for cadastral valuation of land plots, and formed the basis for land taxes.⁴⁴ The bureaucrats, seeing the market demand, and recognizing the legal vacuum, rising conflicts over ownership, and concerns of society, tried to step in with a framework to manage the process according to rules. “Thus, together with the

⁴² Gritskikh, Interview, op. cit.

⁴³ Airat Rafkatovich Nurutdinov, Advisor to the President of the Republic of Tatarstan. Interview, Kazan, Tatarstan, Russian Federation. July 3, 2014.

⁴⁴ Shaimiev, “Zemlya u nac na vcekh odna,” *Respublika Tatarstan*, 156 v 157 (23933-23934), August 5, 1999

market, there appeared legislation, and regulations. Throughout all the eccentricities of our market, it acquired a more or less civilized appearance.”⁴⁵

d. Public Participation in Decision-Making, 1990-2000

Due to the political structure of Tatarstan in the 1990s, there were limited opportunities for the legislature and civic organizations in municipalities to participate in decision-making on contentious issues. Out of 130 candidates that President Shaimiev supported for the 1999 elections to the State Council, 109 were elected, creating a parliament that largely rubber-stamped executive initiatives. Heads of local governments were also heads of local parliaments. Representation in the State Council was largely skewed to rural areas. The city of Kazan, with almost 800,000 voters in 1995, had the same representation as Zainsk, a town of under 30,000.⁴⁶

At the same time, the parliament of Kazan was deeply engaged in the regulatory and legal framework of the program to eliminate dilapidated housing, having drawn up a list of each member of 50,000 families and the year and location to which each family would move. “The local parliament is so to say closer to the people, and of course there was a common interest [in the program] since a long period of administrative management [of property] caused some gaps. This was ineffective. Land Administration only partially covered the legal sphere,” and thus, “the appearance of the [Tatarstan] Land Code alleviated contentious issues with respect to ownership.”⁴⁷

⁴⁵ Gritskikh, interview.

⁴⁶ Midkhat Farukhshin, “Tatarstan: Syndrome of Authoritarianism,” in Cameron Ross, ed. *Regional Politics in Russia*, (Manchester University Press, 2004), 196-98.

⁴⁷ Nigmatullin, interview.

While the dilapidated housing program created a land market in the capital, it also aroused civic awareness around historic preservation. Motivated by the market, developers found it cheaper to demolish property of historic significance and to rebuild rather than to restore old buildings. A journalist and historian, Olesya Baltusova recalled in 2011 how the program in the 1990s stimulated her interest in defense of the city's cultural heritage:

The story of the loss of the historic look of our city and how we looked after our own roots dates from the past, already in the 1970s. But when, before the 1000-year event, we lost the slums together with the historic monuments, we lost all our ancient architecture. Tel'man street went, from which the Kazan scholar Bulat Galeev had proposed to create a museum street, where tourists could visit for payment. What a place that would have been for excursions! But then I was young, studying at the university. Many of those who fought then for the city's heritage don't want to hear about it: they are disappointed with everything.⁴⁸

Just as in St. Petersburg, while civil society was initially relatively detached from urban development in the 1990s, the arousal of civic interest in historic preservation created the conditions for a greater public role in decision-making in the next decade.

In retrospect, the 1990s in Kazan was a period of *preparation* for land privatization. From the perspective of the predatory ruler, the city was not in a hurry. The President of the Republic was secure in office based on the sovereignty treaty with the Russian Federation. Tatarstan and its capital could take a long-term perspective to develop both land privatization policy and fiscal revenue sources.

Nevertheless, Tatarstan compared favorably with the other case study cities and national performance. As noted in Table I, by the year 2000, only 1.8% of urban land across the Republic of Tatarstan was owned by enterprises compared to 4.7% in St. Petersburg, where Mayor Sobchak openly advocated industrial land privatization. Nevertheless, both cities compared favorably to

⁴⁸ Olesya Baltusova. Interview by TatCenter on April 10, 2011, "Kogda pered Tysyaletiem v Kazani snosili pamyatniki, zhal', chto ya byla malen'kaya." <http://info.tatcenter.ru/article/106304/interview4/10/2011> downloaded 8/24/14

the national average of a 0.6% enterprise land ownership share. St. Petersburg exceeded the national average by 8 times; Tatarstan by 3 times. The situation is reversed for citizen ownership, where at 1.2%, St. Petersburg lagged significantly behind the national average of 6.2%, while social housing programs in Kazan and across Tatarstan catapulted citizen ownership above that of St. Petersburg and the nation to 8.8%.

The early investments made by Kazan in the formation of land governance institutions provided fertile ground for faster urban privatization and deeper land market development after adoption of the federal Land Code in 2001. As discussed in the next section, this outcome required the alignment of executive authorities, bureaucrats and citizens in favor of policies to privatize land.

Table 1. The Structure of Land Ownership in Selected Regions
(2000-2010)

Land area	Urban land in thousand hectares			Urban Land by Ownership Share (%)								
				Citizens			Legal entities			State and municipalities		
	1.1.00	1.1.05	1.1.10	1.1.00	1.1.05	1.1.10	1.1.00	1.1.05	1.1.10	1.1.00	1.1.05	1.1.10
Russian Federation	7645	7945	7964	6.2	6.2	7.8	0.6	1.4	3.1	93.2	92.4	89.1
Moscow City	109.1	109.1	109.1	-	-	0.1	-	-	1.9	100	100	98
St. Petersburg	139.9	139.9	139.9	1.2	2.1	3.8	4.7	11.1	13.5	94.1	86.8	82.7
Republic Tatarstan	112	122.3	154	8.8	9.8	10.7	1.8	6.2	14.6	89.4	84.0	74.7

Data are not disaggregated at the municipal level by Rosreestr. For the purposes of this table, Tatarstan is taken to represent the ownership structure of Kazan, which at 61,300 hectares is 40% of the Republic urban area in 2010. As discussed in the conclusions section, based on land tax data, it is likely that Kazan has a higher rate of privatization than other municipalities in Tatarstan. Data in the table is derived from Zemel'nyi Fond Rossiiskoi Federatsii of January 1, 2000; Goskomitet po zemel'noi politike RF 2000: 4-6, 178-183; Zemel'nyi Fond Rossiiskoi Federatsii of January 1, 2005; Rosnedvizhimost' 2005: 42-49, 245-247; Zemel'nyi Fond Rossiiskoi Federatsii of January 1, 2010 ; Rosreestr 2010: 247-249.

2 The Land Governance Model in Kazan, 2001-2013

a. Political Authority and the Legal Order, 2001-2013

Political and fiscal exigencies motivated the Kazan municipal authorities to manage the city's land and property assets more actively and profitably after 2002. Politically, the Republic of Tatarstan lost sovereignty to the Federal Government while Kazan gained autonomy as a self-governing municipality; fiscally, the Republic remitted a higher share of its revenues to the Federal Government while Kazan received fewer subsidies from the Republican Government. Thus, just as Kazan was gaining political autonomy, it was losing income, putting municipal finances under severe pressure. These developments coincided with the celebration of the Kazan Millennium and contributed to decisions that accelerated the rate of municipal land privatization.

A primary political objective of the first Putin presidency was to restore the 'vertical' of power between Moscow and the regions. In line with his policy to recentralize authority, President Putin sought to renegotiate the special status that Tatarstan had received from President Yeltsin. Shaimiev had supported Putin in March 2000 election, delivering 70% of the Tatarstan vote.⁴⁹ As part of the negotiations with Putin, Shamiev struck a bargain: in return for re-entry of Tatarstan into Russian legal and fiscal systems, the Federal Government had to adopt a targeted program for the social and economic development of Tatarstan, including funds to prepare for Kazan's Millennium celebration. As Shamiev later reported to the Kazan City Council, "Effectively, the federal grant was compensation offered to the Republic for the renunciation of its claims of state sovereignty."⁵⁰

⁴⁹ Farukhshin, "Tatarstan: Syndrome of Authoritarianism," 196.

⁵⁰ Kinossian, "Urban Entrepreneurialism," 341.

As part of the recentralization process, Putin revised the system of intergovernmental fiscal relations and adopted a new budget code, which had a cascading effect down to Kazan's municipal finances. Tatarstan began to provide a higher rate of subsidy to the federal budget, and within Tatarstan, the share of taxes received by Kazan declined. The federal grant program negotiated by Shaimiev consisted primarily of block grants for capital investments such as public transport and urban renewal; it did not cover recurrent expenditures to run the city. Kazan began to run a deficit in 2002-2003 that reached 2.4 billion rubles (US\$80 million) by 2004, putting municipal finances at risk.⁵¹

The revision of intergovernmental fiscal relations corresponded with preparations for the Kazan Millennium, which was partially funded from the Special Federal Program for the Preservation and Development of the Kazan Historic Center (2001–2005). The budget for the program was 64.93 billion RUB (or approximately US\$2.19 billion), to be funded by federal (30%), republic (30%), city (9%) and other funds. This dwarfed city revenues of 3.66 billion RUB (or approximately US\$0.12 billion) in 2001. Consistent with several large public investment programs in Russia, the design and number of subprojects exceeded fiscal reality. By June 2005, just before the Millennium celebration was to begin in August, the Deputy Mayor announced that the program had only received half of the expected funding.⁵² The city had already reduced the number of projects and begun to sequester the budget, but it was still not sufficient.

The period of fiscal stress also coincided with Kazan's transformation from an administrative unit of the Republic to a self-governing municipality in 2004. Until that time, all state property in the city belonged to the Republic of Tatarstan; it was held in trust and managed by city units that were subordinate to regional ministries and agencies. Now, Kazan was

⁵¹ World Bank, ICR for a Kazan Municipal Development Loan, 3.

⁵² Kinossian, *Urban Entrepreneurialism*, 338-9.

responsible for managing both its finances and property assets. With a fiscal deficit equal to about three-quarters of its 2001 revenues, Kazan wanted to reduce its dependence on transfers from higher government levels and implement the “Kazan Development Strategy to 2015,” adopted in April 2003, that was designed with all agencies and the public at large.⁵³

As part of its strategy to gain control over municipal finances, the city decided to increase the rate of land privatization and to improve the management of property assets. From 2003 to 2005 land was actively sold at auctions, both land parcels and property complexes.⁵⁴ The city administration created incentives for land privatization and ownership in several ways. The formula to derive land taxes was universal across Russia, but municipalities had discretion to set the rate within a prescribed ratio of the cadastral value. Until 2004, the tax burden and the amount of mobilized land tax was one of the lowest in Kazan. With cadastral valuations high and land tax rates low, the purchase of land was attractive.⁵⁵ Enterprises had a strong incentive to privatize the land they occupied. The city also granted privileges on land purchase and leasing. For example, land with free lease rights was provided for investors in the tourism sector (e.g. hotel complexes for the Universiade in 2013) and industry (e.g. Technopolis Himgrad, the redevelopment of 400 hectares for the chemical industry in Kazan).⁵⁶

Social policy also provided a stimulus for land privatization. With 42 percent of the city’s residents living on monthly incomes at or below the subsistence level of 1,200 rubles as of September 1, 2002, and barely 5 percent of the population receiving incomes at the national average of 11,800 rubles, the city’s most important social policy goal was to improve the standard

⁵³ World Bank, ICR for a Kazan Municipal Development Loan, 3.

⁵⁴ Nigmatullin, Interview.

⁵⁵ Nigmatullin, Interview.

⁵⁶ Nigmatullin, Interview.

of living of the vulnerable population.⁵⁷ As the program of elimination of dilapidated housing was coming to a close, the city launched the social mortgage program to provide apartments for sale at a discounted state mortgage. Land was provided near or outside the city limits where prices were lower so that the population could afford to buy these apartments.⁵⁸

The city also received funding and expertise on municipal finance through a World Bank-financed operation that improved the regulatory environment for property management.⁵⁹ The project was officially requested by President Putin in 2003; it was agreed between the World Bank and Kazan municipal officials in 2004. Based on evidence of reforms aimed at improving fiscal management, the Bank disbursed to Kazan US\$50 million in 2005 and US\$75 million in late 2006.

The project aimed to strengthen the capacity for local self-governance by improving the financial and institutional basis for city management. In 2003, social services were primarily provided by municipal unitary enterprises. The system was highly inefficient because infrastructure for utilities had seriously depreciated and revenues were insufficient to cover the cost of basic water, sanitation and heating services. Property management in Kazan was particularly inefficient. Services such as maintenance and rehabilitation of housing, which are provided by private firms in market and most transition economies, were provided solely by Municipal Unitary Enterprises (MUEs) in Kazan. According to the practice in 2003, the Cabinet of Ministers of the Republic established a list of necessary goods and services and then the Mayor would issue a purchase order to specific firms. According to the World Bank's independent evaluation report, "Based on the data from the Committee on Economy and Industry of the Ministry of Economy and Industry of the Republic of Tatarstan, in 2003 in Kazan direct contracts

⁵⁷ World Bank, ICR for a Kazan Municipal Development Loan.

⁵⁸ Nigmatullin, Interview.

⁵⁹ This section is based on World Bank, ICR for a Kazan Municipal Development Loan, 4-7.

were used to procure goods and services worth some 4 billion rubles, which was 55% of the city budget. Such a system resulted in higher costs for the budget, absence of competition and increased opportunities for corruption.”⁶⁰

The program exceeded a similar one in St. Petersburg by creating new private firms for housing maintenance, bringing lease rates closer to market levels, and revising the General Plan. To improve municipal finances, the project subcomponent on “Improving the Municipal Property Management System” aimed to privatize municipal property, starting with 21 MUEs, including all those engaged in housing maintenance. It also strengthened city finances by identifying excessive and idle assets of MUEs and recording them in a transparent municipal property registry that listed transactions with these assets. To increase revenues from property ownership, Kazan established rules for privatization of municipal enterprises using market-based mechanisms. Information on municipal property transactions had to be disclosed regularly, and the registry of municipal property was transformed into a state-of-the-art data base. The city also adjusted lease rates for the premises owned by the municipality so that at the time of project completion, at least 90% of leases were at market rates (compared to 50% in 2004). The number of lease-holders eligible for preferential lease rates was reduced dramatically. In addition, a zoning plan (under the General Plan) was approved and implemented, and competitive procedures were adopted for allocation and sale of land parcels.

As a result of the incentives, and based on efforts to improve land governance, Kazan outstripped all municipalities in Tatarstan in the rate of enterprise land privatization in the period from 2000 to 2005.⁶¹ As noted in Table 1, the rate for all municipalities in Tatarstan grew to 6.2% in 2005 and to 14.6% in 2010, overtaking St. Petersburg. Much of this was accomplished

⁶⁰ World Bank, ICR for a Kazan Municipal Development Loan, 4-7.

⁶¹ Nurutdinov, Interview.

transparently through auctions, the results of which were published on official websites. As will be discussed later, the burst of new landowners came with a level of corruption that is taken very seriously by the city administration. Nevertheless, it also sparked a dynamic land market with a high rate of transactions. As a consequence, by 2010, all but 25% of housing was privately owned in Kazan, far above the levels of other Volga regions.⁶²

b. Bureaucratic Organization and Performance, 2001-2013

As the dissertation hypothesizes, the pace of institutional change is a function of the alignment of policies and practices by executive authorities and civil servants at both the republican and municipal levels. In Kazan, the degree of conformity between executive authorities and civil servants on matters of land governance is singularly impressive, as is the commitment of civil servants in Kazan to standards of excellence. Evidence of this commitment is based on: i) achievement of policy targets by the Ministry of Land and Property at the republican and municipal level; ii) reduction of time for property registration; and iii) efforts to improve the security of property rights, including through transparency and accuracy of data reporting, and by monitoring and addressing land rights violations.

The publication of performance targets and ratings underscores the professionalism of the civil service in Tatarstan. Since 2005, following federal requirements, the Republic of Tatarstan (RT) Ministry of Economy publishes an annual report on how well ministries meet agreed targets and policy goals. The Ministry of Land and Property Management is evaluated against targets for: i) socio-economic policy (share of multi-children families that received free land plots); ii) property management (share of budget revenues accruing from buildings and land, including from

⁶² Gorod Kazan' Ofitsial'nyi Portal Goroda. "V Kazani ostaetsia neprivatizirovannoi chetvert' zhilogo fonda," October 18, 2010, <http://www.kzn.ru/>. downloaded 9/3/14/

property privatization); iii) general performance (relating to professional training), and iv) “executive discipline” (degree to which executive decrees and orders are implemented in a timely manner). From 2003 to 2010, for example, following the established policy goals, the Ministry reported that the RT had privatized half of all state unitary enterprises, provided social housing to 80% of the poorest families, and published the results of auctions for land sales, as required by law. Embedded in these figures are data for Kazan.⁶³ Separately, as noted below, the Mayor of Kazan reports annually on these and other indicators of municipal performance. Among ministries in Tatarstan, Land and Property is rated in the top quarter.⁶⁴

Another indicator of Kazan’s interest in reaching high performance standards is its decision to be subject to external evaluation by an international organization in the *Subnational Doing Business Report for Russia* in 2008 and 2012. The 2012 report ranks Kazan in fourth place out of 30 municipalities, both for ease of doing business and for registering property. Impressively, Kazan reduced the number of days required for property registration from 80 to 33 between 2008 and 2012. Still, local authorities are dissatisfied. While responsibility for property registration rests with the territorial offices of the federal agency, Rosreestr, there is close cooperation with city authorities that handle land and property management. As an official noted, “this issue is under the direct control of the Mayor of Kazan and the President of Tatarstan. We also rely on the World Bank report on ease of doing business. Despite our loyalty with this study, there are some errors

⁶³ Ministry of Economy of Republic of Tatarstan, “Reiting ministerstv i vedomstv Respubliki Tatarstan po vypolneniiu Gosudarstvennogo zakaza na upravlenie v 2010 godu.” Accessed September 4, 2014. <http://mert.tatarstan.ru/rus/info.php?id=6540>.

⁶⁴ Ministry of Economy of the Republic of Tatarstan, *Otchet o vypolnenii Gosudarstvennogo zadaniia na upravlenie ministerstvami, vedomstvami Respubliki Tatarstan po indikatoram otsenki kachestva zhizni naseleniia i effektivnosti ikh deiatel’nosti za 2013 god*. Accessed September 4, 2014. <http://mert.tatarstan.ru/rus/info.php?id=6540>.

in it. However, it is a good opportunity to look at ourselves from outside. We work on each parameter as the integral indicator of the effectiveness of decisions of local authorities...”⁶⁵

Finally, in a sign that it recognizes the importance of the transparency and quality of data both to the security of property rights and to fiscal revenues, the municipality strives to report frequently and accurately about the results of municipal property management and on the administration of land rights. Sources include the Mayor’s annual report and on-line information on auctions, cadastral ownership, administrative actions, and legal violations.

In the Mayor’s 2012 report, he said that public auctions of municipal property had contributed 46 million rubles to the municipal budget, of which half had come from the sale of land plots. However, demand for privatization of municipal property was on a declining trend, as witnessed by the rise in the number of auctions announced but not held due to lack of bidders. For example, of 15 land auctions announced in 2012, only 4 took place. On the other hand, the city had issued 1,400 acts to authorize the allocation and formation of private land rights, and competitive allocation of land to families with multiple children was rising.⁶⁶

The transparency of information on public auctions for tendering of municipal land is noteworthy. Auctions are required by federal law to open urban land to competition and establish fair market value, but have been conducted infrequently by municipalities, including Moscow and St. Petersburg.⁶⁷ The Mayor’s report provides an annual overview; more interesting is the active marketing of auctions of municipal property on official websites, including in English, to attract investors. Systems for cadastral valuation and registration are well advanced in Kazan, providing

⁶⁵ Nigmatullin, Interview.

⁶⁶ Gorod Kazan’ Ofitsial’nyi Portal Goroda. Otchet ob ispolnenii buidzheta munitsipal’nogo obrazovaniia goroda Kazani of January 1, 2013. 23-24, <http://www.kzn.ru/old/upload/documents/27652.pdf>.

⁶⁷ Kisunko, Gregory and Jacqueline Coolidge. 2007. *Survey of Land and Real Estate Transactions in the Russian Federation*. World Bank Policy Research Working Paper 4115.

open access of information to buyers and sellers. The city publishes land parcel values by location, size, value per square meter, and total value. As of 2014, the file includes 183,903 land parcels.⁶⁸ Nevertheless, the Executive Committee on Land and Property Management of Kazan acknowledged in its 2013 evaluation that there needed to be better accounting of land parcels in the city in order to improve the effectiveness of its use, arguing that the backbone of the economy, tax revenues, and budget were private landowners. For example, the area of Kazan and number of registered land parcels differed in reports of the Committee and of Rosreestr for certain years, and greater effort was required to improve accuracy.⁶⁹ For its part, the regional office of Rosreestr also acknowledged the need to correct deficiencies in cadastral and registration data, for which it has implemented the national single registry (*EGPIT*) in all 44 raions and Kazan. This has allowed the “cleaning” of data that included duplication of ownership titles during the transfer from one owner to another.⁷⁰

Across Russia, there is an established system to verify the proper implementation of land laws and regulations, and both in RT and Kazan this process is taken seriously. As discussed in the RT annual report for 2013, a total of 19,000 inspections of referred cases were conducted, which uncovered 11,000 cases of infringement. From this amount, fines levied on 8,000 cases resulted in payment of 13 million rubles to the republican budget. In 56% of the cases, the

⁶⁸ Gorod Kazan’ Ofitsial’nyi Portal Goroda, Resultaty gosudarstvennoi kadaastrovoi otsenki zemel’nykh uchastkov v sostave zemel’ naselennogo punkta g. Kazani na 1 ianvarya 2013. <http://www.kzn.ru/>. The share of private land owners is not aggregated but the owner of each land plot is identified. To estimate the percentage of private versus public would require viewing information on each parcel.

⁶⁹ Gorod Kazan’ Ofitsial’nyi Portal Goroda, Informatsiia po proverke Munitsipal’nogo kazennogo uchrezhdeniia “Komitet zemel’nykh i imushchestvennykh otnoshenii Iсполnitel’nogo komiteta munitsipal’nogo obrazovaniia goroda Kazani 2013”. <http://www.kzn.ru/>.

⁷⁰ Azat Zyabbarov, “Upravlenie Rosreestra Po Respublike Tatarstan: Itogi I Perspektivi,” *Vestnik Nedvizhimosti* No. 2/9, (July 2012), 7-9. As explained by Zyabbarov, during the “conversion of applications,” that is, when rights are transferred, the system will ensure that ownership rights are registered to one ‘lizo’ (physical or juridical) instead of both parties, buyer and seller. This will simplify the preparation and “proverka” (verification) of ownership rights.

infringement was due to use of land without proper documentation to validate ownership or lease rights.⁷¹

The verification process reveals areas where greater public information or action by land administrators is needed to ensure that land use rights are properly documented. A case in point is the 2006 passage of the so-called “dacha amnesty” allowing citizens to register small homes and accompanying landholdings for personal use in a simplified manner. To assist smooth implementation in the first two years, the RT Ministry of Land and Property Relations conducted consultations with 5,300 citizens in districts of Kazan and recorded the areas of greatest concern. The outreach assisted in the registration of 15.5 percent of the 1.14 million objects in RT that are subject to the simplified procedure.⁷²

Despite outreach efforts, violations continue, primarily due to mishandling by administration officials or to the transitional nature of the registration system in the 1990s. Cases that relate to corruption are exposed. As First Deputy Director of the Executive Committee of Kazan, Rustam Nigmatullin, explained, “A recent case, widely publicized, was brought by the city against one of its own employees⁷³. The simplified opportunity to register and build houses -- the dacha amnesty – revealed how land in Kazan had been distributed earlier by Selsovets (village councils). There were no archives, and the land administration officials were simply crooks. The city is prosecuting and will return the lands to the treasury.”⁷⁴ Across Tatarstan, 312 land plots in 16 districts will revert to municipal property in 2013 as a result of judicial proceedings relating to

⁷¹ Gosudarstvennyi Zemel'nyi Nadzor Respublika Tatarstan 2013.

⁷² Ministry of Land and Property Relations of the Republic of Tatarstan (insert report name and date), pp. 22-24.

⁷³ *Tatar-Inform*, “Official in Tatarstan embezzles municipal land worth 5 million roubles,” January 13, 2013. <http://eng.tatar-inform.ru/news/2013/01/17/41833/>, downloaded 7/1/14

⁷⁴ Nigmatullin, Interview.

registration with violations. President Minnikhanov (who replaced President Shaimiev in 2010) stated that “We have to correct the mistakes to prevent such cases in future.”⁷⁵

At the same time, violations are often difficult to assess given the uncertain legal environment in the 1990s and lack of congruence among various laws regulating real estate. For this reason “...several cases are still in court. These are complicated cases because the citizens who have bought the land are respectable owners and they have already built houses on these areas, so the decision is made at the discretion of the judge. Formally, according to law of dacha amnesty a house can be built without problems, but there remain discrepancies with the Town Planning Code.”⁷⁶

Given the professionalism of the land administration bureaucracy in Kazan and at the Republic level, and the dedication to privatization and effective management of land resources, there are very few areas where improvements can be recommended. These relate to bureaucratic organization, statistical reporting, and performance on anti-corruption monitoring. Organizationally, matters relating to land ownership, planning and use are handled in federal, republic and municipal offices, giving the appearance of fragmentation. Between Rosreestr (local and regional offices of a federal agency), the Ministry of Land and Property Relations (republic level), the Committee on Land and Property Relations of the Executive Committee of Kazan (KZIO-IKMO -- municipal level) and the Department of Architecture and Town Planning (municipal) there is lack of clear boundaries across related functions. To take one example, a citizen who (logically) posted an on-line question to the Architecture and Town Planning Department (responsible for zoning matters) on whether it was appropriate to construct a house

⁷⁵ Administration of President of the Republic of Tatarstan, “Work on transferring land plots registered with violations to municipal property continues in Tatarstan,” March 1, 2014. <http://tatarstan.ru/eng/index.htm/news/274869.htm>, downloaded 7/1/14

⁷⁶ Nigmatullin, Interview.

along a riverbank was referred to Rosreestr (responsible for formation of property rights). A single window called LAND with links to all related websites could assist users, but more fundamentally, a functional audit could suggest organizational improvements.

Likewise, statistical reporting is not consolidated nor is it user-friendly. While there are numerous reports, legal documents, and data posted on various websites, answers to simple questions such as the share of private land ownership in Kazan, the level of tax for a given land plot, or the contribution of land resources to the municipal budget are not available. Often very interesting analytical reports are posted, but without dates or sources.⁷⁷ Finally, performance on anti-corruption activity by Rosreestr in Tatarstan is very poor, according to the Freedom of Information Foundation (FIF). Under a state contract, FIF monitors websites of regional affiliates of federal agencies for compliance with unified federal requirements to overcome corruption through public information. These requirements include publication of detailed information on the activities and income of public officials and their immediate family members in order to reduce the possibility of conflicts of interest or direct benefits related to government service. Tatarstan received a score of less than 30 out of 100, putting it in 70th place out of 81 subjects of the federation, and below Moscow and St. Petersburg.⁷⁸ This is a relatively easy deficiency to rectify that would enhance the integrity of land registration activities.

⁷⁷ As of 2014, the city opened a new portal that addresses many of these issues.

⁷⁸ Freedom of Information Foundation, *Monitoring Report 2013: Rosreestr and its Regional Bodies – Analytical Report*, December 20, 2013. <http://svobodainfo.org/en/node/2867>
Downloaded 9/12/14.

c. *Public Participation in Decision-Making, 2001-2013*

In contrast to the rating on anti-corruption, the town planning (legal zoning) regulations in Kazan are considered among best-practice cases in Russia, according to the Moscow-based Institute of Urban Economics. Specifically, the Kazan model includes elements that are beneficial: i) *for municipal development*, by increasing the rate of land allocation and thus contribution of land to budgetary revenues; ii) *for property owners, real estate developers and investors*, by registering land rights prior to construction, thus allowing the land to be mortgaged to finance the project; and iii) *for citizens*, by “enhancement of opportunities to participate in decision making and to protect their interests in the use and improvement of real property; [and thus, by] reduction of conflicts between local communities and local governments.”⁷⁹

Urban planning decisions in Kazan are conducted with citizen input in accordance with federal and regional laws on principles of self-government⁸⁰ and with the law adopted by the Kazan City Duma in 2006 on public participation.⁸¹ Ten specific areas of municipal affairs require public hearings, of which six concern land use planning, including adoption of the General Plan. According to Section 9 of the Kazan law, the Mayor must officially disseminate the draft General Plan no less than one month before the start of public hearings and use multiple outreach tools to convey the contents, including fairs, expositions, town hall meetings, television and radio addresses, and presentations to the Kazan City Duma. According to Section 7, minutes are taken

⁷⁹In addition to Kazan, other cities implementing this model are Veliky Novgorod, Samara, Khabarovsk, and Cheboksary. Institute for Urban Economics, *Effective Models and Instruments Of Municipal Administration*, December 2005. https://www.google.com.tr/?gfe_rd=cr&ei=KeGvU-TrJqyl8QenyoG4CQ&gws_rd=ssl#q=institute+of+urban+economics+kazan downloaded 6/29/14

⁸⁰ № 131-ФЗ, *Ob obshchikh printsipakh organizatsii mestnogo samoupravleniya v Rossiiskoi Federatsii*, dated October 6, 2003; № 45-3PT "O mestnom samoupravlenii v Respublike Tatarstan," dated July 28, 2004.

⁸¹ № 7-9 "O Poryadke Organizatsii I Provedeniya Publichnikh Slushanii v Gorode Kazani." Reshenie Kazanskoi Gorodskoi Dumy dated June 8, 2006 (red. ot. 18.10.2006 No 29-12), *Kazanskii vedomosti*. N 126, 10.06.2006.

at all public hearings and are summarized in a final report on the results of the process. The report is published and becomes part of the Mayor's official records. For the General Plan specifically, the results report must be published within three months of the date of dissemination of the draft. In all cases, while the hearings are obligatory, the results are of an advisory nature and do not bind the local government.⁸²

The most important opportunity for citizen engagement during the decade concerned the development of a new General Plan, which had not been updated since 1969. While intended for implementation up to the year 2000, it appears the municipality first focused on development of a Strategic Plan for 2015, which was conducted with civic input and approved in 2003,⁸³ and then turned to revision of the General Plan after the conclusion of the 1000-year celebration in 2005. The Strategic Plan sketched out a vision for socio-economic development, based largely on nationally-approved legislation, while the General Plan underpinned it with several more specific aims to improve the physical and investment environment for economic growth and better living conditions. As required by the city law on public hearings, drafts of the General Plan were published in the media and on the internet, and public hearings were announced on December 26, 2006.⁸⁴ A discussion preceded the hearings in the locally-managed real estate internet portal, with some citizens expressing frustration due to the absence or quality of information, and professional bloggers quickly providing links and explanations.⁸⁵

⁸² № 7-9 “*O Poryadke Organizatsii I Provedeniya Publichnikh Slushanii v Gorode Kazani.*” Sections 7 and 9.

⁸³ World Bank, ICR on a Kazan Municipal Development Loan, 3.

⁸⁴ R. T. Burganova, *Doklad i.o. Rukovoditelya Iсполnitel'nogo komiteta g. Kazani na ocherednoi XXVI sessii Kazanskoi gorodskoi Dumy: O general'nom plane munitsipal'nogo obrazovaniya g. Kazan'.* 2007.

http://old.kzn.ru/static_page/genplan. Downloaded 9/2/14. General'nyi plan munitsipal'nogo obrazovaniia g. Kazani utvergden resheniem Kazanskoi gorodskoi Dumy no. 23-26 of December 12, 2007. Gorod Kazan' Ofitsial'nyi Portal Goroda. <http://www.kzn.ru/>.

⁸⁵ Portal Nedvizhimosti Kazani, November-December 2006, <http://www.reportal.ru/forum/topic.php?forum=7&topic=24> Downloaded 9/9/14

On December 28, 2007, in presenting the draft General Plan for approval to the City Duma and Mayor Metshin (as head of the Duma), the Acting Chief of the Municipal Executive Committee, R. T. Burganova, underscored several themes that reflected best urban planning practices and some citizen concerns.⁸⁶ Regarding urban planning, she said the General Plan was shaped by population growth projections, housing needs, and “the optimal balance between territory for mass housing construction and allocation of land area for industrial enterprises, and between zones for intra-city transport and the frame of nature.” While observing that population growth would require the absorption of three adjoining districts and seven settlements by 2050, she stressed that all available and ineffectively-used land within the city would be intensively utilized before the city expanded its borders from the current 42.5 thousand hectares to a total 61.3 thousand hectares.⁸⁷ All of the neighboring districts had participated in consultations in the course of developing the draft General Plan, she said. To improve the effectiveness of land use, some obsolete enterprises would be closed and others relocated to industrial zones where transportation and services were convenient. This would free up more land for close-in housing. Finally, zoning was designed broadly enough to enable multi-functional (office, residence, shops) development in given downtown areas.⁸⁸

With respect to citizen concerns, she proclaimed the importance of preserving cultural heritage as the historic city center underwent reconstruction, which was a high priority of the General Plan. Ecologically harmful and unprofitable industries could be relocated, freeing space for multi-functional development. She observed that open green space occupied only 19% of

⁸⁶ This section is drawn on Burganova, *Doklad i.o. Rukovoditelya Icpolnitel'nogo komiteta g. Kazani*.

⁸⁷ In contrast, Moscow City absorbed part of Moscow oblast in 2011 without first prioritizing the effective use of inner-city land. This is inefficient from the perspective of spatial planning and requires higher fiscal outlays for transportation and social infrastructure.

⁸⁸ In contrast, St. Petersburg zoned at the micro level in the 2005 GenPlan, restricting land use in each neighborhood to specific purposes. This overly constrains investment decisions and leads to exceptions that contribute to corruption.

Kazan's territory, while international organizations recommended that this should be 30 percent at a minimum. To rectify this deficit, the Executive Committee proposed to increase the ratio of green areas to 40 percent, but this would be done gradually as the city expanded.

While the process for preparation of the 2007 General Plan compared favorably to that in Moscow and St. Petersburg, it suffered from two drawbacks that undermined the public outreach effort. First, lacking any link to the budget or a financing plan, the Plan as presented to the public offered an unrealistic and unaffordable volume of housing, social infrastructure (heat, power, water, sanitation) and transport that could not be realized within the proposed implementation period.⁸⁹ For example, priority is placed on completion of 2 metro lines totaling 29 kilometers, primarily, it seems, because the task remained unfulfilled since the 1969 Plan. The need and fiscal space for such a large capital project is questionable for a city of 1.18 million people.⁹⁰ Similarly, the Plan included the construction of 13 million square meters of housing between 2007 and 2020, requiring output of 1 million square meters per year, thirty percent more than the highest annual output achieved to that date⁹¹. While there would be scope to increase housing production by the private sector, for all social services the Plan became a platform for fund-raising, much as it did during the Soviet period. Mayor Metshin thus raised public expectations for a higher level of investment than the city could afford and missed an opportunity to solicit the input of society on project priorities.

⁸⁹ The municipal budget is subject to a separate public hearing process. The draft GenPlan did not contain a cross-reference to the budget or to public hearings on the budget.

⁹⁰ Prior to 2006, using primarily federal and republic funds, the city had only completed five metro stations on a 7-km-long line for 14.3 billion RUB (approximately 482 million USD). See Kinossian, *op.cit.*, pp 339-40.

⁹¹ In 2006 housing output reached 730,000 square meters. However, preparations for the Universiad in 2013 pushed housing construction to the 1 million square-meter-mark in 2012. See Il'sur Metshin, *Otchët o rabote Icholnetel'nogo komiteta za 2012 god*, p. 7, Gorod Kazan' Ofitsialnyi Portal Merii Kazani. <http://www.kzn.ru/old/page15543.htm> downloaded 9/11/14.

The second drawback in the General Plan process was the relative paucity of public information issued for deliberation. Proposals relating to infrastructure for land development (water and sanitation, electricity, etc.), which help guide investors to the most profitable locations for urban development projects, are described on the public website of the Department of Architecture and Urban Planning as “secret attachments” to the Plan.⁹² And contrary to requirements in the law, a report on the results of the public hearings does not appear to be available.⁹³

The rise of citizen advocacy for historic preservation following adoption of the General Plan in December 2007 suggests the City Government did not go far enough to incorporate the results of public hearings on protection of cultural heritage. Unusually for Kazan, where Republic and municipal authorities are rarely challenged in public, the journalist and historian, Olesya Baltusova, gained the attention of Mayor Metshin and President Minnikhanov by her blog on the inadequacy of government oversight during renovation of the historic city center. In 2010, when conducting an educational tour of the center aimed at defending historic homes, she recalled that:

Right before my eyes they started to tear down a home from the early 1800s. Then I hit the limit of my patience...[W]e met with the Minister of Culture, the recently fired Deputy Minister of Culture Igor Nesterenko, and the Mayor. The results of the meetings were promises, that all would be taken care of...but time passed, nothing was reconsidered, and the home was destroyed. That summer, five houses on the list for preservation were demolished.⁹⁴

Following this experience, Baltusova decided to reach above the Mayor of Kazan and the Republic Ministry of Culture and engage President Minnikhanov directly. She invited him to participate in her next walking excursion of the historic city center. He refused four invitations

⁹² General’nyi plan munitsipal’nogo obrazovaniia g. Kazani utvergden resheniem Kazanskoi gorodskoi Dumy no. 23-26 of December 12, 2007. Gorod Kazan’ Ofitsial’nyi Portal Goroda. <http://www.kzn.ru/>.

⁹³ The amount of public information on official websites is impressive. This is a notable exception.

⁹⁴ Olesya Baltusova, "Kogda pered Tysyaletiem v Kazani snosili pamyatniki, zhal’, chto ya byla malen’kaya," Tatcenter Interview dated April 4, 2011, <http://info.tatcenter.ru/article/106304/interview4/10/2011> downloaded 8/24/14

before accepting the fifth in the fall of 2011. The tour extended over several days as the President queried an entourage of experts on the historic significance of each demolished home, the circumstances of its demise, and on the owners of the newly-constructed buildings. Based on his exposure to the issues, the President invited Baltusova to serve as his Assistant on Cultural Preservation and Historic Heritage of the Republic, requiring her to analyze the issues and serve as a liaison between civil society and government. She accepted the offer, but publicly refused the Mayor's invitation to be part of a working group on tourism.

Baltusova's activism led to the temporary cessation of construction in the city center, examination of the ownership of the new structures, a review of all high-rise projects under development in the city center, an order by the President to halt construction of a parking garage in place of the single city park, Black Lake, and threats against her by developers. In an interview, in response to expressions of admiration, she responded, "I only spoke out about matters that have sickened all Kazan residents. Don't make a hero out of me." She added that while orders had been given, it was still too early to claim success.⁹⁵

Early in the following year, the Kazan City Council acted in response to citizen concerns and passed a law requiring the Executive Committee to take further actions to improve the historical architectural appearance of the city.⁹⁶ In his annual report of 2012, Mayor Metshin observed that pursuant to this law, the city had invested in 31 properties, including 14 of cultural heritage and 15 of historic value, consisting of 30,751 square meters of floor space and 74,054 square meters of land, for a total value of 573 million rubles.⁹⁷

⁹⁵ *Argumenti i Fakti*, "Olesya Baltusova prokommentirovala svoye naznacheniye na dolzhnoost' pomoshchnika prezidenta RT," <http://www.kazan.aif.ru/politic/details/428984> October 13, 2011.

⁹⁶ Resheniye Kazanskoi Gorodskoi Dumy ot 25.02.2012, №9-12 Ispolnitel'nomu komitetu g. Kazani. Otchet ob ispolnenii buidzheta munitsipal'nogo obrazovaniia goroda Kazani of January 1, 2013, 22-23. <http://www.kzn.ru/old/upload/documents/27652.pdf>.

⁹⁷ Otchet ob ispolnenii buidzheta munitsipal'nogo obrazovaniia goroda Kazani of January 1, 2013, 22.

The circumstances of this case illustrate how cultural heritage has become an aperture through which citizens can safely express discontent with authority in Kazan on implementation of land use rights in the transition from public to private ownership. Given the circumstances of the dilapidated housing program in the 1990s, when the legal regime for property rights and system of registration was weakly developed, many developers had gained access to lucrative business opportunities in coordination with land administration officials. While cultural heritage activists may be viewed as a conservative force, constraining urban development, they also represent a positive force, promoting regulation of property rights in the community interest. The more attractive the cultural face of the city, the more it projects historical harmony, the more attractive it becomes for private investors, bringing benefits to residents, property owners, and the municipal treasury.⁹⁸

The case also illustrates the maturing of a political system in which public opinion on property rights is recognized and carries value. In a system with elected local officials, the political value of property would be much greater, as studies in China have demonstrated.⁹⁹ Mayor Metshin demonstrated little interest initially in the public challenge to his management of urban development, perhaps due to the large stake by the city in on-going construction. Only after the President of the Republic intervened did the Mayor acknowledge the significance of a single-minded activist armed with expertise and followers on social media.

However, in a separate case, Mayor Metshin recognized the political importance of property rights when he faced the opposition of the business community to land taxes in Kazan.

⁹⁸ For this reason the World Bank has a multi-billion dollar portfolio of investment in cultural heritage projects.

⁹⁹ Based on an empirical analysis of rural communities, those with elected mayors responded more positively to citizen concerns on property rights than those where mayors were appointed. Klaus Deininger and Songqing Jin, "Securing property rights in transition: Lessons from implementation of China's rural land contracting law," *Journal of Economic Behavior and Organization* 70, 2008, pp. 22-38.

The level of the land tax is subject to federal laws and municipal discretion, and has a strong influence on the preference of the private sector either to lease or purchase land from the city. In Kazan, initially low tax rates and high cadastral values encouraged the privatization of enterprise land. Levels rose as the city sought to adjust cadastral values to capture the gains from rising market prices. . Following an in-depth consultation process that included several meetings with the business community, the municipality agreed to policy measures that would encourage enterprise land privatization, make additional municipal land available for sale, and provide an incentive for enterprises to purchase land by reducing the rate of the land tax on various business types. As noted by Mayor Metshin, who steered the process, “we listened to business, and business listened to us.”¹⁰⁰ In the short run, the tax cut would reduce city revenues; in the longer run it would encourage a higher rate of private land ownership and sustainable income source for the city. As of January 1, 2014, a new law on land taxes went into effect that represents a more sophisticated understanding by city authorities of how to manage land, both as an asset and as an instrument of social policy.¹⁰¹

3. Conclusions

In contrast to Mayor Luzhkov of Moscow, President Shaimiev had the political and fiscal autonomy throughout the 1990s to take a long-term view of revenue maximization. Ideologically disposed to land privatization, he framed a strategy for the Republic that was complemented by the diligence of dedicated and professional municipal civil servants, who have since risen in the bureaucracy to senior positions. The ground was laid for Mayor Metshin of Kazan to accelerate land privatization when faced with a municipal crisis after 2003. The puzzle of how a formerly

¹⁰⁰ “Deputaty Kazgordumy snizili stavki zemel’nogo naloga.” March 3, 2011. <http://www.metshin.ru/news/3567> . Downloaded 9/13/14.

¹⁰¹ Reshenie N 5-26 “O Zemel’nom Naloge.” November 11, 2013.

closed, military city could achieve the highest rate of urban land privatization in Russia is less surprising in light of the confluence of these conditions.

Based on selected indicators, Kazan represents a maturing land market that is transforming land into a source of wealth. This is striking given the short decade of robust growth in private land ownership. As noted in Table 2, land transactions are accelerating. Registration of land rights increased by 42 percent while land transactions grew by 57 percent from 2011 to 2013. Land is also being turned into capital. From 2012 to 2013, registered legal mortgages (*v cilu zakona*) increased from 16,584 to 20,976 or a 26.5 percent increase. In addition, citizens believe in property ownership. The rate of housing privatization in Kazan, at 77 percent, exceeds that of the Republic (63 percent) and neighboring oblasts, such as Perm (40 percent). Only Samara (75 percent) has a similar rate. Finally, land is now central to municipal finances. Out of all taxes, 37.2 percent are from the land tax. This is the only tax of which the municipality can retain 100 percent, since other taxes (e.g. duties and income tax) are shared with higher levels of government.

Table 2. Land Market Activity in Kazan, 2011-2013

Year	Rights Registered on Real Estate	Of which land rights	Total Transactions (buy-sell)	Of which land transactions
2011	158,702	21,013	35,912	2,903
2012	164,095	32,777	43,362	4,959
2013	193,523	36,131	38,138	6,821

Source: Gorod Kazan' Oficial'nyi Portal Goroda. Informatsiia v sfere gosudarstvennoi registratsii prav na nedvizhimoe imushchestvo i sdelok s nim. <http://www.kzn.ru/>.

Based on these indicators, the estimate used for private land ownership in Kazan (29 percent) is likely to be conservative. According to the 2013 report of the Committee on Land and Property Relations, out of 61,300 hectares of land in Kazan, 20,473 hectares are subject to the land tax, or 33%. In a city that clearly understands the economic and fiscal benefits of privately-owned land, it is surprising that this key data point is not publicly reported.

One important conclusion from the experience of Kazan is that, like a careful gardener, the municipality prepared for privatization with laws and regulations and a land inventory, and when, upon achieving autonomy in 2004, it was fiscally in need, it had fertile ground which could be planted and transformed into wealth. In exploiting its land resources, Kazan placed equal priority on freeing up municipal property for private use and on using its land fund for social policy, to accommodate the poorest citizens in better housing. This in turn stimulated a new construction industry and more dynamism in land markets. It also kept zoning relatively flexible in the General Plan, allowing multiple uses of land, thereby changing the face of the center city. In comparison, St. Petersburg's early launch into enterprise land privatization in the 1990s, without a solid legal foundation, and with preference for Soviet-era enterprises over new firms, has served it less well, as has the city's rigid adherence to an outdated General Plan.

As land privatization increased in Kazan after 2003, so has the influence of property owners in the management of urban affairs. This is a positive development on par with the economic indicators noted above. As the municipality gains experience with public consultations and learns to anticipate concerns and expectations, it is likely to engage society more actively. The more that executive officials and citizens are aligned on land use decisions, the more secure property rights will become, giving impetus to greater investment in urban land, and higher returns both to public and private interests.

Chapter 8 Urban Land Privatization and Development Outcomes

The dispersal of wealth and power into citizen hands, when both are in the firm grip of ruling elites, is the most intractable dilemma in development studies. According to North, Wallis and Weingast (2009), the first necessary step is for elites to convert their privileges into elite rights. When Boris Yeltsin launched a process in 1990 to privatize the collective land heritage of the Russian Republic,¹ he effectively accomplished that first critical step. Land use was largely under the control of central planners and the Communist Party of the Soviet Union (CPSU), not the people living within the territorial borders of Russia. Yeltsin's initial privatization effort transferred de facto land privileges within Russia into de jure rights for the political elites who would assume authority under the new Russian state. The main beneficiaries were municipal officials, once at the bottom of the planning hierarchy under communism, and now poised to become General Planners of urban land. The dark epithet of Yeltsin as a destroyer, bestowed by his nemesis, Mikhail Gorbachev, did not apply to the city level. The majority of urban land in Russia is still controlled by municipal authorities.

Yet two decades after codification of private land ownership in the 1993 Constitution, the dispersal of property rights to the population is far from negligible. The pace of institutional change in urban property rights is gradually gathering momentum in many, but certainly not all, urban centers. After ten years of political struggle, when society severely split over the need for private land ownership, and a fumbling bureaucratic beginning, when state organizations at all levels competed for leadership on land relations, a Land Code was adopted, urban land rights have

¹ At the time, Yeltsin was Chairman of the Russian Supreme Soviet (under the USSR), and in competition with Mikhail Gorbachev, President and General Secretary of the Communist Party of the USSR.

clarified, a professional land bureaucracy has emerged, and Russia has become a world leader in property rights registration systems.² Most significantly, property rights institutions that were once informal and personalized, requiring insider connections to acquire urban land, are now implemented much more formally and impersonally. This improving trajectory of institutional change is captured in major gains on the Worldwide Governance Indicators from 2000-2010 in the quality of rule-of-law and government effectiveness.³

A market economy requires a market society;⁴ likewise, private land ownership requires society to congeal around the value of land privatization. There is no ideal division of urban land rights between state and society. In cities everywhere, economic imperatives and social objectives are woven into a unique institutional fabric.⁵ Majority private urban land ownership is found only in advanced economies. State-owned land predominates in Russia and other middle and low-income countries, where 85% of the world's population live.⁶ As Russian cities privatize urban land, the process and outcomes should be of interest to urban dwellers elsewhere.

The chapter summarizes the study's findings in four sections. The first compares the findings on why and when land privatization took place in Moscow, St. Petersburg, and Kazan, based on the predatory rule theory. The second section compares the "how" of institutional change in the case study cities, using both qualitative and quantitative indicators. As hypothesized in the

² In 2014, the Russian Federation received a score of 91.27 out of 100 on ease of property registration, putting it in 12th place out of 189 economies. World Bank-IFC, *Doing Business 2015*, 213.

³ Russia gained 0.37 (from -0.77 to -.40) on government effectiveness and 0.36 (from -1.13 to -0.77) on rule of law scores. The Worldwide Governance Indicators aggregate governance data on several variables. Indicators range from -2.5 to +2.5. See Brian Levy, *Working with the Grain: Integrating Governance and Growth in Development Strategies*, (New York: Oxford University Press, 2014), 122-128.

⁴ This is the central insight of Karl Polanyi in *The Great Transformation* (1944). The author discusses the painful transition process when society is subordinated to markets, creating the promise of economic progress but at the price of social dislocation.

⁵ Roy J. Burroughs, "Should Urban Land be Publicly Owned?" *Land Economics*, (Board of Regents of the University of Wisconsin System: Vol. 42, No. 1, 1966), 20. Article Stable URL:<http://www.jstor.org/stable/3145490>.

⁶ Douglass C. North, John Wallis, and Barry Weingast, *Violence and Social Orders*, (New York: Cambridge University Press, 2009).

land governance model, the pace of institutional change is correlated with the degree of alignment on privatization policies and actions by political authorities and the bureaucracy, resulting in change that is in stasis (Moscow), incremental (St. Petersburg), or rapid (Kazan). The third section compares selected development outcomes in the case study cities. The final section assesses the explanatory power of the new institutional economics in deciphering the case of urban land rights in Russia.

Overall, the evidence largely confirmed the hypothesis that institutional change in urban property rights is a function of the revenue-maximizing incentives of ruling elites. The qualitative and quantitative analysis found that the pace of institutional change was correlated with the alignment between political authorities and the bureaucracy on land privatization policy. Public engagement emerged as an instrumental factor in the formation of private property rights in all case study cities. Finally, economic outcomes differ in each city in line with the pace of land privatization, further validating the literature's conclusion that institutions are a critical factor in economic development.

1. *The why and when of institutional change*

Margaret Levi's (1988) theory of predatory rule predicts that rulers will relinquish property privileges in order to maximize long-term revenues. However, this decision depends on trade-offs that serve to increase the bargaining power and office security of the ruler, while reducing the transaction costs of raising revenues. In other words, among a set of alternatives at a given time, rulers will opt for the highest-yielding and most feasible revenue sources that strengthen their hold on power and security in office.

Drawing on this theory, the dissertation hypothesizes that the institutional change is a function of constraints facing rulers as they seek to maximize revenues to the state while maintaining personal power. Extraction of revenue cannot come at any cost; it must be within the capacity of the regime to collect and the population to pay. Put simply, the choice for political authorities is to own land and collect rents, or to sell land and collect land taxes. This choice determines the path of change.

As discussed in Chapter 4, the fiscal-federalist framework influenced cities in making this choice. Yeltsin famously told regions to take all the power they could swallow, and 30 regions repaid his gesture by not remitting taxes to the center. Moscow, St. Petersburg and the Republic of Tatarstan had greater political leverage over the Yeltsin Administration than other regions because they were the first to elect heads of government in 1991. Their relative political independence enabled them to exploit the system of tax-sharing and federal transfers, which was negotiated on a case-by-case basis. No region had an incentive to report revenues accurately because it would reduce the level of transfers from the center. Moreover, a “society tolerant of tax evasion and long accustomed to government support unrelated to its cost”⁷ led regions to ignore agreements they had reached. Tatarstan was among the republics that did not send its required tax share in the mid-1990s to the center.⁸

In contrast, the Putin administration recentralized political authority and reduced revenue-sharing to encourage greater reliance on local taxes. The 1998 debt default gave Putin greater negotiating power to instill fiscal discipline in the regions because society yearned for an end to the financial and political instability of the 1990s. A two-step reform in the Tax Code began in

⁷ Jane H. Malme and Natalia Kalinina, “Property Tax Developments in the Russian Federation,” in Jane H. Malme and Joan M. Youngman, eds., *The Development of Property Taxation in Countries in Transition: Case Studies from Central and Eastern Europe*, (Washington D.C.: World Bank Group, 2001), 70.

⁸ Da Silva et al, *Intergovernmental Reforms in the Russian Federation*, 32-34 and Freinkman et al, 32.

1999 that considerably tightened the Federal Government's control over tax policy, allowing it to accept or deny local tax rates and types of taxes.

Tax rates and revenue-sharing arrangements under both the Yeltsin and first Putin administration worked at cross-purposes with land privatization policies, sending conflicting signals to local governments on the desirability of land privatization. The Federal Government frequently changed the formula for taxing land, which in turn set the land sales price administratively. Local governments also received more leeway in setting the lease rate on municipal land than the tax rate on land occupied by enterprises. While all these measures were intended to speed land privatization, the Federal Government clawed back 50% of land taxes, dampening incentives to privatize. The incentive environment was thus highly contradictory: local predatory rulers could choose between privatizing or leasing, and collecting taxes or rents.

Federal fiscal incentives and urban land policies became mutually reinforcing only during the second Putin Administration. Most importantly, local governments received 100% of the personal property and land tax (for Moscow and St. Petersburg, 84.5%). The formula to derive land taxes was universal across Russia, but municipalities received authority to set the rate within a prescribed ratio of the cadastral value. A unified property tax was still far in the future, but the foundation was laid.⁹

Moscow, St. Petersburg and Kazan responded differently to these federal initiatives in line with the predatory rule theory. The Mayor of Moscow built his power and city finances on leasing urban land and property; once he became secure, politically and fiscally, he had no incentive to

⁹ Pilot tests in Tver and Novgorod from 1995-98 demonstrated that local governments would have little incentive to introduce a uniform property tax unless the fiscal federalist system was reformed, because any increases in taxes collected would accrue to the federal level. Moreover, the transaction costs to introduce the system would be very high, consuming a minimum of two years to conduct cadastral surveys and register property. See Freinkman et al, *Subnational Budgeting in Russia*, 54. These findings contributed to a long-term strategy to introduce a unified property tax in the second Putin Administration.

sell land, and his accountability to voters declined. In contrast, the President of Tatarstan was politically and fiscally secure from the outset and adopted a long-term strategy to maximize revenues and privatize land. Following the adoption of local self-government in 2003,¹⁰ the Mayor of Kazan took advantage of new fiscal incentives and accelerated land privatization in response to a municipal financial crisis. Contrary to both Moscow and Kazan, political authorities in St. Petersburg zig-zagged between privatizing and leasing. Initially, the city privatized land at a rapid pace. It then reverted to leasing, in part to increase municipal revenues; later it stimulated privatization following a budget deficit, only to slow the process when the local economy rebounded. A brief summary follows of why and when each city decided to retard or promote land privatization.

As discussed in Chapter 5, Mayor Luzhkov of Moscow opted early in 1991 to build a property empire based on leasing that would strengthen his hold on power and maximize revenues for the city. Luzhkov faced two realities from 1991-95: his position depended on Yeltsin, who had appointed him Mayor, and the economy of Moscow was in freefall, as 71% of its industrial output collapsed by 1996,¹¹ a steeper decline than other case-study cities. He took advantage of conflicting federal fiscal signals and made Moscow a monopoly landlord, eschewing land sales for land leasing. He went on to build a municipal real estate empire containing two-thirds of all property in the capital. As investment grew in Moscow, faster than in St. Petersburg and Tatarstan (Table 1), he could control the rents and addresses of investors. By 1996, he was politically and fiscally secure from an electoral landslide victory and a small budget surplus (Table 2) that came partially from property but also from profit taxes of enterprises such as Gazprom that were

¹⁰ Prior to 2003, municipalities were not granted fiscal powers.

¹¹ The average national decline was 58%. Lev Freinkman, Daniel Treisman, and Stepan Titov, *Subnational Budgeting in Russia: Pre-empting a Potential Crisis*, World Bank Technical Paper No. 452, (Washington D.C.: The World Bank: 1999), 11.

registered in the capital but domiciled in other regions.¹² During the 1998-99 financial crisis, Mayor Luzhkov sold municipal property rather than land to compensate for lost revenues. By 2001, land taxes comprised only 5% of revenues from leasing. With the power and rents conveyed by control over urban land, the Mayor had no incentive to shift his strategy, even after the Putin Administration recentralized taxes and required Moscow to contribute more to the federal budget. The Mayor turned instead to international capital markets and raised US\$4.3 billion in municipal bonds in 2007 alone. Luzhkov's abuse of the Moscow City land monopoly, including insider sales to benefit his wife's real estate company, contributed to the decree issued by President Medvedev in September 2010 that relieved the mayor of his position. "Rulers maximize revenue to the state, but not as they please."¹³

Table 1. Economic and Social Indicators in Case Study Regions, 1990-96

	Real industrial output growth, 1996/1990,%	Growth in investments, 1996/1990,%	Poverty (% of population), 1995
Moscow	29.4	83.2	19.1
St. Petersburg	32.4	39.3	20.0
Rep. of Tatarstan	65.9	37.5	22.1

Source: Lev Freinkman, Daniel Treisman, and Stepan Titov, *Subnational Budgeting in Russia: Pre-empting a Potential Crisis*, World Bank Technical Paper No. 452, (Washington D.C.: The World Bank: 1999), 80-81.

Table 2. Fiscal Indicators in Case Study Regions, 1996-7

	Adjusted revenues per capita, 1996/1992,% (1991 prices)	Deficit in 1996 (expenditures-revenues, rubles per capita, 1991 prices) [Minus=surplus]	Deficit as percent of expenditures, 1996 and 1997 [Minus=surplus]	
			1996	1997
Moscow	145.9%	-18.2	-0.7	-3.6
St. Petersburg	98.8%	248.82	18.7	3.5
Rep. of Tatarstan	67.2%	92.56	5.3	0.0

Source: Lev Freinkman, Daniel Treisman, and Stepan Titov, *Subnational Budgeting in Russia: Pre-empting a Potential Crisis*, World Bank Technical Paper No. 452, (Washington D.C.: The World Bank: 1999), 85-89

¹² Six major companies, including Gazprom, remitted US\$1 billion in 1996, or 15% of all city budget revenues. The President decreed in 1997 that revenues should be shared across oblasts, but enforcement was insufficient. Lev Freinkman, Daniel Treisman, and Stepan Titov, *Subnational Budgeting in Russia: Pre-empting a Potential Crisis*, World Bank Technical Paper No. 452, (Washington D.C.: The World Bank: 1999), 12- 14.

¹³ Margaret Levi, *Of Rule and Revenue*, (Berkeley and Los Angeles: University of California Press, 1988), Kindle Location 136.

As discussed in Chapter 6, political authorities in St. Petersburg adjusted their land privatization strategy opportunistically in line with the shifting incentive framework set by federal authorities and local fiscal needs. As a leading liberal politician, Mayor Sobchak was ideologically inclined to privatization and acted quickly to encourage land purchases by using the lowest price allowed by law in 1995. Foreign investors who initially flocked to St. Petersburg also sought land ownership as part of the investment package. However, just as demand was growing, the City Administration started to adjust tax rates (as allowed by law) within city zones to capture the gains from rising land values. The timing coincided with a radical swing from budget surplus to deficit in 1996 (Table 2). Soon thereafter, newly-elected Governor¹⁴ Yakovlev followed his political ally, Mayor Luzhkov, by creating incentives for leasehold. Lease rates fell below land tax rates, and the City Administration offered the largest industrial tenants below-market leasing discounts that were neither transparent nor justified.¹⁵ Land privatization fell from its peak in 1996. By 1998, the total number of land-rental agreements signed (137,000) greatly exceeded land plots privatized (1,843). Land area leased grew by 3.5% from 1998-1999 while lease revenues soared by 69%. With its deficit worsening in 2001-2, and new federal incentives to stimulate land privatization, the City Administration again shifted tactics and sold land. When finances stabilized in 2004, the pace of privatization slowed. The zig-zags in St. Petersburg's land privatization policies were among the factors that inhibited the investment climate in the post-communist period.

As discussed in Chapter 7, President Shaimiev of the Republic of Tatarstan developed a long-term revenue-raising and land privatization strategy that was emblematic of a predatory ruler

¹⁴ The title was re-designated but the functions and administrative level of St. Petersburg did not change.

¹⁵ World Bank, World Bank, *Project Appraisal Document on a Proposed Loan in the Amount of US\$161.10 Million to the Russian Federation for a St. Petersburg Economic Development Project*, (Washington, D.C.: Report No: 25550-RU, April 15, 2003), 12.

with security in office. Shaimiev negotiated “unique economic and political benefits” for Tatarstan that were “the envy of many of its ethnically-Russian counterparts”¹⁶ by capitalizing on a referendum in favor of state sovereignty in 1992 and ample oil and industrial assets. As part of Shaimiev’s agreement with Yeltsin to stay in the Russian Federation, Tatarstan gained fiscal benefits that far exceeded its receipts in the Soviet period, when less than 3% of Tatar industrial income accrued to the republic. With a less dramatic industrial decline and rise in investment than Moscow (Table 1), Shaimiev plotted a slow rise to fiscal recovery (Table 2) that led to one of the highest revenue retention rates in the nation in 1999 while Moscow had next to the lowest.¹⁷

Tatarstan’s fiscal situation deteriorated during the Putin Administration, with contradictory impacts on Kazan, the Tatar capital. Politically, Tatarstan lost sovereignty to the Federal Government while Kazan gained municipal autonomy during the nation-wide reform of local self-government. Fiscally, the Republic was required to remit a higher share of its revenues to the Federal Government, with a cascading effect on Kazan, which received fewer subsidies from the Republican Government. Thus, just as Kazan was gaining political autonomy, it was losing income. Kazan began to run a deficit in 2002-2003 that reached 2.4 billion rubles (US\$80 million) by 2004, putting municipal finances at risk. As part of its strategy to gain control over municipal finances, the city decided to accelerate the rate of land privatization and to improve the management of property assets. From 2002 to 2005 land was actively sold at auctions, both land

¹⁶ Freinkman et al, *Subnational Budgeting in Russia*,” 16.

¹⁷ Desai, Freinkman and Goldberg (2005) show that regions that achieved more fiscal autonomy through a higher tax retention rate (share of locally-derived taxes in the budget) also experienced higher economic growth, better fiscal management and higher private investment. A higher retention rate was also associated with greater privatization and foreign investment. This is because the authorities were motivated to improve the business environment and encourage new start-ups in order to secure the tax base. In contrast, regions like Moscow city that derived fiscal autonomy from unearned income streams performed economically less well. Moscow’s tax retention rate was 45 percent from 1996 to 1999, the lowest in the nation except for two small, poor oblasts. Raj M. Desai, Lev Frienkman and Itzhak Goldberg, “Fiscal Federalism in Rentier Regions: Evidence from Russia,” *Journal of Comparative Economics* 33 (August, 200), pp. 828-832. www.elsevier.com/locate/jce.

parcels and property complexes. The city administration created incentives for land privatization and ownership in several ways. Until 2004, the tax burden and the amount of mobilized land tax was one of the lowest (compared to) in Kazan. With cadastral valuations high and land tax rates kept at the low end of the range, firms and citizens had an incentive to purchase land. The city also granted privileges on land purchase and leasing to attract major new investment. In addition, as part of its strategy to improve living standards, the city instituted a social mortgage program to enable poorer residents to purchase housing. Finally, a market-oriented zoning plan (under the city's General Plan) was approved and implemented, and competitive procedures were adopted for allocation and sale of land parcels.

As these cases illustrate, the constraints and trade-offs facing rulers can differ greatly, even within one country, leading to diverse revenue policy choices that also influence the institutional regime. Having gained understanding on why rulers chose a particular institutional path and when, we now turn to the case study findings on how institutional change transpired.

2. The 'how' of institutional change: the land governance model

The state is not one but a bundle of independent variables that defines and enforces the rules on property ownership. Following North, Wallis and Weingast (2009), multiple organizations comprise the state, both vertically¹⁸ (federal, regional, municipal) and horizontally (across executive and civil service agencies). To simplify this complexity, I constructed a land governance model to unpack the process of institutional change.

¹⁸ In Russia's federal structure, Moscow and St. Petersburg are federal cities and thus treated as regions, while Kazan, as a city formation, is administratively under the Republic of Tatarstan. This distinction does not alter the analysis in the land governance model since we are interested in the interaction of political authorities, the bureaucracy, and society at the municipal level.

The critical factor in the land governance model is the alignment of policies and actions of political authorities and the public bureaucracy. If all parties favor and act to promote land privatization, the pace will be rapid; if all oppose privatization, institutional stasis will result. When political authorities and the public bureaucracy take divergent positions, or when agency mandates are in conflict, there may still be some institutional change, but the pace will be incremental. Society is an intervening variable that can hasten or slow the pace in favor or against privatization. By adding society and a time dimension of institutional change, the model includes areas not fully specified in the new institutional economics (NIE) literature.

Figure I. Hypothesized Land Governance Model

<p style="text-align: center;">II.Incremental Change</p> <p>Political authorities oppose land privatization Bureaucrats implement policies effectively</p> <p>Society is passive or active</p>	<p style="text-align: center;">IV.Rapid Change</p> <p>Political authorities promote land privatization Bureaucrats implement policies effectively</p> <p>Society supports privatization</p>
<p style="text-align: center;">I.Stasis</p> <p>Political authorities oppose land privatization Bureaucrats resist implementation</p> <p>Society opposes privatization</p>	<p style="text-align: center;">III.Incremental Change</p> <p>Political authorities promote land privatization Bureaucrats resist implementation</p> <p>Society is passive or active</p>

3 (a). *Qualitative Analysis*

The qualitative analysis, summarized in Table 3 as a highly simplified assessment of an exceedingly dynamic process, demonstrates that alignment of the core independent variables was an exceptional occurrence over two decades. At no point were political authorities, the bureaucracy, and society fully aligned in favor of private urban land ownership along the vertical axis of the polity. Only using a horizontal cut do we see such alignment in Kazan after 2001. This section explains the ratings in the land governance model based on the interaction of the

independent variables, as revealed in the national overview (Chapter 4) and case study research (Chapters 5-7). The next section looks at quantitative indicators of the same independent variables.

Table 3. Land Governance Model: Qualitative Analysis
Activity Level to Promote Private Urban Property Rights

		Political Authorities	Bureaucracy	Society
Federal	1990-2000	High	Low	Low
	2001-2013	High	High	Medium
Moscow	1990-2000	Low	Low	Medium
	2001-2013	Low	Medium	Medium
St. Petersburg	1990-2000	High/Low	Low	Low
	2001-2013	Medium/Low	Medium	Medium
Kazan	1990-2000	High	High	Low
	2001-2013	High	High	High

At the federal level, to paraphrase McFaul, the state in its first decade was not strong enough to ‘extract the state’ from urban land ownership. To the contrary, while private ownership was codified in the Constitution, the de facto legal outcome was to transfer ownership from the collective privileges of CPSU members to control rights of municipal authorities. Widely regarded as a weak regime, the Yeltsin Administration could not overcome opposition in the Duma (legislature) in a highly acrimonious political environment to get approval of a land code. Duma deputies, in turn, reflected the acute polarization of society on the question of land privatization, mainly linked to rural land. Communist and agrarian parties used their strong electoral strongholds in agricultural regions to block major land legislation that would address urban land as well. Scores of resolutions and decrees by the Yeltsin Administration could neither patch over legal lacunae on the basic right of land alienation nor remove the contradictions between private ownership and Soviet perpetual-use privileges that arrested the transition to market-based land relations. The federal bureaucracy accomplished little in the first decade to create market-based

land systems. It primarily undertook redundant reorganizations that perpetuated Soviet-era functions for land allocation and planning. The high energy exuded by political authorities in favor of privatization could not overcome low activity by the bureaucracy and society (represented by the Duma) that retarded progress on institutional change.

Three key factors enabled urban land privatization to accelerate in the 2000s, while not fully overcoming resistance in those regions opposed to land privatization. First, President Putin sought to work with the Duma on an agenda for economic and social stability in his first term, and while still consolidating his power, he was willing to compromise for results. Throughout his tenure, Putin consistently sought pragmatic solutions to expand private urban land ownership, as did President Medvedev after him. The rating of pro-privatization policy and activity by political authorities during the decade is high.

Second, a talented team of bureaucrats, led by Minister of Economy and Trade German Gref, took charge of the legislative agenda and deepened a series of targeted programs to professionalize land administration systems. The results are discussed in more detail in the quantitative analysis. Again, a rating of high activity is warranted.

Third, the composition of the Duma and Federation Council (upper chamber) became more right-centrist as the decade progressed, reflecting a reduction of polarization in society, but not its elimination, as the Communist Party remained opposed to land reform of any kind. In May 2001, the Duma leadership withdrew the draft Land Code from the agrarian committee and gave it to the property committee, opening the door for a compromise that enabled passage of the Land Code in July 2001, without coverage of rural land. After a decade of intense political struggle, the final result was to regulate only 2 percent of the national land fund. Despite this minimalist spatial coverage, the Communists staged national rallies and fought back at local levels. Following the

Land Code victory, the Duma performed poorly, extending the deadline for conversion of many Soviet-era land tenure privileges to ownership rights. For this reason, society (represented by the national Duma) received a medium rating of commitment to urban land privatization.

The high level of pro-privatization activity by federal political authorities and the bureaucracy in the 2000s met a dissonant chorus of accolades and objections from the regions. The dissonance has not disappeared fully as of end-2013, as evidenced by the case studies.

In Moscow, the Luzhkov Administration established an anti-privatization pattern in 1992 that endured for nearly two decades. Vice Mayor Luzhkov's first resolution, "On Leasing as the Main Form of Land Relations," pointed the directional compass of institutional change to stasis. The legal framework in favor of municipal land ownership was reinforced by financial incentives: purchase prices for land were set at the highest levels allowed by federal law while the price to lease from the city was open to negotiation, and thus ripe for bribes. Throughout his tenure, Mayor Luzhkov effectively banned registration of enterprise land rights through legal and administrative barriers to privatization. The significant exception was Inteko, the real estate company his wife, Elena Baturina. A report issued by opposition leader Boris Nemtsov, drawing on publicly-available information, detailed 23 cases from 2001 to 2009 in which the Moscow Government ceded rights to Inteko to purchase, develop and build housing and office complexes throughout the city. Among other land-related issues, the report contributed to the Mayor's dismissal from office.

Until the change in government in late 2010, the efficiency and quality of land administration in Moscow compared unfavorably with other regions, contributing to higher transaction costs for businesses and reducing the transparency of market information on real estate. The key bureaucratic control mechanism was to manage land lease rights as a separate transaction

from the pre-approval process for commercial construction projects. While difficult to imagine, commercial developers would not know the exact location of the land plot for a project until the process was finalized, a period that generally took two years. Construction projects also required conformity with the General Plan, drafted in secret, but never approved before the Soviet Union fell. The unpublished General Plan gave bureaucrats a tool to deny projects for ostensibly technical reasons. Finally, competitive land auctions required by federal law to acquire land by leasehold or freehold very rarely took place in Moscow.

Society, represented by the City Duma as well as the public at large, evolved during the two-decade period from a passive to a more active force for institutional change, resulting in an activity rating of medium for both periods. A critical structural impediment to a higher rating of legislative activity and influence was Moscow's "hypermayoral" system. The legislature could suggest changes to orders and pass bills, but if vetoed by the mayor, a two-thirds majority was required to overturn it. In short, the power structure in Moscow inverted the concept of citizens as the principal and government as the agent of the people. Almost half of citizens surveyed in 2000 believed the Mayor was fully in control and the Duma rubber-stamped his administration's decisions. In spite of the power imbalance, the Moscow City Duma did its best to carve out a role on land policy. For example, the Duma required annual reports on land rights, planning and zoning from City Hall; these undoubtedly increased accountability by the administration and transparency of public information that enabled Nemtsov to expose corrupt land practices. Moreover, the Duma created a dispute resolution mechanism (the Moscow land court) as a line of defense for citizens to appeal their land rights. Overall, however, the Duma served more as a forum for discussion than as a counterbalance to the weight of mayoral power on land use.

A more potent force with consequences over the longer term for institutional change was civic activism in defense of housing rights and better living conditions. Motivated in the early 1990s by the privatization of housing, curtailment of new construction, and gradual shift of maintenance responsibilities onto residents, citizens started organizing for collective action. Shomina et al estimated that 3,000 housing cooperatives, 700 associations of flat owners, 500 housing partnerships and several hundred housing committees in municipal buildings had sprung up in addition to Soviet-era organizations that gained new adherents, including 120 MZhKs (youth housing complexes) and 120 KOS (committees of social self-engagement). Initially, citizens failed to grasp the connection between the lack of affordable housing and the municipality's monopoly control of land rights. This began to change in the mid-2000s after several highly publicized cases of evictions from homes and apartment buildings led to street protests following the exercise of eminent domain by the Luzhkov Administration. The most important result of civic activism in this period was the increasing use of the courts by civic organizations to defend legal rights.¹⁹

The appointment of Mayor Sobyenin by President Medvedev in October 2010 offered an opportunity to reform urban land policies in Eurasia's largest city. Initially, indications were promising as the Sobyenin Administration addressed numerous administrative barriers to land acquisition and brought city regulations in line with federal laws. Information transparency increased and the time required for land registration declined, bringing the rating of the bureaucracy on the land governance model up to medium for the decade. However, in a highly unexpected development in 2012, the Mayor succeeded in more than doubling city territory from 1.1 to 2.6 hectares. By absorbing small towns and rural land in Moscow Oblast, where many

¹⁹ As of this writing, statistical evidence of the number and types of cases adjudicated, and their outcomes, has not been located.

residents owned homes and small farms, the private land ownership share in Moscow skyrocketed from 0.5%, one of the lowest in the nation, to 14.1%, one of the highest. Aside from this statistical increase, there are few signs of any change in city policies on land privatization. The privatization activity rating for political authorities thus remains low, and there is no imminent indication that Moscow will transition out of institutional stasis.

After starting as a national leader in urban land privatization in the mid-1990s, St. Petersburg settled into a course of incremental institutional change due to contradictory policies and actions by political authorities and the public bureaucracy. Several developments in the St. Petersburg case led to this outcome.

First, political authorities reverted from a high level of pro-privatization activity to a low level after Mayor Sobchak lost his bid for re-election in 1996. The periodization is more complex in St. Petersburg due to higher turnover in the chief executive than in other case study cities. However, there is a clear break between the liberal policies of Mayor Sobchak and his successors, Governors Yakovlev and Matviyenko, who served from 1996-2003 and 2003-2011, respectively. Among other actions, Sobchak initiated a land inventory and registration system and put the legal framework in place for auctions of municipal land²⁰ and enterprise land privatization. Following Sobchak's departure, Governor Yakovlev raised land taxes above the land lease rate, provided discounted leasing rates to large industries, and replaced competitive tenders with land allocations based on exceptions. As a consequence, the rate of privatization of land plots peaked in 1996.²¹ However, land area purchased by privatized state-owned enterprises and retail firms (the primary market) had been sufficient to create a secondary market when the initial purchasers sold their

²⁰ Directive No.585 of the Mayor of St Petersburg "Regarding Procedures for Allocation of Objects of Real Estate and of Legal Title to Such Objects Under Investment Agreements."

²¹ As discussed earlier, the primary reason was the shift in relative costs to business of leasing and owning land. See Limonov, Oding and Vlasova, "Land Market Development in St. Petersburg: Conditions and Peculiarities," 12.

parcels to private parties, enabling some urban land to be recycled to more efficient purposes. After an initially market-oriented stance, Matviyenko later retarded the institutional development of secure property rights by exercising authority arbitrarily in favor of large investors, particularly through loose interpretation of zoning requirements under the city's General Plan. The pace of land privatization picked up and then slowed dramatically under Matvienko.²² Given the policy shifts in each decade, a high/low rating for the 1990s is followed by a medium/low activity rating on the land governance model from 2001-2013.

Second, until late in the period under study, the bureaucracy largely stymied urban land development by overly complicated urban planning and land registration procedures. More fundamentally, as in Moscow, the bureaucracy stultified market development by using the Soviet-era General Plan to guide all land use decisions until a new plan was approved for 2005-2025. However, the new plan continued to zone the city as a construction blueprint rather than a regulatory framework for urban growth. An arcane but telling example is that industrial and micro-commercial activities were segregated in the plan by inputs, i.e., any activity that used paper (including publishing) could not be located near those that used wood or leather. Height limits were set arbitrarily and did not reflect demand in a given location. Frequent exceptions inflamed civic activism after 2006, discussed below. Upon Matvienko's departure, the General Plan came under intense scrutiny and was undergoing revision as of end-2013, an action welcomed by investors. Regarding basic land administration functions, the city-run system required 117 days to register property as of 2008, the worst of ten cities studied in the World Bank's *Subnational Doing Business in Russia* report. After the federalization of the process, the time for registration fell to 44 days, investment-related information became public, and transaction costs in the

²² Based on data from Rosreestr, the rate of expansion in land privatization declined from 157% (2000-2005) to 17% (2005-2010).

secondary real estate market declined. Bribes for services became unnecessary, according to sources interviewed. Blending these factors, the activity rating for the bureaucracy is medium after 2001.

Society, represented by civic activists rather than the Legislative Assembly, significantly influenced major land decisions in St. Petersburg, but not until after 2006, leading to an activity rating of low for the first period and medium for the second. During both periods the Legislative Assembly opposed measures to liberalize land relations, and after Sobchak's departure, generally adopted measures advocated by City Hall to protect former state-owned enterprises on land issues, including removing rental payments for unused land and lightening land taxes for selected enterprises. Legislators reflected the conservative national mood that descended during economic depression and the 1998 financial crisis, although it was more pronounced in St. Petersburg due to the city's high, soviet-era industrial concentration. Occasionally, the Legislative Assembly demonstrated openness, such as its decision in 2009 to publish the Rules on Land Use and Development (formerly not public), giving investors more certainty on allowable uses of specific land plots, and providing civic groups a tool to monitor City Hall's conformance with the rules. Overall, it was not a force for institutional change.

In contrast to consistency in the legislative branch, the public pivoted from passive bystanders on urban development to determined activists after 2005. During preparation of the city's Strategic Plan and Investment Strategy starting in 1996, the combination of citizen-focused public officials and a civic orientation among the population created an interactive and meaningful precedent for participatory consultations. Regrettably, the precedent was not repeated during development of the 2005-2025 General Plan. Several key questions of spatial development, such as how to delineate green areas and develop industrial areas and the port were shortchanged in

favor of a focus on specific plans for individual plots. A prominent political analyst, Vladimir Gryaznevich, commented in 2005 that if the residents of St. Petersburg would not look after their own interests in the General Plan, then others would do it for them. An opportunity for public action arose in 2006 when Gazprom announced its intention to construct a 403-meter skyscraper, the Okhta Center, on a site with a 100-meter height limitation, intended to protect the cultural harmony of the historic center. The announcement set off a public furor. Aside from the brazen assumption of an exemption from the General Plan's height limitations, the deal included a 60-billion ruble subsidy approved by the Legislative Assembly at Matvienko's request. A coalition of preservationists, architects, political parties, and distinguished figures fought a three-year battle against the project, losing on several key questions such as a referendum (opposed by the Legislative Assembly in 2007) and the exemption itself (approved by the Governor and Legislative Assembly in 2009). Undaunted, the coalition filed a court appeal, petitioned to President Medvedev, and on October 10, 2009, led a massive "March in Defense of Petersburg." The exemption was rescinded in late 2009, and the project moved to a different location. The city-defenders (*gradozashchitniki*) had taken on the Governor and Gazprom and won.²³

The larger victory was the decision in 2012, after Matvienko's departure, to revisit the General Plan and its impact on urban development. As of end-2013, a major review, welcomed by investors, was underway. The *gradozashchitniki* are contributing to more secure property rights by demanding that public interest be considered more consistently and transparently during selection of projects under the General Plan, which should reduce arbitrary decisions that raised

²³ The project moved outside the zoning area to where the height limitation was not a factor, leaving some residents still unhappy about the outcome. Nevertheless, there is consensus that the victory set a precedent, according to author interviews in St. Petersburg, July-August 2013.

risks for investors.²⁴ If a market-oriented General Plan is embraced by political authorities, bureaucrats, and society, and implemented without preference to large landowners, the pace of institutional change will hasten. To set this process in motion, as the predatory rule theory would suggest, political authorities need to move decisively to a long-term fiscal strategy based on land taxes rather than land leases.

As the capital of a republic that was profoundly in favor of land privatization in the first decade after the Soviet Union dissolved, Kazan started the 1990s with an orientation more like that of St. Petersburg than of Moscow. However, Kazan differed from the case study cities in other respects. Like other municipalities in the 1990s, Kazan lacked autonomy as a self-governing community; it was administratively delimited but financially and politically under the authority of the Republic of Tatarstan. Even had the Mayor of Kazan wanted to initiate privatization of land or of industrial assets, as did Mayor Sobchak in St. Petersburg, he was not empowered to do so.²⁵ Like Moscow and St. Petersburg, the city center was filled with historical and industrial assets. Unlike St. Petersburg, Kazan also contained disgraceful slums that it removed in the 1990s, opening land in the center city ripe for green field development.

More critically, Kazan was distinct from other case study cities in the alignment of political authorities and the bureaucracy on land governance throughout both periods. While the mayor and civil servants erected barriers to land sales in Moscow, and worked at cross-purposes in St. Petersburg, authorities and civil servants in Kazan carefully prepared a sound legal and regulatory

²⁴ This view was expressed by all persons interviewed in St. Petersburg, including from the real estate industry, legislature, and the Leontieff Center.

²⁵ Kazan had no local self-governing experience until after the adoption of Federal Law № 131-FZ dated October 6, 2003, "On Key Principles of Local Self-Governance in the Russian Federation." World Bank, *Implementation Completion and Results Report (Loan/Credit No: 47660) on a Loan in the Amount of US\$125.00 Million to the Russian Federation for a Kazan Municipal Development Loan*, (Washington, D.C.: Report No: ICR0000556, 2007).

framework in the 1990s that laid the basis for a faster rate of privatization, development, and taxation of land after 2003.

As an early supporter of progressive land reform laws, President Shaimiev set a high standard of land governance for Tatarstan that extended to cities and civil servants. One of the first regions to pass a Land Code as of 1998, the Tatarstan law went further than others in allowing foreigners to own land, in unifying buildings and land as one property, and in encouraging municipalities to establish local regulations for land registration, planning and monitoring. Even prior to the Tatar Land Code, the Kazan City Land Committee had initiated a land inventory in 1993, and cadastral boundaries and an accounting of city land began in earnest in 1995. Regulations were developed for zoning and to manage land use, stimulated by the beginnings of a market for real property. Kazan was one of four cities nation-wide to put the generic concepts of the Town Planning Code of the Russian Federation (№ 73-FZ, dated May 7, 1998) into concrete regulations based on a law adopted by the local parliament. Its experience later became a model for changes in national law.

Activities and policy alignment between political authorities and civil servants continued after 2001. Evidence of a joint commitment to high performance standards is notable in the achievement of policy targets set by the Ministry of Land and Property at the republican and municipal level, in the reduction of time for property registration, and in efforts to improve the security of property rights, including through transparency and accuracy of data reporting, and by monitoring and addressing land rights violations.

The congruence between mayor and the bureaucracy is also evident in the harmonious approach to town planning (legal zoning) regulations, considered among best-practice cases in Russia, according to the Moscow-based Institute of Urban Economics. Specifically, the Kazan

model includes elements that are beneficial: i) *for municipal development*, by increasing the rate of land allocation and thus contribution of land to budgetary revenues; ii) *for property owners, real estate developers and investors*, by registering land rights prior to construction, thus allowing the land to be mortgaged to finance the project; and iii) *for citizens*, by “enhancement of opportunities to participate in decision making and to protect their interests in the use and improvement of real property; [and thus, by] reduction of conflicts between local communities and local governments.”²⁶

As in St. Petersburg, civic activism shifted from a low to a high level in Kazan in the mid-2000s. Nevertheless, a blended rating for the activity level of society and the City Council (Duma) in Kazan is more difficult to judge, because the Mayor chairs the Duma, which elects the Mayor from among its members. As we would expect relatively consistent policies between the legislature and City Hall, the activity rating for Kazan is weighted more heavily to civic activism. A movement for historic preservation was re-energized in the 1990s when the program to remove dilapidated housing also led to the destruction of cultural assets. The most important opportunity to air concerns on cultural assets arose in 2005, when the city dusted off the 1969 General Plan and initiated a major revision of its urban planning framework. It is notable that the city followed a detailed procedure for public hearings on revision of the General Plan. Nevertheless, the rise of civic advocacy for historic preservation following its adoption in December 2007 suggests City Hall did not go far enough to incorporate the results of public hearings on protection of cultural heritage. A respected journalist and historian, Olesya Baltusova, challenged the Mayor and President of the Republic in a personal blog on urban development and through walking tours that

²⁶In addition to Kazan, other cities implementing this model are Veliky Novgorod, Samara, Khabarovsk, and Cheboksary. Institute for Urban Economics, *Effective Models and Instruments of Municipal Administration*, December 2005.

galvanized public opinion starting in 2010. Media-based attacks on public authorities are extremely rare in Tatarstan. Impressively, Baltusova's activism led to the temporary cessation of construction in the city center, examination of the ownership of the new structures, a review of all high-rise projects under development in the city center, an order by the President to halt construction of a parking garage in place of the single city park, Black Lake, and, unfortunately, threats against her by developers. Other examples of civic activism include a successful legal suit against a city real estate development by MZhK, the housing association, and development of a more sophisticated land tax policy in response to active consultations over two years with the business community. In Kazan's controlled political environment, the level of activity and influence of the public on decision-making is assessed as high.

In summary, the degree of alignment of policies and actions by the two independent state variables (political authorities and the bureaucracy) provided a causal input to the pace of land privatization in Moscow, St. Petersburg and Kazan. As an intervening variable, the influence of public engagement in decision-making is clearer in St. Petersburg and Kazan than in Moscow, where several court cases remain under adjudication. Nevertheless, as of 2013, a more accountable local government on property rights is operating in each city under a more watchful and discerning public eye. In the absence of concerted public engagement and oversight, it is doubtful that public officials would have increased the transparency of decisions and information on land rights and urban planning. We further test these findings using quantitative output indicators.

3 (b). *Quantitative analysis*

While the qualitative and quantitative analyses both explain the "how" of institutional change, the qualitative indicators may be viewed as *inputs* while the quantitative indicators reflect the *outputs* of a process. In other words, if political authorities are aligned with civil servants

either for or against land privatization, we would expect to see a quantitative difference in measures of performance as a consequence, or output, of that alignment. The dissertation thus employs the logical chain as used in World Bank investment operations: inputs (physical, financial, organizational, legal) lead to outputs (directly measurable results), which lead to development outcomes (changes in economic behavior). In World Bank parlance, the adoption of the legal right to own land is an input, actions to put law into practice are outputs, and the change of behavior by people to buy or sell land and register rights is a development outcome. The dependent variable, share of private urban land ownership, is thus an outcome indicator.

The outputs we are most interested to measure are at the end of the two-decade period of institutional change. Based on the qualitative analysis, we would expect to see a higher level (higher than what) of outputs and outcomes reflecting a stronger commitment to private property development in Kazan. Summary indicators are presented in the chapter. Some of the indicators are customized for this study; others are taken from authoritative sources. Data availability for Kazan varies by topic; Tatarstan is substituted when necessary. Moscow presents statistical issues due to the increase of its geographic area by 2.5 times in 2012. Wherever data for Kazan or Moscow present issues of comparability, it will be noted.

1. Political Authorities and the Legal Order

Output indicators for political authorities measure efforts to establish and maintain compliance with an appropriate legal and regulatory framework. Establishment includes systems for measurement and monitoring, while compliance includes mechanisms for enforcement by civil servants. Many monitoring systems were in place from the Soviet period, particularly to ensure compliance with architectural and technical building standards. Here we are interested in new

systems to monitor compliance with *land legislation*. Whether land is privately owned, leased from the state, or held under other uses, it needs to be legally registered to enable land market transactions that bring economic benefits. Finally, political authorities set the standards for impersonal implementation of property rights institutions in a low-corruption environment. Three summary output indicators to capture these factors are the property registration rate, access to anti-corruption information, and compliance with land legislation.

Table 4. Political Authorities and Legal Order
Summary Indicators

	Registration Rate ¹ (2011-2013 average)	Anti-Corruption Information Access Score ² (out of 100)	Compliance Improvement Rate ³ (2011-2013 average)
Moscow	78.6	33.0	11
St. Petersburg	74.3	26.6	12
Tatarstan (Kazan)	90.3	20.1	37
Russian Federation	83.3	37.0	37

Sources: ¹ Author calculations based on ROSREESTR, Federal'naia sluzhba gosudarstvennoi registratsii, kadastra i kartografii, Forma N 8. Svedeniia po gosudarstvennoi registratsii prav na nedvizhimoe imushchestvo i sdelok s nim (2011-2013). ² Ina Kremen, *Monitoring - 2013: The Rosreestr and Its Regional Bodies - Analytical Report*. Freedom of Information Foundation, December 20, 2013. <http://svobodainfo.org/en/node/2867>. ³ Author calculations based on: Ministerstvo ekonomicheskogo razvitiia Rossiiskoi Federatsii, Federal'naia sluzhba gosudarstvennoi registratsii, kadastra i kartografii. Gosudarstvennyi (Natsional'nyi) doklad o sostoianii i ispol'zovanii zemel' v Rossiiskoi Federatsii v 2011, 2012, 2013 g. "Svedeniia o gosudarstvennom zemel'nom nadzore za 2013g., Moskva 2014, 164-167.

The registration rate is a report card on the administration's overall efforts to strengthen property rights. Without registration of property rights, no activity in a given location is legal. The reasons agencies may fail to act on applications to register rights could include legitimate issues such as incomplete documentation by the applicant or overlapping records that could lead to title disputes. On the other hand, surveys indicate that some local administrations refuse to register rights (the refusal rate) to reduce private ownership or extract bribes. Data for Kazan indicates that the average refusal rate in 2012-2013 was one percent of properties registered.²⁷ In

²⁷ In 2012 there were 2398 refused out of 242,885 properties registered; in 2013, 2,658 refused out of 255,490.

Table 5, we see the three-year average of applications registered against the number received. There is a clear differentiation by location, with Tatarstan surpassing national levels and Moscow and St. Petersburg trailing (and the latter quite significantly). These rates reveal a weaker commitment by political authorities in Moscow and St. Petersburg to increase the security of property rights. In contrast, the authorities in Tatarstan and Kazan demonstrate the opposite tendency.

The Anti-Corruption Information Access Score is measured by the Freedom of Information Foundation (FIF) under a state contract. FIF monitors websites of regional affiliates of federal agencies for compliance with unified federal requirements to overcome corruption through public information. These requirements include publication of detailed information on the activities and income of public officials and their immediate family members in order to reduce the possibility of conflicts of interest or direct benefits related to government service. In all of the case study cities the performance fell below the national score, which was extremely low. This is an area for improvement across the board.²⁸

The compliance improvement rate measures efforts by local authorities to correct violations of land legislation by citizens, firms, and the primary business owner. Enforcement of land legislation has a piebald history in the Russian Federation. On one hand, oversight was traditionally lax; on the other hand, depending on how the compliance function was administered, rights could be abused for the sake of imposing targets. Starting from the adoption of the Land Code in 2001, monitoring and enforcement rates at the national level dwindled from barely effective to ineffective. One of the reasons relates to multiple reorganizations of the national agency responsible for land management and surveillance. In all, the present-day Russian

²⁸ Note improvements as of 2015.

Registration Agency (Rosreestr) reorganized eight times. From 2009-10, all territorial offices experienced upheaval. During the decade after the Land Code went into effect, the number of inspections and identification and correction of violations declined by almost half.²⁹ Only starting in 2011 can we judge if standards are comparable across regions. The reasons for violations of land law also point to the influence of personalized institutions. Citizens committed the majority of violations, who may be unaware of their obligations to register or their rights in the face of administrative fines. On the other hand, a small but significant number of offenders are heads of companies, who should be aware of and act on their responsibilities to register land rights.

On this output indicator, Tatarstan demonstrates a higher tendency to bring land users into line with legislation by facilitating corrections, before imposing fines. This is the first step in a sophisticated dispute resolution process that begins with administrative review (within Rosreestr) but includes non-governmental arbitration organizations that perform third-party review before imposition of fines. Cases that cannot be adjudicated at this level are referred to court. The rate for Kazan is similar to that of Tatarstan but is not reported in the same format. The Tatars are particularly motivated to convert holders of permanent (perpetual) use rights into rights of ownership or lease, as required by federal law as of 2013, because it will lead to higher payments to the budget for land taxes or leases.³⁰

²⁹ A. A. Gerasimov, "Gosudartsvennyi i munitsipal'nyi zeml'enyi kontrol': analiz praktiki, predlozheniia po sovershenstvovaniiu," *Imushchestvennye Otnosheniia v RF* (No. 10, 121: 2011), 39. The author reviewed ten years of data and found that the number of inspections, identification of violations, and imposed fines declined steadily from 2001 to 2010. In examining the reasons for the decline in oversight, he noted that bureaucratic reorganization was a primary factor. As a consequence, the total land area of the Russian Federation inspected declined from about 8 to a low of 2 percent in 2009 and the number of violations identified and subsequently corrected declined from 73 to 42 percent.

³⁰ For example, in the first two months of 2014, Tatarstan reported 2363 inspections that resulted in identification of 1348 violations, of which 694 (51%) were corrected. See "Narushitelei – k otvetu," March 12, 2014, <http://rosreestr.tatarstan.ru/rus/info.php?id=608143>.

2. Bureaucratic Organization and Performance

Absent a theory of bureaucracy, the dissertation posits that establishment of secure land rights depends on the conversion of the land administration bureaucracy from a rent-seeking to a rule-bound organization. Output indicators for bureaucratic performance measure the relative efficiency of public services in terms of speed and procedural steps. Based on findings from the 2013 EBRD-World Bank Business Environment Enterprise Survey (BEEPS), shorter waiting times are associated with fewer obstacles to obtain a service and lower expectation for payment of a bribe.³¹ Summary output indicators are days to register property, governance obstacles in interacting with state authorities to acquire land for business purposes (purchase or lease), and expectation of irregular payments (bribes) to get business accomplished. Disaggregated data by city are not yet available on citizen satisfaction surveys or services performed electronically, but general trends are discussed below.

Table 5. Bureaucratic Organization and Performance
Summary Indicators

	Days to register property ¹	Land access (% no obstacle) ²	Frequency of informal payments ³
Moscow	44	71	3
St. Petersburg	43	47	2.7
Kazan	33	64	2

¹World Bank and IFC, *Doing Business Subnational: Doing Business in Russia*, 2012. <http://www.doingbusiness.org/russia>

²EBRD-World Bank, *Business Environment and Enterprise Performance Survey (BEEPs)*, 2013. Data are from 2011.

³Gregory Kisunko and Stephen Knack, "Russian Federation: National and Regional Trends in Regulatory Burden and Corruption," Policy Note (World Bank, February 2013), 43-45. Informal payments to local officials to get business done, as a mean of: always (6), usually (5), frequently (4), sometimes (3), seldom (2), or never (1). Data are for payments to local officials in the Republic of Tatarstan.

In Table 6, the unexpectedly high percent of respondents reporting no administrative obstacle to access land in Moscow, based on disaggregated data from the 2013 BEEPS, requires

³¹Gregory Kisunko and Stephen Knack, "Russian Federation: National and Regional Trends in Regulatory Burden and Corruption," Policy Note (World Bank, February 2013), 8. The finding pertains to a composite "Graft Index" that refers to general tendencies plus specific incidence in relation to courts, taxes, and customs.

careful interpretation. The rate is not consistent with the other variables presented nor with Moscow’s regional ranking on overall administrative obstacles (29 out of 37) compared to Tatarstan (14) and St. Petersburg (33), based on a similar data set but with a wider number of issues.³² To test the findings we report the results of bivariate and multivariate analyses on obstacles to land as reported by a similar cohort of businesses in the three cities. As discussed in Chapter 2, firms that report obstacles to obtaining land, for business expansion or other reasons, tend to be larger in size, privately owned, and currently lease land. Firms that had some previous government ownership (e.g. privatized state-owned enterprises) have less difficulty. Firms that report obstacles to land access also tend to pay bribes to get business done (not necessarily for land, but for government services). As noted in the bivariate analysis, the indicator variables for Moscow and Kazan are not significant, suggesting these cities are not significantly different than the rest of the country in the obstacles they pose to firms in obtaining land. However, the St Petersburg dummy is significant and positive, which suggests that firms have greater difficulty in obtaining land than those in the rest of Russia. Thus far, the bivariate analysis confirms better performance in Moscow and Kazan compared to St. Petersburg.

Bivariate analysis

	Obstacle land
Obstacle land	1
firm_size	0.0702
Registration year	
majority_owned	
land_own	
land_rent	0.0669
bribes_dummy	0.1936
some_government	-0.0406
SOE	-0.0352
private	0.0485

³² Kisunko and Knack, “National and Regional Regulatory Trends,” 49

state_ties	-0.0482
moscow_dummy	
kazan_dummy	
st_petersburg_dummy	0.0524

Multivariate analysis

	obstacle	obstacle	obstacle	obstacle
firm_size	0.565 (3.75)***	0.523 (3.51)***	0.568 (3.78)***	0.573 (3.81)***
land_rent_dummy	0.331 (3.34)***	0.363 (3.70)***	0.324 (3.27)***	0.324 (3.27)***
bribes_dummy	0.845 (10.25)***	0.842 (10.22)***	0.843 (10.22)***	0.844 (10.23)***
some_government	-0.343 (2.34)**			
st_petersburg	0.964 (2.51)**	0.919 (2.40)**	0.962 (2.51)**	0.970 (2.53)**
moscow_dummy	0.063 (0.24)	0.047 (0.18)	0.060 (0.23)	0.063 (0.24)
kazan_dummy	0.072 (0.33)	0.085 (0.39)	0.079 (0.36)	0.074 (0.34)
soe		-1.918 (1.83)*		
private			0.357 (2.58)***	
state_ties				-0.401 (2.77)***
Constant	-1.374 (13.12)***	-1.419 (13.81)***	-1.719 (11.16)***	-1.362 (12.99)***
N	2,896	2,896	2,896	2,896

* $p < 0.1$; ** $p < 0.05$; *** $p < 0.01$

In the multivariate analysis we have confirmed the bivariate results. The coefficients for state-owned enterprises (SOE) and those with former state ties are significant and have the expected signs. Private firms and larger firms have more difficulty accessing land. As earlier, the dummy for Moscow and Kazan are not significant. In contrast, the dummy for St. Petersburg is significant and positive which suggests that after controlling for all other factors, firms in St Petersburg are more likely to report obstacles to land than elsewhere in Russia.

The findings indicate that the standardization of property registration by the federal government has led to more impersonal implementation of property rights institutions in Moscow

and Kazan. The Russian Registration Agency (Rosreestr) is a federal agency operating at the regional and city level, with support from agencies that report to the Mayor. The timing of the business survey, in 2011, suggests that the arrival of a new mayor in Moscow may have altered bureaucratic practices, while arbitrary decisions relating to the General Plan could be reflected in the St. Petersburg results. Data for access to land in St. Petersburg suggest the process is not impersonal; repeated references by interviewees to “oligarchic overtones” in the primary land market confirm this interpretation.

These city results reinforce other evidence that the Russian registration system is indeed evolving from a rent-seeking to a more rule-bound bureaucracy that improves regulatory quality. Regulatory quality extends beyond efficiency to include the accuracy, transparency, and coverage of information provided by the land administration system. In a country spanning eleven time zones, electronic access is a critical but also costly and time-consuming investment in people, systems, and information technology. As of end-2013, 24 percent of all land-related services were provided electronically, and digitally-sized extracts of records could be obtained on any property from any part of the country. Immovable property data was provided on a fee basis for professional service firms while businesses and citizens paid a nominal amount to acquire cadastral and property title information. As of July 2012, all governmental agencies must publish electronically all regulations, laws and decisions they make, including on land relations.³³ Since 2008, transparency and information access have evolved from negligible to expansive, significantly lowering transaction costs for contracts involving land and property.

³³ Romyana Tonchovska and Kathrine Kelm, “Contribution of Technology for the Improvement of Governance of Tenure in ECA Region,” (paper presented Paper prepared for presentation at the Annual World Bank Conference on Land and Poverty, Washington D.C, April 8-11, 2013), 5.

Differences can appear in quality and efficiency at the local level when the human factor enters. To increase standardization in back office functions across the country, Rosreestr developed 20 standard contracts for key transactions; these are available for free via the internet and in registration office kiosks that also calculate and print out the charge for services, so officials cannot demand more in payment. Rosreestr local offices do not yet publish client service performance records or surveys in Russia as they do in Croatia.³⁴ However, as discussed in the next section, Rosreestr offices in the regions are encouraged to collect and report public feedback on their performance.

Corruption in land administration functions remains a concern in Russia. But Russia is not unique. Globally, Transparency International ranks land-related issues as the third most corrupt government function after police and the courts. Each case study documented corrupt behavior by local land agencies and improvements after implementation of federalized, IT systems. This process is still evolving, but the recent decision to distribute applications for processing to offices outside the local area should further reduce opportunities for bribery.³⁵

3. Public Engagement in Decision-Making

In the new institutional economics, it is the struggle for property rights that defines those rights. Without social consensus on property rights institutions, legal coercion by the state, by imposing fines or repossessing land, will not instill compliance by society. Aside from a one-way street, where the state defies public concerns, or citizens take to the streets in protest, we are interested in evidence of a two-way street of constructive interaction between the state and society

³⁴ Tonchovska and Kelm, "Contribution of Technology," 6.

³⁵ Tonchovska and Kelm, "Contribution of Technology," 7.

that helps define property rights. In a civil law system (as opposed to common law), institutional change depends on legal and regulatory amendments, which citizens can inform through direct communications, the administrative dispute resolution system, or court litigation. An important example is the 2004 law to prevent defrauding of shared landholders (*dol'shchiki*) by requiring that developers of multiunit buildings have registered land rights before selling apartments to the public.³⁶ Amendments to strengthen the law are under discussion in 2014.

Russians are not reticent in defense of secure property rights and the Government has a strong interest in land registration and transactions, so in principle, the basis exists for a two-way dialogue. As President Putin noted during a Presidium meeting on October 9, 2012 in reference to land purchases, he and the Government were “bombarded with letters on this issue from all across the country.”

People write that it is impossible to find information on available land, that they are in a position of powerless petitioners whose demands and needs are ignored, and that it takes three or more years to get a plot of land. As a result, land remains unused and is not working for anyone's benefit. The high-handedness and corruption of officials greatly inhibit the full-fledged development of land relations in Russia. And as a result, this slows the progress of the country as a whole.³⁷

To validate the presence or absence of citizen engagement, we need to see evidence of public interest, such as through information requests or feedback, and of public outreach by political authorities and civil servants on questions of common purpose. In Table 7, we see per capita information requests by citizens on property rights from the Unified Property Registry, EGRP (*ЕГРП*), with a significantly higher rate in Tatarstan. Public outreach and feedback are reported as descriptive indicators based on website reviews. Outreach includes interactive methods such as consultations, training sessions and hotlines, and electronically-available

³⁶“Dol'shchiki pod zashchitoi gosudarstva i Rosreestra,” <http://rosreestr.tatarstan.ru/rus/info.php?id=608145>.

³⁷ State Council Presidium Meeting, The Kremlin (Moscow, Russia, October 9, 2012).
<http://www.eng.kremlin.ru/news4500> downloaded 5/19/13.

information, such as answers to commonly-asked questions. A high level of outreach is equally evident in Kazan. Feedback reported on the Rosreestr website in Tatarstan is particularly extensive and includes number and types of complaints registered by citizens. Statistical information on feedback in St. Petersburg could not be located, reducing the rating to medium. All cities provide adequate resources to prevent and report corruption.

Table 6. Public Participation in Decision-Making
Summary Indicators

	Information Requests per capita (100) ¹	Public Outreach by Local Authorities ²	Public Feedback Collected/Reported ²
Moscow	3.4	High	Yes/Yes
St. Petersburg	4.5	Medium	Yes/No
Tatarstan (Kazan)	15.0	High	Yes/Yes

¹ Data is average of 2012-2013. Calculated from ROSREESTR, Federal'naia sluzhba gosudarstvennoi registratsii, kadastra i kartografii. Forma No 8. Moskva, 2013, 2012. Svedeniia ob informatsii, vydavaemoi Rosreestrom i ego territorial'nymi organami. Upravlenie Federal'noi sluzhbi gosudarstvennoi registratsii, kadastra i kartografii po Respublike Tatarstan. Kazan' 2013. Rossiiskii Statisticheskii Ezhegodnik, Moskva 2013, 90-92. Federal'naia sluzhba gosudarstvennoi statistiki ROSSTAT. <http://www.gks.ru/>.

² Upravlenie Federal'noi sluzhbi gosudarstvennoi registratsii, kadastra i kartografii po Moskve. <http://www.to77.rosreestr.ru/>. Upravlenie Federal'noi sluzhbi gosudarstvennoi registratsii, kadastra i kartografii po Sankt Peterburgy. <http://www.to78.rosreestr.ru/>. Upravlenie Federal'noi sluzhbi gosudarstvennoi registratsii, kadastra i kartografii po Respublike Tatarstan. <http://rosreestr.tatarstan.ru/>.

Future research to strengthen these indicators would include number of court cases adjudicated and decisions reached, as well as public hearings organized and attended on land use decisions pursuant to the General Plan. As of this writing, reliable statistical information on these topics could not be obtained.

The quantitative data demonstrate stronger commitment to strengthen property rights and more extensive public outreach and citizen interest in the Republic of Tatarstan, with collaborating statistics on Kazan. Compared to findings across Russia, Moscow and Kazan do not present greater obstacles to firms in obtaining land by lease or purchase, while St. Petersburg is obstructing access more than in other cities. We now turn to outcome indicators to assess the development implications of these findings.

3. Institutional change and development outcomes

The efficiency of a modern city depends on the flexibility of its land markets. When land is traded on the basis of market prices, with appropriate zoning to reduce negative externalities, a city becomes more efficient with each transaction. With an appropriate regulatory framework, commuting times decline, new services appear, density increases, and obsolete or polluting factories are replaced with modern and more energy-efficient structures.³⁸ Transactions between private parties on a long leasehold basis can also increase efficiency if leases are fully marketable and free from political influence. This is not yet the case in Russia. Consequently, the dependent variable, the rate of private urban land ownership, is also the first outcome indicator. Putting land in private ownership is the first step to recycling it for greater urban efficiency.

As indicated in Table 7, the trend from 2000-2010 consistently differentiates the case study cities by high, medium and low values of urban land privatization. The inverse of private ownership, the municipal share (shaded in gray) reflects the aggregate output indicators of the land governance model. Table 8 for 2012 shows a break in the data series due to the expansion of Moscow when it acquired land in Moscow Oblast with a relatively high share of private homes and small farms. Table 9 validates the higher share of land in real estate transactions in Kazan. We again observe a higher land share in Moscow in 2013 compared to 2012 due to the boundary expansion.

³⁸ Alain Bertaud, "The Development of Russian Cities: Impact of Reforms on Spatial Development," Mimeo for World Bank Group (2010), 1-2. Bertaud notes that "It is difficult to conceive an efficient modern city without a well-functioning land market. Transactions in already built structures are not enough to promote land use efficiency. Only well-functioning real estate markets reflecting demand for land and floor space can improve the efficiency of a city spatial structure."

Table 7. The Structure of Land Ownership in Selected Regions¹ (2000-2010)

	Urban land in thousand hectares			Urban Land by Ownership Share (%)								
				Individuals			Legal entities			State and municipalities		
	2000	2005	2010	2000	2005	2010	2000	2005	2010	2000	2005	2010
Russian Federation	7645	7945	7964	6.2	6.2	7.8	0.6	1.4	3.1	93.2	92.4	89.1
Moscow	109.1	109.1	109.1	-	-	0.1	-	-	1.9	100	100	98
St.Petersburg	139.9	139.9	139.9	1.2	2.1	3.8	4.7	11.1	13.5	94.1	86.8	82.7
Republic Tatarstan	112	122.3	154	8.8	9.8	10.7	1.8	6.2	14.6	89.4	84.0	74.7

¹Data are not disaggregated at the municipal level by Rosreestr. For the purposes of this table, Tatarstan is taken to represent the ownership structure of Kazan, which is 61,300 hectares or 40% of the Republic urban area in 2010. Data in the table are derived from: Zemel'nyi Fond Rossiiskoi Federatsii of January 1, 2000; Goskomitet po zemel'noi politike RF 2000: 4-6, 178-183; Zemel'nyi Fond Rossiiskoi Federatsii of January 1, 2005; Rosnedvizhimost' 2005: 42-49, 245-247; Zemel'nyi Fond Rossiiskoi Federatsii of January 1, 2010; Rosreestr 2010: 247-249.

Table 8. The Structure of Land Ownership in Selected Regions (2012)

	Urban Land ('000 hectares)	Individuals	Share (%)	Legal Entities	Share (%)	State and Municipal	Share (%)	Of which Federal, ('000 hectares)
Russian Federation	8 193.9	758.0	9.25	325.9	3.98	7 110.0	86.77	613.1
Moscow	256.1	36.2	14.14	10.0	3.9	209.9	81.96	9.6
St. Petersburg	140.3	8.0	5.7	20.0	14.26	112.3	80.04	7.8
Tatarstan	155.5	18.3	11.77	23.3	14.98	113.9	73.25	7.7
Kazan ¹	61.3						70.10	

¹Estimate derived from 2013 tax data. Other data derived from Rosreestr, "Gosudarstvennyi doklad o sostoianii i ispol'zovanii zemel' v Rossiiskoi federatsii v 2012 godu," Moscow, 2013.

Table 9. Share of land in all real estate rights registered (percent)

	2011	2012	2013
Moscow	0.42	1.40	3.37
St. Petersburg	2.57	2.66	2.89
Kazan	13.24	19.98	18.67

Source: ROSREESTR, Federal'naia sluzhba gosudarstvennoi registratsii, kadastra i kartografii. Forma No 8. Moskva, 2012-2014. Svedeniia ob informatsii, vydavaemoi Rosreestrom i ego territorial'nymi organami

How does the rate of private land ownership influence other development outcomes? The first consequence, consistent with the predatory rule theory, is expected to be a higher rate of land taxes as a share of fiscal revenues of the case study cities. Table 10 confirms this outcome. In 2013, land tax payments were three times greater than land lease revenues in Kazan. In Moscow and St. Petersburg, the reverse was the case. Succinctly, we observe a high, medium, low pattern in the relationship between land tax and land lease revenues: Kazan – 300 percent; St. Petersburg -- 50 percent; Moscow -- 30 percent. The data explain the strong incentive of Mayor Metshin and the land administration bureaucracy in Kazan to register land rights, correct violations, conduct public information seminars, and hold interactive consultations with taxpayers on cadastral evaluation and land taxes.

Table 10. Revenue Sources in Case Study Cities
(% of total revenues)

	Moscow		St. Petersburg		Kazan	
	2012	2013	2012	2013	2012	2013
Total	100	100	100	100	100	100
Federal Transfers	5.7	3.0	11.5	10.5	48.4	37.0
Tax and Non-Tax	94.2	97	88.5	89.5	51.6	63.0
of which:						
Land Tax	0.8	0.9	1.1	1.3	12.1	13.7
Municipal Property	3.5	4.7	3.9	5.6	10.1	9.2
Including:						
Lease of land	1.8	2.8	2.3	2.3	3.7	4.4
Land sales	1.1	n/a	1.4	0.4	1.7	2.8

Sources: Departament finansov goroda Moskvy, *Strutura dokhodov buidzheta Moskvy v 2010-2014*. Komitet Finansov Sankt-Peterburga, *Ezhemesiachnyi otchet ob ispolnenii konsolidirovannogo buidzheta sub'ekta Rossiiskoi Federatsii za sootvetstvuiushchii mesiatz finansovogo goda po forme, ustanovlennoi ministerstvom finansov Rossiiskoi Fedratsii* (December 31, 2013 and January 1, 2013.) Zakonodatel'noe Sobranie Sankt-Peterburga, *Ob ispolnenii biudzheta Sankt-Peterburga za 2013 god*. Kazanskaya Gorodskaya Duma. *Otchet ob ispolnenii buidzheta munitsipal'nogo obrazovaniia goroda Kazani za 2012 god/za 2013 god*.

Note: As federal cities, Moscow and St. Petersburg retain 84.6% of the land tax; the remainder is remitted to the Federal Government. As a city, Kazan retains 100% of the land tax.

An additional outcome indicator is mortgages trends. Data on mortgages, including by type of property and value, are more extensively reported in Kazan than Moscow and St.

Petersburg. Taking one comparable indicator, the three-year average from 2011 to 2013 of residential mortgages per 1,000 residents, St. Petersburg leads (4.8), followed by Kazan (2.9) and Moscow (2.4).³⁹

Finally, higher levels of landed property privatization are also evident in housing availability. Housing is a socially sensitive issue in Russia due to the scarcity and poor quality of stock inherited from the Soviet period. As of 2013, 75% of Russians still live in sub-standard housing.⁴⁰ Data are monitored closely by political authorities to signal their leadership in delivering social progress. All case study cities construct apartments and sell them on the primary market. In Kazan these are allocated through the social housing program. The price trends are relatively comparable across case study cities, which is surprising given the faster population growth of Moscow. Moreover, housing area per capita has not grown as fast in Moscow as in St. Petersburg and Kazan, indicating the market for housing development is constrained by administrative barriers (Table 11).

Table 11. Housing Area
Per Capita, Sq. Meters

	2010	2011	2012
Moscow	18.7	18.7	19.3
St. Petersburg	23.0	23.3	23.8
Kazan	21.9	-	22.7

Source: Rossiiskii Statisticheskii Ezhegodnik 2013, 182 Territorial'nyi organ Federal'noi sluzhby Gosudarstvennoi statistike po Respublike Tatarstan. Informatsionno-analiticheskii doklad, 2014.

<http://tatstat.gks.ru/>

In reviewing conditions following land privatization, we observe better development outcomes in St. Petersburg and Kazan than in Moscow. Kazan demonstrated that a higher private

³⁹ Rosreestr, Federal'naia sluzhba gosudarstvennoi registratsii, kadastra i kartografii, Forma no. 8, *Svodnyi otchet v razreze tsentral'nogo apparata i territorial'nykh organov Rosreestra 2011-2013 g.* Statisticheskie svedeniia o gosudarstvennoi registratsii ipoteki po g. Kazan' za 12 mesiatsev 2013 goda v sravnenii s analogichnym periodom 2012 g.

⁴⁰ Oxford Analytica, "Extension of Russian Housing Privatization Misses Goal," April 3, 2013.

rate of land ownership by citizens and firms translated into higher local tax revenues. Both Kazan and St. Petersburg outperformed Moscow in per capita residential mortgages and housing availability per square meter. Additional comparisons were attempted, e.g. on trends in real estate registrations, transactions, and mortgages per capita and by value, but comparable data were not available. Further research in this area would be valuable to assess economic implications of institutional change. Nevertheless, it is clear that institutional stasis has disadvantaged Muscovites. They are less likely than residents of St. Petersburg or Kazan to own land, take out a mortgage, register real estate rights, live in spacious quarters, or receive services based on property as a “benefit tax.” Were Moscow a small town on the periphery, these facts would merely be unfortunate. As the largest city in Europe and capital of Russia, land market constraints are highly consequential for the political and economic development of the country.

4. Conclusions

Major institutional change is akin to an urban redevelopment project that starts with a wrecking ball, swinging at slow speed, until the force cracks the pylons holding the old structure in place. The debris needs to be cleared before a new edifice built on socially-accepted conventions of new property rights takes form and starts to rise.

A micro-analytic perspective, seen through the aperture of the new institutional economics (NIE), brings the change process into closer relief. The historical steps as observed by North, Wallis and Weingast (2009), where elite privileges are transformed into elite rights, and later, into rights for the population at large, goes to the core of the urban land privatization process in Russia. Because wider access to property rights also disperses wealth and power, the ruling coalition will

resist institutional change that undermines the elite bargain to share land rents.⁴¹ The elite bargain became clearer in 1995 when privatized (former state-owned) enterprises got a discounted price to buy land, while that for new private firms was twenty times higher. The preferential price was later amended by presidential decree, but it was not enforced, allowing local governments to manipulate prices for insiders. The wrecking ball of institutional change has not been forceful enough to break the elite bargain over landed property rights everywhere in Russia.

Why rulers introduce radical institutional change is the most difficult question to answer, and as evidenced by the three case studies, Margaret Levi's (1988) theory of predatory rule has better explanatory power than path dependence, Hellman's "winners-take-all," or Pyle's proposition of the political and economic costs of privatization. Path dependence, "comes from the increasing returns mechanisms that reinforce the direction once on a given path. Alterations in the path come from unanticipated consequences of choices, external effects, and sometimes forces exogenous to the analytical framework."⁴² In this definition, North (1990) postulated that changes in the polity were necessary to change institutional course. Once a course was chosen, continuity of informal institutions and bureaucratic organizations from the previous regime would be likely to prevent radical change.⁴³ The introduction of private property in Russia preceded the

⁴¹ According to the authors, "Each elite understands that other elites feel similar incentives. In this way, the political system of a natural state manipulates the economic system to produce rents that then secure political order." North, Wallis, Weingast, *Violence and Social Order*, 18. The authors view the Soviet Union as an exception to their general finding that natural states rarely have consolidated control of the military. (See p. 153). Their model of progression in a natural state (from fragile to basic to mature) is not fully applicable to modern Russia because the military is consolidated in a political system that is not "constrained by a set of institutions and incentives that limit the illegitimate use of violence." (See p. 21). Nevertheless, the underlying logic of the progression of elite privileges into elite rights is very pertinent. In particular, "the origin of property rights and legal systems is the definition of elite privileges in the natural state." (See p. 151).

⁴² Douglass C. North, *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge University Press, 1990), 12. North attributes the concept of increasing returns to the work of W. Brian Arthur, "Self-Reinforcing Mechanisms in Economics," *The Economy as an Evolving Complex System*, (1988). North subsequently amended this view with his co-authors to observe that "no compelling logic moves states" either towards more sophisticated institutions and organizations or in the opposite direction. See North, Wallis, Weingast, *Violence and Social Orders* (2009), 73.

⁴³ North, *Institutions, Institutional Change and Economic Performance*, 104.

disintegration of the Soviet Union, and change was initially slow, partially due to continuity from the General Plan, a paragon of Soviet planning, but also due to contradictory legal and fiscal policies within the control of a federal government that favored land privatization. Once the federal government corrected the incentive framework, conditions were in place for a radical change of course. In both St. Petersburg and Kazan, the path of urban land privatization is unlikely to be reversed. This outcome is not consistent with path dependence.

Hellman's "winners-take-all" approach⁴⁴ does not address the motivation for institutional change, but it is worth examining his explanation for why institutional change tends to be incremental, when it occurs, using St. Petersburg as the representative case. There are elements in St. Petersburg of Hellman's finding of "winners-take-all," i.e. where institutional reforms in the long run are blocked by the short-term winners of rents from partial reforms. Indeed, local officials and former state enterprise directors were short-term winners who acquired valuable land assets early in the transition from communism. The contradictory legal order was ripe for early winners in the St. Petersburg City Administration and bureaucracy to implement partially-revised institutions in a personal manner. Those who benefited from land rents resisted reform of the General Plan to control the land market, which is symptomatic of a partial reform equilibrium. As of 2012, the primary market managed by the city and large former state-owned enterprises was closed and non-transparent, while a vibrant and competitive secondary market operated in parallel. Firms surveyed in 2011 found it harder to acquire land in St. Petersburg than in Kazan and Moscow, confirming the disjuncture in the market.

Yet the winners-take-all approach does not capture the complexity of incremental institutional change. Complexity derives from fluidity in the constraints and incentives facing the

⁴⁴ Joel S. Hellman, "Winners Take All: The Politics of Partial Reform in Postcommunist Transitions," *World Politics* 50.2 (1998).

predatory ruler. Among a set of alternatives at a given time, rulers will opt for the highest-yielding and most feasible revenue sources that strengthen their hold on power and security in office. This is where “winners-take-all” falls short: it is a variation of a path-dependent argument in that once the gains are in hand, they are never lost. The political world of trade-offs is a more dynamic marketplace for bargains than this concept would suggest. North’s (1990) argument is more to the point of incremental change, which occurs when each actor renegotiates contracts to secure a better deal from changing prices and other conditions. Real estate markets, like political ones, are all about getting a better deal. St. Petersburg may have a partial reform environment, but it is improving incrementally, including through litigation over contested property rights. Reconsider this sentence. Moreover, even incremental reformers can deliver better outcomes than cities that do not reform, as evidenced by mortgage activity and housing area.

Pyle’s conclusion that municipalities and enterprises were motivated to privatize land to capture a stream of rents comes closer to the predatory rule theory because it is based on the incentives of elites.⁴⁵ His findings derive from land prices, the industrialization rate, and the regional democratic index. Moscow, he believes, fits the framework well because land values were high, raising the cost to the municipality of privatization. Check this sentence. However, support by Muscovites for land privatization was higher than the national average, and it is doubtful that Gavriil Popov, the city’s liberal, first-elected mayor, would have charted Luzhkov’s

⁴⁵ Pyle found that municipalities were motivated to privatize enterprise land plots more rapidly where the economic and political costs were lowest for municipalities to divest their control rights. This would be the case in municipalities where: i) land values were relatively low; ii) industry had a high share of regional output; iii) politicians were sensitive to industrial and social interests; and iv) the policy environment was relatively liberal. Controlling for firm location and other factors, lower purchase prices tended to lead to higher enterprise land ownership. Overall, local policies and the self-interest of municipalities and firms are correlated with the pace of enterprise land privatization. William Pyle, *The Ownership of Industrial Land in Russian Cities: Explaining Patterns of Privatization Across Regions and Firms*, National Council for Eurasian and East European Research, 2011. <http://www.nceer.org>

course of institutional stasis had he not left office in June 1992. The federal legal framework gave the local predatory ruler *carte blanche* to manipulate land prices, which were set administratively, with no relation to market prices until a secondary market deepened enough to reveal value. Both St. Petersburg and Kazan took advantage of this flexibility in their initial push for land privatization. Pyle's finding is helpful, however, in validating that municipalities and enterprises followed predictable economic behavior in responding to price incentives, with municipalities wanting to hold land as prices on the secondary market rose, and enterprises wanting to buy when prices fell.

By accounting for evolving constraints and incentives facing rulers as they maximize revenues, the predatory rule theory does a better job of explaining the distinct land privatization strategies of political authorities in Moscow, St. Petersburg and Kazan. President Shaimiev of Tatarstan represented a ruler with greater bargaining power and a longer time horizon who gradually invested in systems and reforms to generate stable revenues, including through land privatization. Mayor Luzhkov of Moscow was less secure in office initially and after President Putin rescinded regional elections. His strategy to maximize rents was consistent with a short-term perspective. Once he acquired greater bargaining power, defined as economic and political resources needed by federal authorities and constituents, he had no incentive, fiscal or otherwise, to relinquish the land resources that epitomized his economic and political power. Length of tenure can also affect the ruler's relations with business organizations, contributing to collusive behavior. This was clearly a factor that personalized the property rights' regime in Moscow and in St. Petersburg under Governors Yakovlev and Matvienko.⁴⁶ Ideology is also a political resource if it translates into policy action, and both Mayor Sobchak and President Shaimiev played the

⁴⁶ Although not documented in the case study on Kazan, collusive behavior cannot be excluded in Tatarstan given President Shaimiev's two-decade tenure in office.

privatization card to good effect. Finally, while revenue-maximizing incentives are overarching, rulers cannot predate with impunity. The Kazan authorities discovered in 2011, as they did in St. Petersburg in 1996-99, that raising land taxes to capture rising land values has consequences. Nor can rulers predate at all if land administration and taxation systems are inadequate. Given the high transaction costs of modernizing property registration and land planning systems, it is not surprising that all cities initially relied on organizational structures inherited from the Soviet period. But Mayor Metshin of Kazan could accelerate the pace of privatization in response to a fiscal crisis because investments in a land inventory and cadastral surveys had started in 1993.

The predatory rule theory, as well as the micro-governance school of NIE, implicitly acknowledge the relevance of the bureaucracy to institutional change. If transaction costs are too high, the “remediableness” condition (test of feasibility) of Williamson will not be met, and existing institutions will dominate over more efficient ones. However, NIE does not yet contain a theory of bureaucracy. Absent such a theory, the dissertation posits that establishment of secure land rights depends on the conversion of the land administration bureaucracy from a rent-seeking to a rule-bound organization. The proposition is not hypothetical. Brian Levy demonstrated how the US civil service was transformed from a patronage machine into a depersonalized, Weberian prototype. Since instillation of a meritocratic civil service is a herculean task, he advocates a focus on “islands of excellence” to raise the quality and efficiency of a given agency within a system that may otherwise be personalized.⁴⁷ This is precisely the case of the Russian Registration Agency (Rosreestr).

⁴⁷ Levy noted three reasons why the US managed to introduce a proto-Weberian civil service in the course of half a century. First, top-down reforms laid the basis for a professional civil service. Second, an emerging middle class and business sector demanded improved public services. And third, enlightened public entrepreneurs within federal agencies reached out to public constituencies on key issues of concern. These “islands of excellence” helped establish a professional reputation for agencies that were formerly dismissed as patronage and campaign machines for politicians. Given the difficulty of importing such experience into countries with discretionary decision-making,

How institutional change transpires is captured in the qualitative and quantitative indicators of the land governance model. The model is intended as a simple decoding tool, like a traffic light, to enhance understanding of the potential for institutional change that is red, yellow or green at a given time and location. Rarely in any country is alignment close and unidirectional among political authorities, the bureaucracy, and society in favor of complex institutional reforms. The findings here would suggest that policy-makers or development practitioners who persist in pushing top-down reforms, in the absence of support from bureaucracy and society, need to redesign the strategy or plan for a longer implementation period, with intensive investment in systems, human resources, and public communication.

The land governance model does not exhaust all reasons why the pace of land privatization varies, but it broadens state-led theories by raising the visibility of the bureaucracy. In the case of urban land rights in Russia, the bureaucracy was hardly a faceless bystander. To the contrary, it served at the end of the period under study as a standardizing force in a sea of institutional variation. State-led models of institutional change that omit the relevant bureaucratic agency fail to capture its utility, as Weber observed, as a precision instrument for social change for those who control it. The primary question is whether the bureaucracy serves political masters or the people. When political authorities are elected there is a stronger likelihood that citizen interests are served.⁴⁸ For North et al the Weberian bureaucracy is a defining feature of societies where the rule of law is implemented impersonally and equally. Yet the need for a political theory of

Levy advocates an incremental strategy of “public management lite” to increase adherence to rules. One such approach is to focus reforms on a specific sector or agency. Levy, *Working with the Grain*, 144-47.

⁴⁸ Max Weber, *Economy and Society* (Berkeley and Los Angeles: University of California Press, 1978), 957-993.

bureaucracy in less than Weberian conditions is contested. Such a theory is sorely needed. It is time to ‘bring the bureaucracy back in.’⁴⁹

⁴⁹ This is to paraphrase the title of the well-known work of Peter Evans, Dietrich Rueschemeyer, and Theda Skocpol, eds, *Bringing the State Back In*, (Cambridge: Cambridge University Press, 1985).

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