

Managing Political Conflict in a Democratizing Polity

Administrative Reform, Trust and Throughput Legitimacy in Imperial Austria ca. 1900–1914

Abstract: This article explores the role of trust in the administrative reform debates in Cisleithania between 1890 and 1918 through the lens of bureaucratic encounters. For politicians, civil servants and scholars, administrative reform played a crucial role in mitigating what they saw as the negative consequences of democratic politics: partisan conflict, which increasingly obstructed legislative work from the late 1890s. As administrative reformers perceived democratic politics not as a source of legitimation but the cause of a crisis of governability, they looked for other ways to legitimate the imperial state. They propagated that the state administration needed to acquire the population's trust as a form of legitimation independent from representative institutions and argued for regular contact and personal interactions between civil servants and the populace at the local level. However, part of their concept of trust was a veiled distrust of citizens as political and bureaucratic subjects.

Key Words: bureaucratic encounters, Austria-Hungary, history of emotions, history of administration

Introduction¹

On 23 January 1914 – only a few months before the First World War would bring an end to the public debates on administrative reform – Leo Wittmayer delivered

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a lecture at the Lower Austrian trade association on *Administrative Reform and the Public*.² Even though a decade had passed since Austrian Prime Minister Ernest von Koerber had published the *Studies on the Reform of Internal Administration (Studien über die Reform der inneren Verwaltung)*,³ the topic of administrative reform still caught the attention of public, intellectual and official circles. It was the *Commission for the Promotion of Administrative Reform (Kommission zur Förderung der Verwaltungsreform)*, proposed in 1909 by the legal scholar and parliamentarian Josef Redlich and established by Emperor Francis Joseph I in 1911, that kept the issue in the eye of the public. The Reform Commission's findings sparked so much interest that they were sometimes leaked to the press before their official publication.⁴ Staffed by legal scholars, jurists and officials, the Reform Commission focused on achieving a more efficient and cost-effective administrative apparatus⁵ and just a week before Wittmayer's lecture, it published its latest proposals for *Rules of Procedure for the Political District Commissions*⁶ with which it sought to reframe the interactions between the state's first-line administrative bodies and the population.

Wittmayer, who was a member of the *Theoretical State Examination Commission (Theoretische Staatsprüfungskommission)* for the studies of law and the state in Vienna, took up the topic of the relation between the public and the administration. Rather than talking about reforming the civil service itself though, Wittmayer shifted the focus by asking, "What would the administration wish for in the public?"⁷ Running through Wittmayer's lecture is an undercurrent that the state had lost its agency vis-à-vis the public, he argued that now there existed a form of "co-administration"⁸ by the population and, therefore, any administrative reform had to be accompanied by a reform of the public.⁹ It had to be educated to consider how it burdened the administration by disputing even minor administrative decisions and should learn "to use the administration economically," Wittmayer advocated.¹⁰ His

2 Leo Wittmayer, *Publikum und Verwaltungsreform*. Vortrag gehalten im Niederösterreichischen Gewerbevereine am 23. Jänner 1914, Vienna 1914.

3 Ernest Koerber, *Studien über die Reform der inneren Verwaltung*, Vienna 1904.

4 Österreichisches Staatsarchiv (ÖStA), Allgemeines Verwaltungsarchiv (AVA), Inneres, Ministerrats-Präsidium (MR-Präs.), Verwaltungsreformkommission (VRK) Karton (Kt.) 5, vol. 7: Protokoll über die am 13. März 1913 abgehaltene Sitzung, 3–4.

5 Peter Becker, „... dem Bürger die Verfolgung seiner Anliegen erleichtern“. Zur Geschichte der Verwaltungsreform im Österreich des 20. Jahrhunderts, in: Heinrich Berger/Gerhard Botz (eds.), *Politische Gewalt und Machtausübung im 20. Jahrhundert. Zeitgeschichte, Zeitgeschehen und Kontroversen; Festschrift für Gerhard Botz*, Vienna 2011, 113–138, 115–121.

6 Die Verwaltungsreform bei den politischen Behörden, in: *Wiener Zeitung*, 16 January 1914, 5–6.

7 All translations are by the author unless stated otherwise. Wittmayer, *Publikum und Verwaltungsreform*, 1914, 2.

8 *Ibid.*

9 *Ibid.*, 2–3.

10 *Ibid.*, 4.

lecture reflects wider concerns among legal and administrative scholars about the governability of the Cisleithanian state.

From the late nineteenth century, the gradual expansion of male suffrage and the concomitant rise of new parties, which politicized and, in turn, relied on formerly disenfranchised social groups, fundamentally transformed Cisleithanian politics.¹¹ Administrative reformers perceived the resulting partisan and nationalist conflicts as the reason for the governability crisis of the Cisleithanian state. In particular, Ernest von Koerber pursued administrative reform in lieu of his failed reform of parliament and attracted renewed attention to the (recurring) issue of administrative reform with the publication of the *Studies on the Reform of the Inner Administration* in 1904.¹² Building on John Deak's argument that "[a]dministrative reform [...] became a heuristic device for understanding and correcting the larger conflicts in public law and parliamentary life",¹³ this article highlights that administrative reformers considered reframing bureaucratic encounters to be a crucial tool for countering what they saw as the 'ills' of parliamentary democracy.¹⁴

The first section identifies the two dimensions guiding the analysis of trust in the reform debates: the role of personal interactions and the underlying power dynamics. The second section provides some context to the conceptions of trust and bureaucratic encounters in the debates on administrative reform and shows how "trust" shifted from a hierarchic to a cooperation-oriented concept of the relationship between administration and population in the late nineteenth and early twentieth centuries. In the third section, I explore the role that trust played in administrative reformers' attempts to manage conflicts. Many administrative reformers valued the importance of personal interactions between civil servants and the populace highly as a basis for trust, and they argued that the state should be brought closer to the population. However, this was also supposed to minimize political

11 Gary B. Cohen, Nationalist Politics and the Dynamics of State and Civil Society in the Habsburg Monarchy, 1867–1914, in: *Central European History* 40/2 (2007), 241–278, doi: 10.1017/S0008938907000532.

12 Fredrik Lindström, Ernest von Koerber and the Austrian State Idea. A Reinterpretation of the Koerber Plan (1900–1904), in: *Austrian History Yearbook* 35 (2004), 143–184, doi: 10.1017/S006723780002097X; John Deak, *Forging a Multinational State. State Making in Imperial Austria from the Enlightenment to the First World War*, Stanford, CA 2015, 237–243.

13 Deak, *Forging a Multinational State*, 2015, 239.

14 Democratic participation remained limited even after the abolishment of the curia system for elections of the Imperial Parliament in 1907, particularly because the curia system largely remained in place for the provincial and municipal diets. See for an overview, including the even more restrictive Hungarian suffrage law: Adam Wandruszka/Helmut Rumpler (eds.), *Verfassung und Parlamentarismus. Verfassungsrecht, Verfassungswirklichkeit, zentrale Repräsentativkörperschaften*, vol. 7/1: *Die Habsburgermonarchie 1848–1918*, Vienna 2000; Adam Wandruszka/Peter Urbanitsch/Helmut Rumpler, *Verfassung und Parlamentarismus. Die regionalen Repräsentativkörperschaften*, vol. 7/2: *Die Habsburgermonarchie 1848–1918*, Vienna 2000.

conflicts by shifting responsibilities from the autonomous to the state administration and creating administrative territories with clear linguistic majorities, thereby undercutting the power of political parties in the autonomous administration and reducing nationalist political contention in the provinces. Lastly, (limited) modes of citizens' participation in the administration – another form of regular personal contact between civil servants and the population – was supposed to enhance the acceptance of administrative acts. From this perspective, in the concluding section of this article, I argue that the civil service's authoritarian turn during the First World War can be considered not as a discontinuity from the pre-war state-building process, but that it instead constituted a radicalization of the ideas on how to deal with political conflict among high-ranking German-speaking civil servants before 1914.¹⁵

I. Trust – lines of inquiry

As recent historiography has challenged Austria-Hungary's image as an anachronistic state and has instead highlighted its dynamic state-building process, particularly in Cisleithania, the analytical concept of 'loyalty' gained currency to investigate social practices that created and sustained allegiances.¹⁶ Historians have uncovered that self-identification along national lines was neither natural nor exclusive but rather contested, and often coexisted with other identifications, be they religious, regional or imperial. Employing the concept of loyalty, historians have demonstrated the importance of the figure of Francis Joseph I and the Habsburg dynasty for (re-)producing the Habsburg Empire's popular legitimacy.¹⁷ This dynastic loyalty also played an essential role among high-ranking civil servants, who addition-

15 Siehe etwa: Marion Wullschleger, „Gut österreichische Gesinnung“. Imperiale Identitäten und Reichsbilder der letzten österreichischen Statthalter in Triest (1904–1918), in: Tim Buchen/Malte Rolf (eds.), *Eliten im Vielvölkerreich. Imperiale Biographien in Russland und Österreich-Ungarn (1850–1918), Elitenwandel in der Moderne*, Berlin/München/Boston 2015, 90–106; Fredrik Lindström, *Empire and Identity. Biographies of the Austrian State Problem in the Late Habsburg Empire*, West Lafayette, Ind 2008, 43–48.

16 Jana Osterkamp/Martin Schulze Wessel, *Texturen von Loyalität. Überlegungen zu einem analytischen Begriff*, in: *Geschichte und Gesellschaft* 42/4 (2016), 553–573; Jana Osterkamp/Martin Schulze Wessel (eds.), *Exploring Loyalty*, vol. 136: *Veröffentlichungen des Collegium Carolinum*, Göttingen/Bristol, CT 2017.

17 Laurence Cole/Daniel L. Unowsky, *The Limits of Loyalty. Imperial Symbolism, Popular Allegiances, and State Patriotism in the Late Habsburg Monarchy*, New York, NY 2007; Laurence Cole, *Military Culture and Popular Patriotism in Late Imperial Austria*, Oxford, United Kingdom 2014; Daniel L. Unowsky, *The Pomp and Politics of Patriotism. Imperial Celebrations in Habsburg Austria, 1848–1916*, West Lafayette, Ind 2005.

ally subscribed to an unclearly defined 'Austrian state idea'.¹⁸ These two avenues of research – the more personally mediated, dynastic loyalty of the broader populace on the one hand and the commitment to an imperial 'Austrian state' within the civil service on the other – have overlooked the role of the Cisleithanian civil service as the potential subject and object of loyalty as an emotionally grounded allegiance and social practice for the 'governed'.

This article fills this lacuna by investigating how Cisleithanian administrative reformers reflected on 'bureaucratic encounters' as an opportunity to foster popular loyalty and strengthen the legitimation of the Cisleithanian state. This lacuna might have been furthered by the trope of the civil service's supposed lack of emotions, which originated in the early nineteenth-century critique of 'bureaucracy'.¹⁹ While historiography on early modern rule has stressed the importance of personal interactions,²⁰ the modern state-building processes in Western and Central Europe have primarily been conceived of as 'bureaucratization' marked by increasing social abstraction.²¹ When the viability of democratic welfare states came under debate in the 1970s and 1980s,²² interactions between the civil service and the population came under renewed scrutiny. The concept of 'bureaucratic encounters' played a crucial role in this critical re-assessment of administration as a rule-based 'machine' implementing policies.²³

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- 18 Wullschlegler, „Gut österreichische Gesinnung“, 2015; Bálint Varga, Rise and Fall of an Austrian Identity in the Provincial Historiography of Bukovina, in: *Austrian History Yearbook* 46 (2015), 183–202, doi: 10.1017/S0067237814000162; Gunda Barth-Scalmani/Hermann J.W. Kuprian/Brigitte Mazohl-Wallnig, National Identity or Regional Identity. Austria versus Tyrol/Salzburg, in: Günter Bischof/Anton Pelinka (eds.), *Austrian Historical Memory and National Identity*, vol. 5: Contemporary Austrian studies, New Brunswick 1997, 32–62; Waltraud Heindl, *Josephinische Mandarine. Bürokratie und Beamte in Österreich 1848–1914*, vol. 107: Studien zu Politik und Verwaltung, Vienna 2013, 90–98.
 - 19 Robert Bernsee, Gefühlskalte Bürokratie. Emotionen im Verwaltungshandeln des frühen 19. Jahrhunderts, in: *Administory* 3/1 (2018), 147–163, doi: 10.2478/ADHI-2018-0030.
 - 20 Ronald G. Asch/Dagmar Freist (eds.), *Staatsbildung als kultureller Prozess. Strukturwandel und Legitimation von Herrschaft in der Frühen Neuzeit*, Köln 2005; Stefan Brakensiek/Heide Wunder (eds.), *Ergebene Diener ihrer Herren? Herrschaftsvermittlung im alten Europa*, Köln 2005.
 - 21 Lutz Raphael, *Recht und Ordnung. Herrschaft durch Verwaltung im 19. Jahrhundert*, Europäische Geschichte, Frankfurt am Main 2000; Matthias Zimmer, *Moderne, Staat und internationale Politik*, Wiesbaden 2008; important exceptions are: Rüdiger von Krosigk, *Bürger in die Verwaltung! Bürokratiekritik und Bürgerbeteiligung in Baden. Zur Geschichte moderner Staatlichkeit im Deutschland des 19. Jahrhunderts*, Bielefeld 2010; and Volume 3 of the journal *Administory* on the topic of "Emotions and Bureaucracy", see: *Administory* 3/1 (2018).
 - 22 Gabriele Metzler, *Staatsversagen und Unregierbarkeit in den siebziger Jahren?*, in: Konrad H. Jarausch (ed.), *Das Ende der Zuversicht? Die siebziger Jahre als Geschichte*, Göttingen 2008, 243–260.
 - 23 Robert L. Kahn/Daniel Katz/Barbara Gutek, *Bureaucratic Encounters. An Evaluation of Government Services*, in: *The Journal of Applied Behavioral Science* 12/2 (1976), 178–198; Yeheskel Hasenfeld/Jane A. Rafferty/Mayer N. Zald, *The Welfare State, Citizenship, and Bureaucratic Encounters*, in: *Annual Review of Sociology* 13 (1987), 387–415.

In his seminal *Street-Level Bureaucracy*, Michael Lipsky highlights the analytical significance of interactions between public service workers and their clients both as primary contact points of the population with the state and regarding the considerable discretion public service workers possessed in implementing policy and following official rules.²⁴ Similarly, Vincent Dubois stresses the interactive dimension of street-level bureaucracies, pointing out the potential for institutional change that these encounters possessed, and questioning the mechanisms for legitimating administrative systems.²⁵ The concept of ‘bureaucratic encounters’, therefore, is a particularly useful analytical perspective for investigating the importance ascribed to personal interaction between civil servants and the populace by the group of Cisleithanian legal scholars, jurists, politicians and civil servants that coalesced around the project of administrative reform. They conceptualized bureaucratic encounters as a means to both foster trust and solve what they saw as the Austrian imperial state’s lack of legitimacy.

While Martin Schulze-Wessel and Jana Osterkamp utilize the concept of “loyalty” as an analytical tool to investigate discourses and social practices through which identifications and allegiances were negotiated,²⁶ this article takes up the historical actors’ own words to describe the relationship between populace and civil servants: “trust.” However, this does not mean that their terminology is taken at face value. Instead, the article analyses how, since Alexander von Bach’s evocation of trust in 1848, the concept of trust had gradually changed, and how this change also reflects a shift in the relationship between state and populace in a democratizing polity. In political discourse, trust has become a shorthand for legitimacy, at times glossing over how the acceptance of (and participation in) an abstract system of governance is grounded in social interactions.²⁷ In his study *The Consequences of Modernity*, Anthony Giddens has highlighted the importance of personal interactions for sustaining trust in abstract systems of expertise.²⁸ Giddens argues that in order to appear trustworthy in such interactions with “laymen”, experts need to perform their reliability.²⁹ However, following Karen S. Cook, Russell Hardin, and Margaret Levi, one needs to distinguish between reliability and trust. While reliability is created through incentives and punitive sanctions, trust is created and maintained

24 Michael Lipsky, *Street-level Bureaucracy. Dilemmas of the Individual in Public Services*, New York 2010.

25 Vincent Dubois, *The Bureaucrat and the Poor. Encounters in French Welfare Offices*, Burlington, VT 2010.

26 Osterkamp/Schulze Wessel, *Texturen von Loyalität*, (2016).

27 Martin Hartmann, *Vertrauen. Die unsichtbare Macht*, Frankfurt am Main 2020, 124–139.

28 Anthony Giddens, *The Consequences of Modernity*, Cambridge 2008, 83–92.

29 *Ibid.*, 85–86.

through regular personal interactions.³⁰ In a similar vein, the philosopher Martin Hartmann, defining trust as a social practice, has stressed that personal interactions mediate trust in administrative institutions.³¹ Therefore, one line of inquiry is the importance that administrative reformers ascribed to personal interactions and a certain administrative conduct to build and sustain trust in the civil service.

However, trust can also be used as a rhetorical device to legitimize a particular political order and disguise one-sided or exploitative relationships.³² Since asymmetries of power mark the relationship between civil servants and the populace, a critical analysis of how administrative reformers employed the concept of trust needs to be attentive to what role they ascribed to the population. Alongside more personal interactions, they also discussed more active participation of the local population in administrative decisions at the local level. The concept of “throughput legitimacy”³³ was coined to engage with the legitimating role of participation in political and administrative decision-making processes and highlights the role of procedure to mediate unequal power relations. Throughput legitimacy complements the duality of input and output legitimacy, referring to the acceptance of political decisions based either on electoral participation and representation (input legitimacy) or on their perception as being beneficial by the people (output legitimacy).³⁴ Employing ‘throughput legitimacy’, the second line of inquiry, therefore, investigates the tensions between trust and power in administrative reform proposals for more participation by the population.

II. Contemporary perspectives on trust & bureaucratic encounters

Trust and a collaborative state

Trust as well as administrative reform did not only emerge in Cisleithanian political discourse around 1900. In 1849, Alexander Bach, then Minister of the Interior, already urged civil servants “to live [...] with the people and in their trust.”³⁵ How-

30 Karen S. Cook/Russell Hardin/Margaret Levi, *Cooperation without Trust?*, The Russell Sage Foundation Series on Trust, New York 2005, 1–10, 133–150.

31 Hartmann, *Vertrauen*, 2020, 124–139, particularly 130–134.

32 *Ibid.*, 134–136; Jakob Tanner, “Die Währung der Finanzmärkte ist Vertrauen”. Nachhaltigkeit und Hinterhältigkeit eines mentalen Phänomens in historischer Perspektive, in: Jörg Baberowski (ed.), *Was ist Vertrauen? Ein interdisziplinäres Gespräch*, Eigene und Fremde Welten, Frankfurt am Main 2014, 73–100.

33 Vivien A. Schmidt, *Democracy and Legitimacy in the European Union Revisited*. Input, Output and ‘Throughput’, in: *Political Studies* 61/1 (2013), 2–22, doi: 10.1111/j.1467-9248.2012.00962.x.

34 *Ibid.*, 2–6.

35 Cited in: Heindl, *Josephinische Mandarine*, 2013, 56.

ever, trust was supposed to grow out of civil servants' "decent behaviour" and the population's "respect." Trust, therefore, was still embedded in an explicitly hierarchical relationship.³⁶ However, in the latter half of the nineteenth century, this relational dimension of trust shifted. In their second annual report published in 1886, Cisleithanian factory inspectors prided themselves that they had – already in their second year of existence – achieved recognition from both entrepreneurs and workers, and thus occupied a "position of trust."³⁷ The factory inspectorate was part of a bundle of legal measures, with which the government of Eduard Taaffe sought to defuse the so-called 'social question.' The inspectorate's duties included controlling and enforcing new safety and hygienic regulations for industrial enterprises and limitations on working hours. The law, by which the factory inspectorate had been established in 1883, charged factory inspectors with achieving such a "position of trust,"³⁸ exemplifying the government's approach of establishing state institutions as mediators between the two social groups with the goal of social reconciliation.³⁹ In this vein, the inspectors stressed their work's contribution to "social peace."⁴⁰

The inspectors' reports document this gradual shift in the relational dimension of trust throughout the administration.⁴¹ They used a communicative register different from hierarchical respect: Rather than simply approving factories when they met safety standards or shutting them down if they did not, the inspectors gave safety recommendations and granted grace periods to the entrepreneurs for implementing them. Obligated to take into account both the entrepreneurs' economic interests and the workers' well-being, factory inspectors portrayed their administrative conduct as (counter-)balancing legal authority to control and penalize with an approach oriented towards persuasion, consensus and providing information.⁴²

36 Peter Becker, Decency and Respect. New Perspectives on Emotional Bonds between State and Citizens, in: *Administrativ* 3/1 (2018), 80–95, 81–82, doi: 10.2478/ADHI-2018-0036; for quotes see: Imperial decree of 11. 5. 1851, RGBl. Nr. 127/1851, § 12.

37 Edmund Feyerfeil, Bericht über den III. Aufsichtsbezirk, in: Central-Gewerbeinspectorat (ed.), Bericht der k.k. Gewerbe-Inspectoren über ihre Amtsthätigkeit im Jahre 1885, Vienna 1886, 137–165, 137.

38 Gesetz vom 17. Juni 1883 betreffend die Bestellung von Gewerbeinspectoren, RGBl. 117, § 12.

39 Emmerich Tálos, Staatliche Sozialpolitik in Österreich. Rekonstruktion und Analyse, vol. 1, Vienna 1981, 42–47; Margarete Grandner, Conservative Social Politics in Austria, 1880–1890, in: *Austrian History Yearbook* 27 (1996), 77–107, doi: 10.1017/S006723780000583X; Thomas Rohringer, Die Transformation der Sozialpolitik in Cisleithanien und die moralische Ökonomie der Re-Integration Kriegsveteranen 1880–1918, Ph.D. thesis, Berlin 2019, 47–61.

40 N.N., Allgemeiner Bericht, in: Central-Gewerbeinspectorat (ed.), Bericht der k.k. Gewerbe-Inspectoren über ihre Amtsthätigkeit im Jahre 1885, Vienna 1886, 7–32, 26.

41 For shifts in the meaning of trust in the 18th and 19th centuries see: Ute Frevert, Vertrauen – eine historische Spurensuche, in: Ute Frevert (ed.), *Vertrauen. Historische Annäherungen*, Göttingen 2003, 7–66.

42 See for example: M. Kulka, Bericht über den I. Aufsichtsbezirk, in: Central-Gewerbeinspectorat (ed.), Bericht der k.k. Gewerbe-Inspectoren über ihre Amtsthätigkeit im Jahre 1885, Vienna 1886,

In his general report, the factory inspector general reflected on the reciprocal relation between the attitude with which factory inspectors were met and their means of intervention:

In one case, [...] he [the factory inspector; T.R.] is seen [...] as a welcome counsellor; in the other [...] an unwelcome admonisher [...]. There, amicable agreements bear wonderful fruit; here, one needs to invoke the law and the public administration's penal authority.⁴³

However, as much as the factory inspectors were trying to tell a success story, their reports also demonstrated how dependent they were on the cooperation of local authorities, employers and civil society. This is particularly apparent in their difficulties to determine how many accidents happened in their districts. Inspectors admitted that they had to rely on newspaper reports and information provided to them voluntarily and that the numbers did, therefore, only reflect a fraction of actual accidents. Thus, they also called for a legally defined obligation of entrepreneurs to report accidents, which would reduce their dependence on cooperation.⁴⁴ The factory inspectors' reports, then, indicate administrative practices directed towards recommendations and persuasion and an administration that was dependent on cooperation by the populace to successfully implement policies, which made trust a prime concern for factory inspectors.

Years before Leo Wittmayer reflected critically on a "co-administration" by the populace in his 1914 lecture, Walther Perlmann, in a 1907 article for the renowned *Zeitschrift für das private und öffentliche Recht der Gegenwart*, contended that "collaboration" characterized contemporary administration.⁴⁵ Relying heavily on the works by French jurist Maurice Hauriou, Perlmann reached a more positive assessment of this collaboration. Distinguishing between the absolutist and the "administration of the state of law,"⁴⁶ he argued that "the functioning of the working [i.e., "state of law"; T.R.] – in contrast to the commanding [i.e., "absolutist"; T.R.] – administration is only possible thanks to the collaboration of the governed."⁴⁷ Therefore, the population's cooperation facilitated the administration's work and created, but

35–98, 38–40; Friedrich Muhl, Bericht über den II. Aufsichtsbezirk, in: *ibid.*, 99–136, 102; Feyerfeil, Bericht über den III. Aufsichtsbezirk, 1886, 151.

43 N.N., Allgemeiner Bericht, 1886, 25.

44 See for example: Muhl, Bericht über den II. Aufsichtsbezirk, 1886, 110; Feyerfeil, Bericht über den III. Aufsichtsbezirk, 1886, 143.

45 Walther Perlmann, Über die Entschädigung für Einwirkungen der öffentlichen Gewalt in die Privatrechtssphäre, in: *Zeitschrift für das private und öffentliche Recht der Gegenwart* 34 (1907), 57–122.

46 *Ibid.*, 72.

47 *Ibid.*, 66.

also relied on, “mutual trust.”⁴⁸ Perlmann, however, made it clear that this collaboration did not mean a balance of power between governors and the governed. Instead, because unequal power relations characterized the relationship between administration and population, cooperation was only possible if the state was held accountable for damages caused by the administration. Compensation for such damages was necessary because “[t]he trust of the governed must not be disappointed.”⁴⁹

III. Managing conflicts through trust

Following Karen Cook, Russel Hardin, and Margaret Levi, one can perceive the role of the government as twofold: on the one hand, it acts as “a third party, providing security for and external enforcement of various interactions and exchanges among its constituents,” on the other, “government actors are in a relationship with those to whom they provide benefits and from whom they extract payments in money or service.”⁵⁰ In the eyes of administrative reformers, the Austrian imperial state was currently failing in fulfilling both roles: it was failing in the first role because intense partisan conflicts undercut legislative work in parliament and provincial and municipal diets; and in the second one because the state administration lacked the responsibilities that would make it a service provider.

The debates on administrative reform took place during the transformative decades from 1890 to 1914 and were intimately connected to Austria-Hungary’s political conflicts of the time.⁵¹ In Cisleithania, the introduction of a general voting curia in 1892 and the abolishment of the curiae system in 1906/1907 brought about “politics in a new key:”⁵² the rise of new parties that mobilized and relied on newly enfranchised social groups and employed new political rhetoric and tactics.⁵³ Nationalist parties and associations increasingly propagated that the relations between ‘national’ groups were a “zero-sum game” between exclusive linguistic and cultural

48 Ibid.

49 Ibid.

50 Cook/Hardin/Levi, *Cooperation without Trust?*, 2005, 151.

51 Deak, *Forging a Multinational State*, 2015, 232–258; John W. Boyer, *The End of an Old Regime. Visions of Political Reform in Late Imperial Austria*, in: *The Journal of Modern History* 58/1 (1986), 159–193, doi: 10.1086/242947.

52 Carl E. Schorske, *Fin-de-siècle Vienna. Politics and Culture*, Vintage books ed., New York, NY 1981, 161; Helmut Rumpler, *Parlament und Regierung Cisleithaniens 1867–1914*, in: Adam Wandruszka/Helmut Rumpler (eds.), *Verfassung und Parlamentarismus. Verfassungsrecht, Verfassungswirklichkeit, zentrale Repräsentativkörperschaften*, vol. 7/1: *Die Habsburgermonarchie 1848–1918*, Vienna 2000, 667–894, 780–785.

53 Cohen, *Nationalist Politics and the Dynamics of State and Civil Society in the Habsburg Monarchy, 1867–1914*, (2007).

communities.⁵⁴ In the wake of these changes, the time between 1890 and 1914 also witnessed profound political crises. Partisan and national political conflicts increasingly obstructed legislative work in the imperial parliament, particularly after Prime Minister Felix Badeni's language ordinances of 1897. German had been retained as the sole language for the communication within the civil service, but Badeni's ordinances would have put Czech on equal status for the civil service in Bohemia and Moravia. This caused a German nationalist uproar while Czech protests followed the ordinances' revocation. Rather than solving nationalist conflicts, the ordinances significantly intensified nationalist mobilization efforts.⁵⁵ In order to allow a minimum of legislative work, the government and political party leaders engaged in informal negotiations and struck deals behind closed doors.⁵⁶ Even though nationalist politicians did not use the obstruction of parliament to pursue the empire's dissolution but attempted to gain concessions from ministers and signal political vigour to their respective constituents,⁵⁷ for administrative reformers, these obstructionist practices constituted a severe crisis of governability that extended beyond the imperial parliament. Friedrich Tezner diagnosed in the foreword to the second volume of his 1909 *Austrian State Law* that the "epoch of the advanced decay of Austrian parliamentarism" had reached "such a low in its political standards [...] that a further sinking seems impossible."⁵⁸

Guido von Haerdtl, who had been a high-ranking official in the Ministry of the Interior under Ernest von Koerber and was later appointed Minister of the Interior himself, as well as Josef Redlich assessed the provincial diets and municipal councils to be particularly dysfunctional. They especially took issue with the reorganization of the Habsburg Empire after 1848. The creation of municipal autonomy in 1849 (and 1862) and the (re-)establishment of provincial autonomy in specific policy fields with the February Patent of 1861, which was mainly retained after 1867, created autonomous administrative bodies separate from the state adminis-

54 Pieter M. Judson, *The Habsburg Empire. A New History*, Cambridge, MA 2017, 161, 205, 208–210, 448–449.

55 Hans Mommsen, 1897. Die Badeni-Krise als Wendepunkt, in: den deutsch-tschechischen Beziehungen, in: Detlef Brandes/ Dušan Kováč / Jiří Pešek (eds.), *Wendepunkte in den Beziehungen zwischen Deutschen, Tschechen und Slowaken: 1848–1989*, Essen 2007, 111–117; Rumpler, *Parlament und Regierung Cisleithaniens 1867–1914*, 2000, 831–872.

56 Stefan Malfer, *Der Konstitutionalismus in der Habsburgermonarchie. Siebzig Jahre Verfassungsdiskussion in "Cisleithanien"*, in: Adam Wandruszka/Helmut Rumpler (eds.), *Verfassung und Parlamentarismus. Verfassungsrecht, Verfassungswirklichkeit, zentrale Repräsentativkörperschaften*, vol. 7/1: *Die Habsburgermonarchie 1848–1918*, Vienna 2000, 11–67, 40–46; Rumpler, *Parlament und Regierung Cisleithaniens 1867–1914*, 2000, 831–872.

57 Gary B. Cohen, *Our Laws, Our Taxes and Our Administration. Citizenship in Imperial Austria*, in: Omer Bartov/Eric D. Weitz (eds.), *Shatterzone of Empires. Coexistence and Violence in the German, Habsburg, Russian, and Ottoman Borderlands*, Bloomington 2013, 103–121, 108.

58 Tezner, *Die Volksvertretung*, 1912, iii.

tration, whose first-line administrative organs in the provinces were the (political) district commissions, created in 1868.⁵⁹ The autonomous administrative bodies of municipalities, cities and provinces also became intensely contested as their wide-ranging responsibilities provided both political influence and economic opportunities of the so-called “delegated sphere of action” (*übertragener Wirkungskreis*). Under this framework, the administrative bodies of provinces and municipalities had been given political, administrative and financial responsibility for local police, elementary education, public health, local infrastructure, local water supply and poor relief after 1867, while the state administration retained only limited authority to intervene in these matters.⁶⁰

However, as Ernest von Koerber put it in the *Studies*, since the population expected the state to rectify wrongdoings, “the lack of legal help against contestable acts of the autonomous administration is felt as a flaw of the state administration”.⁶¹ In multilingual areas, political and nationalist activists framed these political conflicts over influence on both the legislature and executive as conflicts over ‘national property’. However, they could also be framed along religious and ideological lines, as the Christian-Social party did in Vienna.⁶² In 1914, Koerber professed his belief that representative democracy would not lead to conciliation between the various linguistic groups of the empire: “[i]n all the other provinces, which are inhabited by more than one nationality, where big national antagonisms prevail, the provincial representative bodies had to fail.”⁶³ However, Haerdtl observed similar gridlock in other provinces due to non-nationalist partisan conflict.⁶⁴ According to Haerdtl, these partisan conflicts not only incapacitated both legislative bodies and autonomous administration but also influenced how legislative and executive bodies worked and were perceived, namely as instruments of partisan power.⁶⁵

59 Jana Osterkamp, *Föderale Schwebelage. Die Habsburgermonarchie als politisches Mehrebenensystem*, in: Gerold Ambrosius/Christian Henrich-Franke/Cornelius Neutsch (eds.), *Föderale Systeme. Kaiserreich – Donaumonarchie – Europäische Union*, vol. 22: Schriftenreihe des Instituts für Europäische Regionalforschungen, Baden-Baden 2015, 197–219, 206–209; Gerald Stourzh, *Länderautonomie und Gesamtstaat in Österreich 1848–1918*, in: Gerald Stourzh (ed.), *Der Umfang der österreichischen Geschichte. Ausgewählte Studien 1990–2010*, vol. 99: Studien zu Politik und Verwaltung, Vienna 2011, 37–67; Thomas Stockinger, *Bezirke als neue Räume der Verwaltung*, in: *Administratory* 2/1 (2018), 249–277, doi: 10.2478/ADHI-2018-0024.

60 Jana Osterkamp, „Kooperatives Imperium“. *Loyalitätsgefüge und Reich-Länder-Finanzausgleich in der späten Habsburgermonarchie*, in: *Geschichte und Gesellschaft* 42/4 (2016), 592–620, 598–599, doi: 10.13109/gege.2016.42.4.592.

61 Koerber, *Studien über die Reform der inneren Verwaltung*, 1904, 4, emphasis in the original.

62 Cohen, *Our Laws, Our Taxes and Our Administration*, 2013, 109.

63 ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, Bd. 38: *Stenografisches Protokoll der Sitzung des Referentenkomitees der Vereinigten Ausschüsse I und IV*, Vienna, 16. Februar 1914, 47.

64 *Ibid.*, 46.

65 *Ibid.*, 47.

Furthermore, administrative reformers perceived the provision of services to be the primary task of administration rather than adjudicating in societal conflicts. During a meeting of the Reform Commission, Erwin von Schwarzenau forcefully argued that the state administration had to become relevant again for the individual citizens: “our state administration [has] stopped being an administration as soon as the welfare activities, and with them, the actual power of administration, were given to the autonomous administration.”⁶⁶ However, the expansion of public institutions’ responsibilities during the second half of the nineteenth and the early twentieth centuries had its pitfalls: conflicts over competences between state, provincial and municipal administrations arose,⁶⁷ and the intensified contact between the population and administrative bodies created additional frictions. Citizens fought to establish schools in a particular language; workers defended their claims for compensation in the insurance companies’ arbitration courts, health insurance boards, provincial and municipal authorities contested in court that they had to pay for the medical treatment of health-insured workers.⁶⁸ As Leo Wittmayer lamented in his 1914 lecture, “the party is in a position to set the public administration into motion and command the activity of the state.”⁶⁹

As appeals had to run their course first through the administrative stages of appeal before they could be brought before the Administrative Court, these conflicts also increased the civil service’s workload and were seen as an unnecessary burden on administrative work.⁷⁰ Therefore, in addition to minimizing (nationalist) political conflicts, administrative reformers also strove to reduce conflicts between administrative bodies and the population as recipients of services. The aim was to restore the civil service’s command over what to focus on, as Erwin von Schwarzenau determined in his draft for new *Rules of Procedure for the Political District Commissions* the civil service’s duty was “to pursue on their own initiative the common good in its various directions and nuances [...]”⁷¹ Similarly, Guido von Haerdtl

66 ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, vol. 37: 1. Sitzung des Referentenkomitees der vereinigten Ausschüsse I und IV, 31. März 1913, 208.

67 Osterkamp, „Kooperatives Imperium“, (2016).

68 See for court cases: Rohringer, *Die Transformation der Sozialpolitik in Cisleithanien und die moralische Ökonomie der Re-Integration Kriegsversehrter 1880–1918*, 2019, 127–132; on schools: Hannelore Burger, *Sprachenrecht und Sprachgerechtigkeit im österreichischen Unterrichtswesen 1867–1918*, Vienna 1995; Cohen, *Our Laws, Our Taxes and Our Administration*, 2013.

69 Wittmayer, *Publikum und Verwaltungsreform*, 1914, 3.

70 *Ibid.*, 4–9; ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, vol. 37: Vorläufige Mitteilungen des zur Ausarbeitung eines Gesetzentwurfes über die Verwaltungsrechtsprechung bestellten Referenten Edmund Bernatzik über die allgemeinen Gesichtspunkte des von ihm ausgearbeiteten Entwurfes, 8.

71 ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, vol. 35: Erich von Kielmansegg/Erwin von Schwarzenau, *Geschäftsordnung der k.k. Bezirkshauptmannschaften, I. Entwurf einer Verordnung der Minister des Innern, für Kultur und Unterricht, des Handel, für öffentliche Arbeiten, der Eisenbahnen, des Ackerbaues und für Landesverteidigung vom ... mit der eine Geschäftsordnung der k.k. Bezirks-*

defined “administration” as “the well-planned activity for the realization of the common good.”⁷²

In order to restore the state administration’s efficacy, reformers also looked for ways to improve administrative procedures. The norms regulating the contact between civil servants and the populace, defining and protecting the rights of the parties involved in and the possibilities of appealing against administrative decisions had already come under scrutiny in the wake of the reform of civil procedural law in the 1890s.⁷³ However, the proposals for a reform of administrative procedural law proposed after 1900 also reflected jurists’ exasperation with the contemporary conditions of parliamentary politics. The lawyers Joseph Brunstein and Emil Lingg floated the idea of achieving this reform by ordinance, which would sidestep the partisan and sluggish parliamentary process, at various times.⁷⁴ Friedrich Tezner suggested the middle way of an enabling law that would allow the government to reform administrative procedures by ordinance.⁷⁵ In a similar vein, Erwin von Schwarzenau carefully drafted the *Rules of Procedure for the Political District Commissions* for the Reform Commission so that they could be decreed rather than had to be codified in law.⁷⁶ However, the constitutionality of such methods was contentious, even among the reformers.⁷⁷

Thus, administrative reformers strove to shift the role of state administration from primarily trying to foster cooperation between conflicting interests to providing services, hoping to defuse societal conflicts and build popular legitimation for the state. Here, trust played a crucial role. In his *Studies*, Koerber made a forceful connection between building trust in the state administration through perso-

hauptmannschaften erlassen und Grundsätze des Verfahrens vor den politischen Behörden feststellt werden, I. Teil: Geschäftsordnung der k.k. Bezirkshauptmannschaften, § 1, 2.

72 ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, vol. 37: 1. Sitzung, 99.

73 Joseph-Ludwig Brunstein, Zur Regelung des Administrativverfahren in Oesterreich, Vienna 1897; Joseph-Ludwig Brunstein, Das Administrativ-Verfahren und seine Reform, Vienna 1900; Friedrich Tezner, Das Administrativ-Verfahren und seine Reform, in: Zeitschrift für Volkswirtschaft, Sozialpolitik und Verwaltung 9 (1900), 453–474; Emil Lingg, Zur Reform des Administrativverfahrens, Vienna 1904; Josef Sladeczek, Die Reform des Österreichischen Administrativverfahrens bei den Verwaltungs- und Finanzbehörden. Erwägungen de lege ferenda unter Berücksichtigung der französischen und reichsdeutschen Legislative, Prague 1904.

74 Joseph-Ludwig Brunstein, Vorgeschlagene Normen für das Administrativ-Verfahren vor den staatlichen und staatlich delegierten Verwaltungs-Behörden, Vienna 1903; Emil Lingg, Neue Studien zur Reform des Administrativ-Verfahrens, in: Zeitschrift für Volkswirtschaft, Sozialpolitik und Verwaltung 14 (1905), 530–544.

75 Friedrich Tezner, Praktische Vorschläge zur Reform des österreichischen Administrativverfahrens, in: Allgemeine österreichische Gerichtszeitung 53/7 (1902), 51–54.

76 ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, vol. 35: Protokoll über die gemeinsame Beratung der Ausschüsse für die innere Errichtung und den Geschäftsgang de Behörden (III) und für das Verfahren vor den politischen Behörden (IV), 19./20. Juni 1913, 2–7b.

77 Ibid., Protokoll über die 1. Sitzung der Ausschüsse III und IV, 14. Juni 1913, 12–14.

nal interactions with the population, strengthening its role as a service provider through devolution of powers from the autonomous to the state administration, and defusing nationalist conflicts by drawing new administrative districts. As the next section shows, over the subsequent decade, several politicians, jurists, academics and officials who debated administrative reform adopted, advanced further or reframed this connection while others emphasized certain dimensions without explicitly relating them to trust or criticized Koerber's conceptualization altogether.

Trust through personal interactions

Ernest von Koerber had been appointed Prime Minister in 1900 after the four-year governmental crisis that had followed the Badeni language ordinances. At first, he attempted a constitutional reform at the beginning of his term of office to break up the existing party system in parliament and weaken the importance of nationalist politics.⁷⁸ After the failure of this constitutional reform, Koerber turned to administrative reform, and in 1904, he published the *Studies on the Reform of Internal Administration*, which he and leading civil servants of the Ministry of the Interior had drafted. In the *Studies*, problems in administrative structures and procedures were consistently linked to how they affected the relationship between state and citizens, and how they negatively impacted the legitimation of state administration in the eyes of the populace: "The state civil servant often does not have the contact with the population that is the first precondition for fulfilling the tasks of the public administration."⁷⁹ This was the result of having delegated the responsibility for infrastructure, public health or welfare institutions to the autonomous administration. In his 1899 proposal to create *Kreise* in Bohemia, Ernst von Plener had already connected the role of administration as a service provider to trust, arguing that trust in civil servants also required "the population's conviction that he [i.e., the *Kreis* commissioner; T.R.] can really achieve a lot."⁸⁰ For Koerber, the autonomous administrations' competences in welfare and infrastructure matters were the reason for the lack of trust in the state administration:

[m]ost welfare institutions whose beneficial effect is directly felt and therefore appreciated by the population are in the purview of autonomous institutions, withdrawn from the state administration's immediate influence. [...]

78 Lindström, *Empire and Identity*, 2008, 49–55.

79 Koerber, *Studien über die Reform der inneren Verwaltung*, 1904, 4.

80 Ernst von Plener, *Eine Kreisordnung für Böhmen*, in: *Zeitschrift für Volkswirtschaft, Sozialpolitik und Verwaltung* 8 (1899), 244–270, 261.

The dire consequences of such an organization become apparent not only in the low level of trust the population has in the state administration but also in the civil servants' lack of proper understanding of the population's needs.⁸¹

Thus, Koerber and the ministry officials envisioned increased responsibilities of the state administration at the local level, and the concomitant intensified contact with the population to be the basis for both a trustful relationship between the population and state administration and a proper understanding of their duties among civil servants.⁸²

In the subsequent discussions of the *Studies*, Eduard von Hohenbruck, a former official of the Ministry of the Interior and then political district commissioner (*Bezirkshauptmann*) of Ober-Hollabrunn in Lower Austria, supported the connection between regular personal bureaucratic encounters and good administrative conduct. At the debate on Koerber's proposal organized by the Viennese Juridical Association in 1905, he built on his experiences during a research journey through Baden, Saxony and Prussia in 1899 to observe the local administration there. He depicted the Saxonian local senior civil servants (*Amtshauptmänner*) as a model institution since their distribution of labour and personnel delegated the day-to-day paperwork to lower-rank clerks, which allowed the senior civil servants to stay in close contact with the local population:

The Saxonian local senior civil servant is not compelled to work day by day from morning into the night at his desk; by contrast, he finds the time to go out into his district, come into personal contact with the people and make observations with his own eyes. [...] how many official duties he takes care of while doing so (without the extensive paperwork that is so common here [in Cisleithania; T.R.]), I was able to witness with my own eyes [...].⁸³

He contrasted the Saxonian local senior civil servant with the caricatural story of a Cisleithanian district commissioner, who became so preoccupied with working through the files that were piling up on his desk that he perceived solving problems, which had not yet been filed, as an obstacle in fulfilling his paperwork.⁸⁴ Hohenbruck certainly valued the personal contact between civil servants and the population as a precondition for good administrative conduct, which he also saw in the civil servants working on their own initiative, but he did not explicitly connect it to trust.

81 Koerber, *Studien über die Reform der inneren Verwaltung*, 1904, 8.

82 *Ibid.*

83 Wiener Juristische Gesellschaft (ed.), *Diskussion über die Denkschrift der Regierung: Studien zur Reform der inneren Verwaltung* (25. Jänner bis 22. Februar 1905), Vienna 1905, 61–63.

84 *Ibid.*, 64–65.

Ferdinand Schmid and Edmund Bernatzik concurred that the population's trust was essential for the civil service to function well. They agreed with the assessment of the *Studies* that

this growing estrangement between the populace and the state administration and this lack of mutual trust has occurred [b]ecause [...] of devolving most of the administrative tasks to the autonomous administration, through which the state approaches the population in a more humanly manner, so to speak [*durch welche der Staat der Bevölkerung sozusagen menschlich näher tritt*].⁸⁵

However, they criticized Koerber's unproblematic causality between social interaction and trust as too simplistic: "It [the *Studies*; T.R.] believes that [...] the cooperation of elected and appointed functionaries [i.e., representatives of the population and state officials; T.R.] [...] will create this trust. Sometimes it will, but certainly not always," commented Edmund Bernatzik critically, and he recommended that "district commissioners must already possess the population's trust instead of having to seek to acquire it through many years of activity."⁸⁶ Rather than initiating a lengthy trust-building process with uncertain outcome, the administration should build trust through its personnel. Ferdinand Schmid put forward the same argument: "from the outset, they [the district and *Kreis* officials; T.R.] must possess the trust of their peers and the population governed by them."⁸⁷ Local civil servants, he emphasized, "must be rooted [*verwachsen*] in the district where they will hold office, through property or many years of residence."⁸⁸ This attitude reflected a change in Cisleithanian officials' career paths during the second half of the nineteenth century. Rather than taking up posts in different provinces throughout their service, it had become more common to remain at least in the same province.⁸⁹

Both Bernatzik and Schmid envisioned a locally grounded social elite that possessed the population's trust. Schmid elaborated on this concept of trust via the historical examples of England and Prussia, where the state had successfully integrated the landed gentry into its local administrative bodies, incorporating existing trustful relationships and thereby forging "a bond of trust" between population and

85 Ferdinand Schmid, *Betrachtungen über die Reform der inneren Verwaltung Österreichs*, in: *Zeitschrift für Volkswirtschaft, Sozialpolitik und Verwaltung* 14 (1905), 345–399, 441–504, 357.

86 Wiener Juristische Gesellschaft, *Diskussion über die Denkschrift der Regierung: Studien zur Reform der inneren Verwaltung* (25. Jänner bis 22. Februar 1905), 1905, 9.

87 Schmid, *Betrachtungen über die Reform der inneren Verwaltung Österreichs*, (1905), 390.

88 *Ibid.*

89 Peter Urbanitsch, *The High Civil Service Corps in the Last Period of the Multi-Ethnic Empire between National and Imperial Loyalties*, in: *Historical Social Research* 33/2 (2008), 193–213, doi: 10.12759/hsr.33.2008.2.193–213.

administration.⁹⁰ In his later draft for administrative jurisdiction, Bernatzik even contended that “it is a sign of a low cultural stage [...] if the population trusts someone coming ‘from far away’ more than someone ‘not from far away.’”⁹¹ Rather than building trust through personal interactions as part of administrative procedures, Schmid and Bernatzik suggested utilizing the existing level of personal trust.

Other leading figures of the administrative reform debates, such as Friedrich Ploj or Erwin von Schwarzenau, further advanced Koerber’s emphasis on the importance of personal interactions as part of administrative conduct for creating trust. During the Enquete of the Reform Commission in 1912, Friedrich Ploj stressed the connection between redistricting, personal contact and trust: “The smaller the district, the closer the contact, the greater the prestige and trust that the public officials enjoy, [...]”⁹² The most authoritative connection of trust and personal interactions were the new procedural rules for the political district commissions drafted by Erwin von Schwarzenau and Erich von Kielmansegg for the Reform Commission in 1913. Not only did they open the commentary with the programmatic sentence that “[t]he first condition of good administration is that the governing understand the population, the second that they [in turn] are understood [by the population].”⁹³ They also enshrined the connection between personal interactions and trust in two paragraphs of the procedural rules: firstly, regarding the role and tasks of the district commissions:

1. The district commissions are competent [*berufen*] to mediate the mutual contact between the state administration and the populace. [...] In particular, it is their task to become acquainted with the population’s needs and wishes through constant contact.
2. In so doing, the administrative conduct of the district commissions has to be conducive to establish the population’s trust in the office and their appreciation for the state’s and the state administration’s tasks.⁹⁴

Secondly, when outlining the duties of the individual civil servants, the rules obliged them “to take as a basis for their whole conduct the goal to evoke and maintain the

90 Schmid, *Betrachtungen über die Reform der inneren Verwaltung Österreichs*, (1905), 390.

91 ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, vol. 37: *Vorläufige Mitteilungen*, 5.

92 Kommission zur Förderung der Verwaltungsreform (ed.), *Enquete der Kommission zur Förderung der Verwaltungsreform. Veranstaltet in der Zeit vom 21. Oktober bis 9. November 1912 zur Feststellung der Wünsche der beteiligten Kreise der Bevölkerung in Bezug auf die Reform der inneren und Finanzverwaltung*, Vienna 1913, 35.

93 ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, vol. 35: *Erich von Kielmansegg/Erwin von Schwarzenau, Geschäftsordnung der k.k. Bezirkshauptmannschaften, II. Erläuterungen*, 1.

94 *Ibid.*, I. Entwurf, I. Teil: *Geschäftsordnung*, § 2, 1, 2.

trust in the office [...]”⁹⁵ Administrative reformers stressed the importance of norms that regulated administrative procedures, but for many of them, these did not constitute a basis of trust. Trust in the administration was, for administrative reformers, not impersonal confidence in institutions’ reliability, but based on personal interactions. This could be achieved through hiring already locally trusted persons or regular personal contact between civil servants and the local populace. Furthermore, the reformers considered trust as being firmly grounded in the local. They perceived offices as what Anthony Giddens has called “access points,” where trust in socially abstract expert systems is based on personal interactions.⁹⁶

Koerber, Haerdtl, Redlich and Schwartzenau argued that administrative reform needed to transform the state into a provider of services at the local level, and they propagated a devolution of powers from the autonomous to the state administration. This would bring the state administration closer to the population and allow regular personal interactions, which they considered necessary for trustful relations. Koerber had proposed that district commissions should no longer oversee political districts but, rather, the smaller court districts (*Gerichtsbezirke*). Furthermore, an additional intermediate administrative body should be established between district and province level: the *Kreise*.⁹⁷ These new offices were supposed to take over many of the responsibilities in the purview of the autonomous municipal and provincial administrative bodies. However, these efforts were contentious. Carl von Brockhausen and Ferdinand Schmid criticized these plans after the publication of the *Studies*, and Haerdtl’s proposal was eventually voted down in a plenary session of the Reform Commission in March 1914.⁹⁸

Bringing the state administration closer to the population in terms of both proximity and responsibilities was intimately tied to preventing nationalist conflicts. While the authors of the *Studies* did not elaborate on it, it is fair to surmise that creating the new (court) district commissions and *Kreise* would have involved drawing linguistically more ‘homogenous’ administrative territories, since this had already been the goal of an earlier undertaking of Koerber’s government. In 1900, Koerber proposed three draft laws that divided Bohemia and Moravia into a majority of either ‘German’ or ‘Czech’ and a few ‘mixed’ court districts and created ‘Ger-

95 Ibid., § 4, 2.

96 Giddens, *The Consequences of Modernity*, 2008, 84–85.

97 Lindström, Ernest von Koerber and the Austrian State Idea, (2004); Deak, *Forging a Multinational State*, 2015, 235.

98 Wiener Juristische Gesellschaft, *Diskussion über die Denkschrift der Regierung: Studien zur Reform der inneren Verwaltung* (25. Jänner bis 22. Februar 1905), 1905, 84–86; Schmid, *Betrachtungen über die Reform der inneren Verwaltung Österreichs*, (1905), 375–376; Deak, *Forging a Multinational State*, 2015, 258.

man,' 'Czech' and 'mixed' *Kreise* in Bohemia.⁹⁹ Following the model of the 1907 electoral law, which aimed at creating voting districts with clear national majorities, a division of administrative territories along national lines became the guiding principle of many administrative reform proposals.¹⁰⁰ In the Reform Commission, Redlich professed that creating *Kreise* was "a favorite thing of mine, particularly for reasons of national pacification."¹⁰¹ While reformers believed the separation of nationalities was a way to avoid conflicts, for example by minimizing political competition along national lines, this separation would have reified the very conception of nations as distinguishable and exclusive groups,¹⁰² and, in so doing, overlooked both social practices of "national indifference" and other forms of identification.¹⁰³

The role of "throughput legitimacy"

In his study *Legitimation durch Verfahren* (1969, *Legitimation through Procedure*), Niklas Luhmann has advocated for "unburdening administrative procedures as far as possible from a legitimating function."¹⁰⁴ He argued that legitimating administrative decisions was the task of the political system. Cisleithanian administrative reformers pursued the diametrically opposite aim. However, they also proceeded from different premises. Socialized in the Josephinist understanding of the state (administration) as the motor of reform and the provider of welfare, and the population as the passive recipient of the state's benevolence,¹⁰⁵ administrative reformers perceived democratic parliamentary politics not as the legitimating complementary

99 Alfred Ableitinger, Ernest von Koerber und das Verfassungsproblem im Jahre 1900. Österreichische Nationalitäten- und Innenpolitik zwischen Konstitutionalismus, Parlamentarismus und oktroyiertem allgemeinem Wahlrecht, Vienna/Graz 1973, 131–155; Rumpler, Parlament und Regierung Cisleithaniens 1867–1914, 2000, 860–862.

100 Malfer, Der Konstitutionalismus in der Habsburgermonarchie, 2000, 51–53.

101 ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, vol. 37: 1. Sitzung, 198.

102 Rok Stergar/Tamara Scheer, Ethnic Boxes. The Unintended Consequences of Habsburg Bureaucratic Classification, in: Nationalities Papers 46/4 (2018), 575–591, doi: 10.1080/00905992.2018.1448374; Gerald Stourzh, Ethnic Attribution in Late Imperial Austria. Good Intentions, Evil Consequences, in: Gerald Stourzh (ed.), From Vienna to Chicago and Back. *Essays on Intellectual History and Political Thought in Europe and America*, Chicago 2007; T. Mills Kelly, Last Best Chance or Last Gasp? The Compromise of 1905 and Czech Politics in Moravia, in: Austrian History Yearbook 34 (2003), 279–301, doi: 10.1017/S006723780002052X.

103 Tara Zahra, Imagined Noncommunities. National Indifference as a Category of Analysis, in: *Slavic Review* 69/1 (2010), 93–119.

104 Niklas Luhmann, *Legitimation durch Verfahren*, Soziologische Texte, Neuwied am Rhein [u.a.] 1969, 216.

105 Heindl, Josephinische Mandarine, 2013, 54–59, 253–259.

system to autocratic administration.¹⁰⁶ Instead, it constituted, for them, a (potential) source of delegitimation. They sought to legitimate the imperial state through administrative procedures rather than through democratic politics.

Despite their differences regarding the legitimating function of administration, Luhmann's remarks about the social function of procedure elucidate what reformers hoped to achieve by institutionalizing personal interactions in participation: "to restructure expectations through the actual communicative process."¹⁰⁷ According to Luhmann, procedures foster the acceptance of administrative decisions because the participants share a purpose, namely reaching a decision on a particular topic, which frames both cooperation and conflict. This decision is developed incrementally in a process whose intermediate results – what is the problem to be solved, what is relevant information, what are the premises for a solution – develop a binding effect for the participants.¹⁰⁸ Similarly, for administrative reformers, the population's involvement had the potential to legitimize administrative decisions and minimize conflicts over them.

In 1904, Ernest von Koerber proposed to establish elected bodies that represented the local population at the new district and *Kreis* offices and involve the population in the administrative courts at the district and *Kreis* level that he wanted to create. Ferdinand Schmid endorsed the "involvement of the lay element," as it was commonly referred to, not least because it counterbalanced the transfer of responsibilities from the autonomous to the state administration that lay at the heart of Koerber's administrative reform project.¹⁰⁹ Ferdinand Schmid, who advocated the most expansive vision of participation, argued that "the cooperation [*Mitwirkung*] of local inhabitants, who are familiar with the local needs," should ensure that administrative decisions took the wishes of the local population into account.¹¹⁰ Bernatzik praised his proposal to create two-men committees for administrative jurisdiction, which would be comprised of the district commissioner or an appointed proxy and one representative of the population, as "the safest means to overcome the dichotomy between state and population, which was justified in absolutism or despotism, but not in a political community."¹¹¹ While these proposals for institutionalized bureaucratic encounters built on the idea that trust in the state administration emerged from personal interactions, the local population's active involvement in the administrative

106 Edwin Czerwick, *Demokratisierung der öffentlichen Verwaltung in Deutschland. Von Weimar zur Bundesrepublik*, in: *Geschichte und Gesellschaft* 28 (2002), 183–203.

107 Luhmann, *Legitimation durch Verfahren*, 1969, 37.

108 *Ibid.*, 44–46.

109 Schmid, *Betrachtungen über die Reform der inneren Verwaltung Österreichs*, (1905), 372.

110 *Ibid.*, 373.

111 *ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, Vol. 37: Vorläufige Mitteilungen*, 12.

decision-making processes was a contentious issue among administrative reformers. Even those who proposed participative elements sought to strike a careful balance between popular participation and preserving the civil servants' final say in two ways.

Firstly, even when reformers proposed the population's participation, they ascribed to it a mostly informative character. Koerber's proposal maintained a strict hierarchy between civil servants and the population at the district and *Kreis* offices: "representatives of the population make the relevant decisions under the leadership of a representative of the state."¹¹² Secondly, even though administrative reformers were critical of the existing political parties and their elected representatives, many of their proposals for implementing participation did not involve the wider population but confined its reach to elected representatives. In Koerber's proposal, the population's representatives at the district offices were not to be elected by the district's inhabitants but only by its mayors.¹¹³ Similarly, despite his professed aim of overcoming the dichotomy between state and population, Edmund Bernatzik's draft law for administrative jurisdiction reified the unequal distribution of power between officials and non-officials. During the discussion of Koerber's *Studies* in 1905, Bernatzik had already remarked that "the one, who presents [a list of candidates; T.R.] has the biggest influence, not the one, who selects."¹¹⁴ Therefore, in his draft law, Bernatzik stipulated that the district commissioner would recommend a list of candidates, from which the district mayors subsequently selected the local representative.¹¹⁵ As Bernatzik professed in his accompanying commentary, this selection procedure should counterbalance the formal equality between the civil servant and the local representative.¹¹⁶ Thus, the reach of participation was supposed to be limited both within administrative bodies by its consulting function and in the population by only involving the local political elite.

This reflected the distrust many administrative reformers held against the population as both bureaucratic and political subjects. In his 1901 study on English local government, Josef Redlich lauded the English administration for being able to "transmute the mechanical force that emanated by its very nature from any form of central government into the vital force of an administration managed by the governed themselves."¹¹⁷ Twelve years later, however, Redlich warned in the Reform Commission against adopting English arrangements in Cisleithania: "We have in our popu-

112 Koerber, *Studien über die Reform der inneren Verwaltung*, 1904, 25.

113 *Ibid.*, 26.

114 Wiener Juristische Gesellschaft, *Diskussion über die Denkschrift der Regierung: Studien zur Reform der inneren Verwaltung* (25. Jänner bis 22. Februar 1905), 1905, 9.

115 ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, vol. 37: *Vorläufige Mitteilungen*, 8–9.

116 ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, vol. 37: *Vorläufige Mitteilungen*, 13.

117 Josef Redlich, *Englische Lokalverwaltung. Darstellung der inneren Verwaltung Englands in ihrer geschichtlichen Entwicklung und in ihrer gegenwärtigen Gestalt*, Leipzig 1901, xxi.

lation no sense of responsibility; this is why we cannot accept English institutions without reservations.”¹¹⁸ Although Redlich was particularly opposed to the population’s involvement in administrative jurisdiction, his reasons reflect general reservations held by many administrative reformers: “If we had experienced fifty years of political peace between the nations, then I would agree with this idea. It is also the social struggle that makes the lay judge impossible for me.”¹¹⁹ It was particularly the reach of democratic politics that made administrative reformers wary of too much influence by the population.

As Guido von Haerdtl argued, “the biggest harm of our Austrian administration is the abuse of institutions established in favour of the one to the disadvantage of the other.”¹²⁰ Therefore, he proclaimed, “only the worst experiences” would be made with the population’s participation because they “have no sense of responsibility,” and their involvement would open the state administration to being abused by one social group against the other.¹²¹ “Think about the civil servant heading such an administrative body [involving local representatives; T.R.], in which such [economic, national or political; T.R.] antagonisms collide!” cautioned the Lower Austrian political district commissioner Oskar Keller, “He would involuntarily be drawn into the partisan machinery.”¹²² Therefore, Haerdtl perceived it to be the Reform Commission’s task to “organize the administration in such a way that we protect the population against it [i.e., abuse of administrative power; T.R.]”¹²³ For leading figures in administrative reform such as Redlich or Haerdtl, forms of participation that were too influential would have inversed their goal of administrative reform: minimizing the effects of partisan conflicts. Instead, it would have drawn the state administration into these conflicts, when, for them, the state administration was one of the few institutions that could guarantee the impartial treatment of the population. In comparison to personal interactions, participative mechanisms proved to be much more contentious among administrative reformers. Even by its proponents, participation was construed in a way that would limit the reach of politics through both a strict hierarchy between civil servants and representatives, and a selection process that limited representation to a small social group. For leading figures like Redlich or Haerdtl, regular personal interactions provided sufficient ‘throughput’, namely enough opportunities for the populace to express its wishes. In contrast,

118 ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, vol. 37: 1. Sitzung, 9.

119 Ibid., 13.

120 Ibid., 8.

121 Ibid., 9.

122 Wiener Juristische Gesellschaft, Diskussion über die Denkschrift der Regierung: Studien zur Reform der inneren Verwaltung (25. Jänner bis 22. Februar 1905), 1905, 93.

123 ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, vol. 37: 1. Sitzung, 9.

more expansive forms of participation constituted no additional source of legitimacy for them but risked carrying democratic politics and partisan conflicts into the administration.

Conclusion

On 16 February 1914, the conventions of polite scholarly debate shortly broke down in the Reform Commission when Adalbert von Schönborn criticized Haerdtl's plans to introduce *Kreise* for disempowering provincial autonomy. Edmund Bernatzik bitinglly remarked that Schönborn was "in the unpleasant position to reduce the value of the autonomous provincial administration to absurdity through his activity,"¹²⁴ while simultaneously defending autonomy in the Reform Commission, referring to Schönborn's role as head of the Bohemian Provincial Administrative Commission. In 1913, Francis Joseph I had upset Bohemia's constitutional order with two imperial edicts that dissolved the Bohemian Provincial Diet and replaced the Bohemian Provincial Committee (*Landesausschuss*) with the Administrative Commission. Both the Administrative Commission and the act of its creation raised questions regarding their constitutionality, but the Administrative Court decided in the emperor's favour.¹²⁵ Moreover, Bernatzik continued: "Everyone is satisfied with the activity of the commission; before everyone was unsatisfied. One can fear that this state intervention [*Verstaatlichung*] [...] will be applied to other circumstances too."¹²⁶ This exchange highlights the ambivalence among the Reform Commission members regarding state intervention to solving partisan conflicts by eliminating elected representative institutions altogether.

Building on the distinction made by Cook, Hardin and Levi between rule-based reliability and personal interactions-based trust, one can distinguish between the two goals of administrative reformers. On the one hand, they pursued measures to improve the state administration's reliability. Administrative reformers sought to explicate and establish procedural norms that guided the work of the administration, clearly defining both civil servants' and citizens' rights and duties. They continued the debate on how to improve the procedures of administrative bodies that had started in the 1890s in conjunction with the reform of civil procedural law in 1895. Orality, a central principle of the new civil procedural law, should be adopted

124 ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, vol. 38: Sitzung der Vereinigten Ausschüsse I und IV, 58.

125 Gerald Stourzh, *Verfassungsbruch im Königreich Böhmen. Ein unbekanntes Kapitel zur Geschichte des richterlichen Prüfungsrechts im alten Österreich*, in: Gerald Stourzh (ed.), *Der Umfang der österreichischen Geschichte. Ausgewählte Studien 1990–2010*, Vienna 2011, 139–155, 139.

126 ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, vol. 38: Sitzung der Vereinigten Ausschüsse I und IV, 58.

as much as possible for administrative procedures involving citizens, as Erwin von Schwarzenau proposed in his rules of procedure for the district commissions,¹²⁷ and also for administrative jurisdiction, as in Edmund Bernatzik's draft law.¹²⁸

On the other hand, administrative reformers valued personal interactions highly as a means to legitimate the state and aimed to establish a more communicative administration close to the population, attentive to its interests and transparent in its decisions to reduce conflicts over administrative decisions. Erwin von Schwarzenau emphasized the district commissions' mediating role between the interests of state, district and individuals. They were supposed to "approach the population as their earnest, benevolent friends."¹²⁹ They should "make the motives behind official orders and decisions as clear as possible to the social groups involved"¹³⁰ and provide the necessary information and recommendations on how to pursue valid claims.¹³¹ Regular personal interactions between civil servants and the population, administrative reformers hoped, would allow for a better management of expectations.¹³²

However, the role of trust in the administrative reform debates reveals their ambivalence regarding the power of the state apparatus and its relation to democratic politics. Leading figures of administrative reform such as Koerber, Redlich or Haerdtl conceived of the reform's purpose as empowering the state administration: "We have to strengthen the state as the guardian of rights, to make it more vital and successful."¹³³ They perceived empowering the state as necessary to counteract the negative consequences of the combination of democratic politics and Cisleithania's division between state and autonomous administration: political parties influence and the rise of partisan conflicts with its debilitating effect on legislative work. This endeavour was closely connected to how they perceived both state administration and population. If the population was, as Redlich and Haerdtl maintained, both irresponsible and engrossed in political factionalism, then, Redlich argued, one had to make use of "what other countries do not have, an impartial administration, at whose top resides the most qualified civil servant [*der Verwaltungsbefähigste*], the emperor."¹³⁴ The perceived lack of trust in the imperial state served as a justification for attempting to bring the state to the local level by creating new

127 ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, vol. 35: Kielmansegg/Schwarzenau, Geschäftsordnung, I. Entwurf, II. Teil: Grundsätze des Verfahrens vor den politischen Behörden, §§ 16, 23.

128 Ibid., vol. 37: Vorläufige Mitteilungen, 3–4.

129 Ibid., vol. 35: Kielmansegg/Schwarzenau, Geschäftsordnung, I. Entwurf, I. Teil: Geschäftsordnung, § 4, 3.

130 Ibid., § 4, 2.

131 Ibid., § 4, 3.

132 Luhmann, *Legitimation durch Verfahren*, 1969, 33–37.

133 ÖStA, AVA, Inneres, MR-Präs., VRK Kt. 13, vol. 37: 1. Sitzung, 203.

134 Ibid.

administrative bodies, redistricting and transferring responsibilities from the autonomous to the state administration. Without impinging upon parliamentary institutions, they hoped to reframe democratic politics by creating administrative territories with clear national majorities, thus unburdening both legislation and administration from nationalist conflicts. As John Deak has put it, the goal was “representative government, carefully defined and kept in a glass aquarium.”¹³⁵ While they strove for a trustful relationship between civil servants and the populace growing out of regular personal interactions and a communicative administration, their concern for trust was one-sided.

Inscribed in their concept of trust was an unequal relationship between civil servants and the populace. While reformers argued for an administration that was close to the citizens and responsive to their needs, they remained distrustful of the population’s competence to act as responsible citizens. Trust, in this sense, veiled unequal power relations between civil servants and the population. For Haerdtl, Redlich and Schwartzenau, civil servants were competent to adjudicate between the “common good” and individual interests, decoupling the administration from the need for democratically legitimized policies. From this perspective, the concentration of power in the military and civil administration that Prime Minister Karl von Stürgkh enacted in July 1914 was not so much a break with the preceding decades, but rather a radicalization of ideas that saw the state administration as the only viable means to counterbalance societal and democratic political conflict.¹³⁶ This is not to argue that the wartime “military-bureaucratic dictatorship”¹³⁷ with its decisionism of local authorities¹³⁸ was the goal of administrative reformers, many of whom advocated for more transparent, normatively regulated administrative procedures and were wary of dismantling elected representative institutions.

Nonetheless, Redlich’s plea for utilizing the impartial administration at whose top resided the emperor as the ultimate civil servant to counteract partisan con-

135 Deak, *Forging a Multinational State*, 2015, 241.

136 Mark Cornwall, *Disintegration and Defeat. The Austro-Hungarian Revolution*, in: Mark Cornwall (ed.), *The Last Years of Austria-Hungary. A Multi-national Experiment in Early Twentieth-Century Europe*, 2. edn., Exeter studies in history, Exeter 2002, 167–196; John Deak, *The Great War and the Forgotten Realm. The Habsburg Monarchy and the First World War*, in: *The Journal of Modern History* 86/2 (2014), 336–380, doi: 10.1086/675880; John Deak/Jonathan E. Gumz, *How to Break a State. The Habsburg Monarchy’s Internal War, 1914–1918*, in: *The American Historical Review* 122/4 (2017), 1105–1136, doi: 10.1093/ahr/122.4.1105.

137 Cornwall, *Disintegration and Defeat*, 2002, 171; for a less repressive view of military-civilian relations see: Ke-chin Hsia, *Who Provided Care for Wounded and Disabled Soldiers? Conceptualizing State Civil Society Relationship in WWI Austria*, in: Joachim Bürgschwentner/Matthias Egger/Gunda Barth-Scalmani (eds.), *Other Fronts, Other Wars? First World War Studies on the Eve of the Centennial*, Leiden 2014, 303–328.

138 Peter Becker, *Recht, Staat und Krieg*, in: *Administrative Science Quarterly* 1/1 (2018), 28–53, doi: 10.2478/ADHI-2018-0003.

flicts bears certain parallels to Friedrich Tezner's defence of creating the Bohemian Administrative Commission by imperial edict. He justified this act with the "coercive, conservational, patriarchal, compromissory function of the monarch,"¹³⁹ who was competent to consolidate all legislative power again in his person "for as long as the representative bodies were unable to operate."¹⁴⁰ However, as reformers like Bernatzik emphasized, the empire was no longer an absolutist state, and the administration's legitimacy could not merely derive from the monarch. Since democratic politics fostered partisanship in the reformers' eyes, trust and the kind of relationship between civil service and population that it signified for reformers provided the administration with an additional popular legitimation independent of representative bodies both by providing insights into the wishes of the local populace and placing the state administration in the role of a provider of services.

139 Friedrich Tezner, *Der österreichische Parlamentarismus und der Verwaltungsgerichtshof*, in: *Österreichische Rundschau* 37/13 (1913), 207–216, 212 see: Stourzh, *Verfassungsbruch im Königreich Böhmen*, 2011, 146–148.

140 Tezner, *Der österreichische Parlamentarismus und der Verwaltungsgerichtshof* (1913), 214.