

# Getting to Sweden, Part I: War and Malfeasance, 1720–1850

Jan Teorell\* and Bo Rothstein

How and why some countries were able to make the historical transition from a patrimonial, nepotistic and corrupt bureaucracy to a clean, Weberian and professionalised one is still an under-studied topic in the literature on corruption. This article presents original data on such a transition in the case of Sweden, drawing on court hearings of cases of malfeasance among public officials in the period 1720–1850. It is argued, theoretically, that an important explanation for why the Swedish bureaucracy was able to break out of the collective action trap of corruption relates to Charles Tilly's theory of the importance of war for state-making. Rather than viewing war-making in itself as a driver of change, however, this article pinpoints the importance of having lost a significant war – in the Swedish case, the war against Russia in 1808–9 – and the constitutional and regime changes this set in motion. Drawing on comparative data on malfeasance, the similarities in this regard between the Swedish and Danish cases are highlighted.

## A Country in Love with Democracy but Infected by Corruption

When Count de Vergennes, the newly arrived French envoy to Stockholm, wrote home to Paris in the fall of 1771, he depicted the political culture of Sweden in the starkest colours. In particular there were two phenomena that he referred to as so serious so as to be likened to infectious diseases inflicting damage to the body polity. The first was 'the love of democracy', which he called 'this nation's epidemic disease'. The second was 'corruption', which he thought had 'infected all estates of Sweden, or rather the nation's entire mass' (Skuncke 2003, 261, 274).

With the hindsight of more than two centuries, we now know that the first of these 'diseases' – democracy – over time came to be seen as rather a sign of health, and was allowed to flourish, particularly from the early twentieth century (Rustow 1955; Verney 1957; Tilton 1974; Lewin 2006). Systemic corruption, on the other hand, was rooted out during the second half of the

\* Jan Teorell, Department of Political Science, Lund University, Box 52, 22100 Lund, Sweden. E-mail: jan.teorell@svet.lu.se

nineteenth century, which left Sweden among the least corrupt countries in the world today (Andersson 2012; Rothstein 2011a; 2011b; Uslaner 2008). Yet details on how this was achieved remain largely unknown. Whereas most historians agree that by the end of the eighteenth century the Swedish state administration was patrimonial and to quite some extent corrupt, with a blurred dividing line between public office and the private interests of the public officials, by the end of nineteenth century this was no longer the case (Heckscher 1958; Nilsson 2000; Rothstein 1998). This can be described as a change in general political order from what Mungiu-Pippidi (2006) has termed ‘particularism’ to ‘universalism’, or what North et al. (2009) see as moving from ‘closed access’ to ‘open access’, or, to use a different terminology, from ‘favouritism’ to ‘impartiality’, in the exercise of political power (Rothstein & Teorell 2008).

How was this transition in the very nature of state-society relations possible, and why did it occur? In this article, we address this question by drawing on an original dataset on 237 court hearings of cases of malfeasance among public officials in Sweden from 1720 to 1850. By using the court cases as proxies for the *timing* of change, and as a diagnostic tool for understanding the *types* of administrative dysfunctions that had to be addressed, we substantiate the claim that the Swedish state during the nineteenth century started the transformation from a patrimonial, and to quite some extent corrupt, organisation into a professionalised and modern Weberian-like bureaucracy. By introducing a longer time perspective, together with an explanation of the trajectory of change, we go beyond the historical accounts of the Swedish state in the eighteenth and nineteenth centuries that have been produced by mostly Swedish historians (Westerhult 1965; Sunesson 1981; Gustafsson 1994; Frohnert 1993; Melkersson 1997; Nilsson 1999; 2000; Cavallin 2003).<sup>1</sup> Moreover, whereas Rothstein (2011a; 2011b) has pointed out that between 1845 and 1878 a large battery of more than 20 political reform projects were launched that seem to have resulted in an end to pervasive corruption, our malfeasance data shows that a large-scale behavioural shift within the public administration was already underway in the *first* half of the nineteenth century, *before* the formal reform process began. This in turn will enable us to substantiate some deeper roots of institutional change than the reform acts themselves.

Theoretically, our work contributes to the debate between leading theories of corruption and state-building. In a related piece on the failure of present-day corruption reforms around the world, we argue that the dominant approach, known as the ‘principal-agent theory of corruption’, needs to be complemented with what we call the ‘collective action approach to understanding corruption’ (Persson et al. 2013). In this article, however, we point out that the collective action theory of corruption has an Achilles heel: it is not well-suited for explaining change. Filling in this gap, we argue that

war against Russia in 1808–9, when Sweden lost Finland to its large eastern neighbour and the existence of Sweden as a nation was threatened, was a key precursor to the events that unraveled, both in terms of giving rise to the 1809 revolution and to substantiating the fiscal and military benefits of introducing a modern Weberian bureaucracy.

This means that the article also contributes to the existing comparative-historical literature on state-building. To begin with, although the case of Sweden has been used to substantiate some of its core claims (Tilly 1990; Downing 1992; Ertman 1997; Glete 2002), this body of work typically ends with the late eighteenth century and thus cannot account for why the Swedish state made very important and difficult-to-achieve reforms in the nineteenth century. Moreover, since Sweden has been at peace since 1814, the crucial importance attributed to *making* war within the comparative-historical camp does not fit easily with the trajectory of Sweden in the nineteenth century. What we stress instead is the crucial importance of having *lost* a major war and the effects this had on the motivation for change. We also highlight the fact that Denmark in the same time period seems to have been experiencing similar systemic change, also triggered by major military defeat.

In a companion paper (Rothstein & Teorell 2015), we open the black box of agency and study the process of change from the perspective of the actors. Whereas the present article highlights the importance of an exogenous trigger of change (losing a war), the companion article stresses the endogenous process of how the actors came to grips with their situation. We conclude the other article by discussing possible lessons to be learnt from the Swedish historical case for how to uproot corruption in other parts of the world today.

This article is organised as follows. We first develop our theoretical model for explaining institutional change, departing from, but going beyond, previous theories of corruption and state-building. Following this, we introduce the Swedish case, discuss our empirical strategy and present a descriptive section on the court cases of malfeasance. Then follows our interpretation of how war-making explains the Swedish transition in the light of several posited alternative explanations. We end with some reflections on the generality of our findings.

## Corruption, State-building and the Consequences of War

In previous work, we have criticised the dominant approach to corruption – the so-called ‘principal-agent theory’ (e.g., Rose-Ackerman 1978; Klitgaard 1988) – for failing to capture the essence of the problem (Persson et al. 2013). In short, we argue that the principal-agent theory builds on the very

unrealistic idea of the existence of ‘benevolent principals’ who would have an interest in ending corruption by changing the incentives for the dishonest agents (Aidt 2003). Most importantly, in a highly corrupt state, the political leaders are likely to be the ones that earn most of the rents from corruption and would therefore have no reason to change the incentives for corruption. Instead, we argue that corruption should be viewed as a problem of collective action: it persists because most of the agents perceive that most other agents in their situation take part in corrupt exchanges and practices. This implies that even for an ‘honest principal’, it makes little sense to refuse to take part in corrupt practices if the perception is that corruption is the ‘standard operating procedure’. This makes corruption into what has been labeled a ‘social trap’, which implies that lack of mutual trust stabilises the ‘game’ into a situation where all agents are losers (Rothstein 2005).<sup>2</sup>

However, a key weakness of the collective action theory of corruption, when seen from the perspective of trying to explain the rise of a clean, Weberian and non-corrupt state, is that it offers little purchase on the problem of change. If state actors are caught up in the social trap of perpetuating their corrupt exchanges as long as they are left believing most others are being corrupt, then what might explain the route out of corruption? If we view the rise of the Weberian state as a process of institutional choice (Collier 2002), what is needed is a theory that can explain how the collective action problem was overcome, and how the new rules of the game came to be enforced in practice. But collective action theorists offer little guidance on this issue. Aidt (2003, F648–F649), for example, argues that ‘a large scale reform’, or a ‘big push’, needs to be in place ‘for a long time’ in order for the high-corruption equilibrium to be abandoned in favour of the low-corruption one. Or, as Rothstein (2011b) argues, expectations of the number of other corrupt officials needs to be seriously perturbed by means of a ‘big bang’ reform. Without denying the merit of these approaches to understanding the persistence of corruption, as explanatory models they come close to the argument that what is needed for change is change itself.

In order to theorise the triggers of change, we instead turn to theories of institutional change developed within the literature on state-building. The probably most well-known is the argument by Tilly (1990) that modern states primarily grew out of historical experiences with warfare. In Tilly’s (1990, 28) own words: ‘[T]he central link is simple: over the long run, far more than other activities, war and preparation for war produced the major components of European states. States that lost wars commonly contracted, and often ceased to exist.’ A more elaborate theory along the same lines has been proffered by Ertman (1997), who modified Tilly by arguing that the impact of war on bureaucratisation was conditional on time period, and that another independent force in play was that of representative institutions or parliaments.

While suggesting a primary exogenous motor of change, what these two authors have in common is a highly abstract and aggregated concept of the outcome to be explained: the rise of the modern bureaucratic state. Ertman (1997) notably stops his elaboration of the state-building process by the end of the eighteenth century, with the argument being that the outcome to be explained was then already established in his sample of Western proto-states. In later work he even argues that ‘perfecting these systems’ in the nineteenth century was merely a process of minor importance compared to the ‘crucial *qualitative* jump’ that occurred earlier (Ertman 2005, 180; emphasis in the original). Whereas ‘state-building’ in this context largely denotes the process through which the state established monopoly in the use of violence and the capacity to raise taxes and uphold the law, we contend that the typically later process of eradicating patrimonial practices of venality and corruption is another key phase in the trajectory of the modern state. This crucial phase has largely gone unnoticed in the state-building literature. Moreover, we shall argue that the effect of *losing* a war, contrary to Tilly (1990), need not be state contraction or dissolution, but might act as the trigger for reform itself. The main mechanism through which this may occur is the increased likelihood of revolution (Becker & Goldstone 2005).

## Situating the Swedish Case

The present day Swedish administrative system is by all empirical standards one of the cleanest and least corrupt in the world (Andersson 2012). At the same time, historical evidence shows that this has not always been the case. In a sweeping characterisation, Heckscher (1958, 30) claims that ‘the Swedish public administration by the early 19<sup>th</sup> century was actually rather deficient’.<sup>3</sup> Several conditions attest to the veracity of this claim (Myrberg 1922; Wichman 1927; Carlsson 1973; Elmroth 1962; Westerhult 1965; Sunesson 1981; Frohnert 1993; Rothstein 1998; Nilsson 2000; Cavallin 2003; Granholm 2013; Sundell 2014). First, recruitment to higher offices was typically not based on merit, but on noble birth, personal connections or seniority, and the low quality of university education in general and the sloppy standards for degrees meant that examinations did not really matter even when they were demanded. Second, the purchase and sale of office was an ingrained part of the system when a public servant was to retire through the so-called ‘accord system’, as was the system of accumulating several positions and letting another person carry out the actual job. Third, the typical public official did not gain his income from a regular salary but was often paid in kind by being supplied with housing, a surplus of agricultural products from the peasantry, and an ensemble of more or less unregulated fees (*sportler*). This of course provided fertile ground for various forms of bribery, extortion and embezzlement. Finally, the legal code in place was

conspicuously weak and undefined when it came to regulating malfeasance. Absenteeism was criminalised, as were embezzlement and misappropriation of public funds, but bribery was only defined in the legal code as a crime for judges.<sup>4</sup> Overall, the rules for misconduct and misuse of a judiciary position was more firmly regulated than that for public officials in general (Rothstein 1998; Cavallin 2003, 94–100).

Most historically oriented research comes to the conclusion that, at least toward the end of the nineteenth century, this state of affairs no longer applied (Heckscher 1958; Larsson 2000; Nilsson 2000; Rothstein 1998; 2011b). As stated by one contemporary observer (and professor of judicial law) by the late 1870s: '[T]he old perception and treatment of a position in civil service as property is fading away' (Hildebrand 1896, 653). Through a process of reforms, at least by the 1880s, public administration recruitment was more firmly based on educational or other merits, the 'accord system' was abolished, a system of regular salaries replaced payments in kind or through unofficial fees by the late 1850s, and a new penal code containing an entire chapter clearly prohibiting a wide range of forms of malfeasance was put in place from 1864 onward. It is also during the 1860s that, in practice, the advantages of belonging to the aristocracy for recruitment and promotion in the civil service was nullified (Carlsson 1973).

Such a transition from the if not systemically corrupt, at least patrimonial, personalistic and grossly ineffective, state administration to the clean, Weberian and largely non-corrupt state is a rare species in world history. North et al. (2009, xii) estimate that perhaps 25 countries, or 15 percent of the world's population, currently lives under what they call an 'open access order', in large part defined in terms of having made the historical transition that Sweden underwent in the nineteenth century. Sweden is thus not a unique case, but it is surely a rare one. This infrequency makes Sweden interesting to study in itself.<sup>5</sup> We shall, towards the end of the article, also relate the Swedish case to another instance of having made the historical transition: Denmark.

In order to deepen our historical understanding of the Swedish transition, we have assembled an original database of court hearings of cases of malfeasance in the Swedish highest court of appeal, until 1789 called the 'Lower Judicial Audit Office' (*Nedre Justititrevisionen*) and henceforth the 'Supreme Court' (*Högsta Domstolen*). Brief descriptions of each case has been compiled by searches at the Swedish National Archive. Due to a stroke of luck in the history of the archive, all cases relating to misconduct by public officials (*ämbetsförseelser*) have been entered into a card registry for the years 1661–1789. From the year 1790, however, there is no other means for singling out cases concerning crimes committed by public officials but to sift through the entire registry (*Registraturet*) of *all* cases heard, which could typically comprise thousands of pages for a single year. To cut the costs of

data collection to manageable levels, we were forced to make a selection of years and opted for the simple strategy of collecting decennial data – that is, collecting all cases for each year of every new decennium in the period 1790–1850. Although the card registry would easily have allowed a much more comprehensive survey, we matched this strategy in the previous time period to ascertain over-time comparability, starting in 1720, marking the beginning of the so-called ‘Age of Liberty’ (Roberts 1986). Finding a peak in the number of cases in the year of 1830, we complemented the more labour intensive part of the data collection with two data points in the mid-decennium right before and after the peak.<sup>6</sup> We thereby ended up with a dataset of 236 court cases concerning malfeasance from 16 years in the period 1720–1850 – one for each decade plus the data for 1825 and 1835.

We are by no means the originators of the method of studying corruption and public misconduct by relying on court cases (see Welch & Hibbing 1997; Goel & Nelson 1998; Schlesinger & Meier 2002; Chang et al. 2010). A more direct source of inspiration for our approach is the study of Danish public officials discharged on grounds of misconduct or malfeasance in the period 1740–1930 conducted by Frisk Jensen (2013). We can also rely on a Swedish historical study similar to ours, drawing on the above-mentioned card registry, but limited to the time period 1750–80 (Cavallin 2003).

This is not to say that our empirical approach is without its problems. Two potential sources of bias in particular needs to be taken into account. The first is that the frequency of court cases dealing with corruption could be a reflection of the (perceived or real) effectiveness of the judicial system rather than the realities on the ground pertaining to official misconduct. If the chief executive launched a strategically pursued purge of the bureaucracy, for example, this could cause a surge in court hearings, in effect leading to a decrease in the level of corruption, whereas the simple trend in the number of hearings would seem to indicate the opposite. In a sense, then, the integrity of the court system is endogenous to this very method of capturing anti-corruption reforms. What this implies is, in our view, that the number of court cases heard and the numbers convicted cannot be treated as a measure of the *prevalence* of malfeasance. An upsurge in the number of cases can, however, be used as an indicator of *change* since more court hearings or convictions means that public officials need to adapt to a new situation. On the other hand, a downturn in the number of cases (or convictions), given that the effectiveness of the judicial system is held constant, could be interpreted as a decrease in the frequency of malfeasance itself.

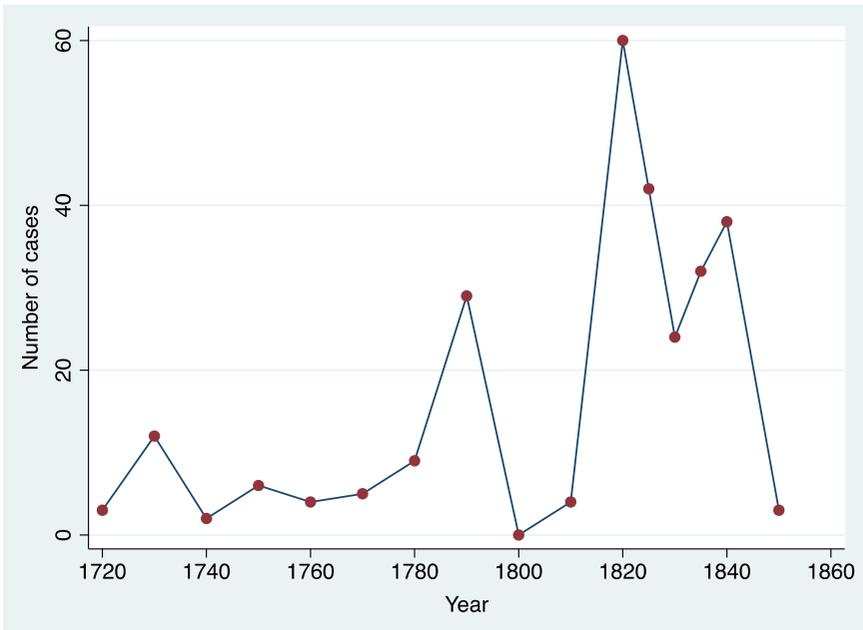
The second problem, more peculiar to the Swedish case, is that, due to the extreme costs of data collection, we study hearings by the highest court of *appeals* at the central level, and not every hearing in the entire judicial system of local and regional courts. This creates a source of potential selection bias in that what we observe is in part the outcome of a decision-making

process by the appellant choosing whether to appeal against the ruling of the lower level court. If there is no appeal, the ruling of the lower court never enters our data. However, we believe that the propensity to appeal should be positively correlated with the severity of the punishment of those convicted at the lower level, which in turn should capture the severity of the crime itself. A preliminary indication of this is the acquittal rate of the appeals cases concerning malfeasance, which across the entire time period studied is 12 percent and trending downwards.<sup>7</sup> The chances of achieving redress from the highest court of appeals in Sweden were thus not the best. Since so few cases are acquitted, the court hearings reaching the highest level could be expected to be biased in the direction of including the most serious cases. As long as this direction of bias is known, and does not vary systematically over time in a way that contradicts the general trends, it could thus also be taken into account when interpreting other patterns in the data.

## A Hundred and Thirty Years of Malfeasance

Figure 1 presents a simple frequency plot of the number of appeals cases heard concerning malfeasance. As can be seen, there are two peaks in the

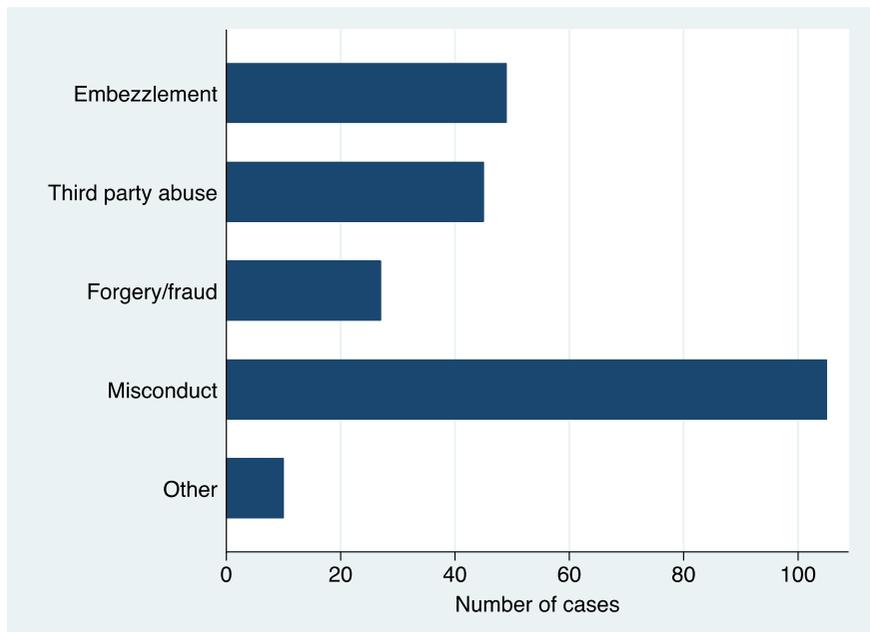
Figure 1. Appeal Cases of Malfeasance, 1720–1850.



over-time trajectory. The first occurs in the late eighteenth century – more precisely in 1790, the year after the Supreme Court was inaugurated. There is then a dramatic fall in the number of cases toward the turn of the century, followed by the second peak, composed of a sustained period of more frequent court hearings in 1820–40. In 1850, however, there is another steep drop. Yet, since the effectiveness of the court system is endogenous to the measure, we cannot infer from Figure 1 that malfeasance was more common in the nineteenth century than in the eighteenth century, or more common towards the end than in the beginning of the eighteenth century. What the twin peaks of malfeasance do seem to attest to, however, is an increased *outflow* of practices of misconduct.

To substantiate this claim and also dig deeper into the origins of the twin peaks, we must also take into account the nature of the crimes of which the public officials were being accused. In Figure 2, we have therefore classified the nature of the accusations into four distinct groups.<sup>8</sup> The first concerns cases where the public officials are being accused for stealing from the public coffers, or *embezzlement*. The second category of malfeasance comprise cases where the public official has *abused* his office with the alleged intention to benefit himself and in a way that hurt a *third party*, typically an

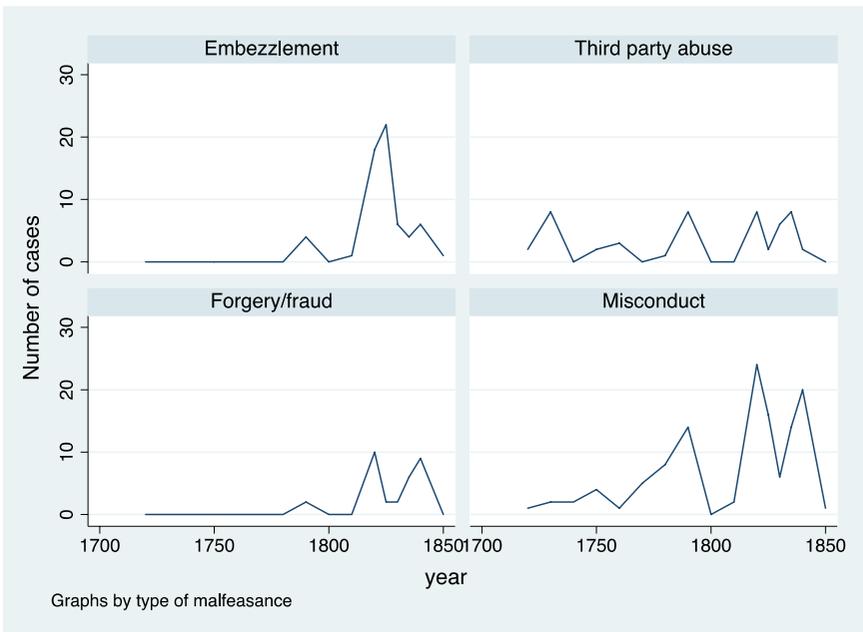
Figure 2. Types of Malfeasance.



ordinary citizen or the public. This of course includes cases of bribery, but more common are acts of extortion, where the official has forced ordinary people to pay excessive amounts of tax or unregulated fees. A less common and third type of malfeasance is what we have dubbed *forgery/fraud*, which most importantly concerns cases of forged official documents. A fourth type of crime, finally, and by far the most common one, has been dubbed *misconduct* and comprises a range of activities that were judged by the legal authorities to be an offence against the law, or a breach of duty, but where no clear intention to benefit the official himself can be discerned. These were thus to a large extent cases of ‘mistake’, ‘thoughtlessness’ or ‘recklessness’, but without apparent private gain for the official involved. As a rule, the sentences for these more common crimes were much milder.

In Figure 3, we have plotted the trajectories of how frequently these different types of malfeasance occurred over time. Two patterns are noteworthy. First, the frequency of misconduct almost perfectly tracks the general development of malfeasance over time. In other words, the two peaks in appeals cases can to a large extent be explained by a rise in court cases dealing with corrections of mistakes or rebukes of rule breaking by the charged public officials. Third party abuses, by contrast, show no clear signs

Figure 3. Trajectories by Type of Malfeasance.



of development over time. To the extent we can tell from the data, they were as infrequent in the eighteenth century as in the nineteenth century. The second pattern, however, concerns the rise in cases of malfeasance in the nineteenth century more specifically. As can be seen, both fraud/forgery and embezzlement now appear as new types of malfeasance that cannot be traced in our source material in the eighteenth century. The trajectory for embezzlement is particularly striking in that a large part of the appeal cases in the 1820s concerned this particular type of crime, whereas the decline in embezzlement somewhat predates the general decline in appeals concerning malfeasance in the 1840s.<sup>9</sup>

Combined with information on the titles of those charged with malfeasance, we interpret these diverging trajectories as indications of the nature of problems the Swedish state had to come to grips with at different junctures of its development. To begin with, the typical official charged with malfeasance served in the local administration in the townships or, even more frequently, in the countryside. There are hardly any instances of high level officials working for the central government agencies in Stockholm being accused of malfeasance.<sup>10</sup> This pattern, already observed for 1750–80 by Cavallin (2003, 201–2) but now confirmed for a much longer time period, in our view reflects the key role of the rural administration of tax collection and control in a largely rural economy (Westerhult 1965; Frohnert 1993). Tidying up the Swedish state was to a large extent a question of tidying up the rural tax administration.

With regard to the twin peaks of malfeasance, it could also be observed that in the 1780s and 1790s, where most cases concerned misconduct, a large share of the officials on trial were part of the judiciary. This is illustrated in Figure 4. Although the observed share of cases concerning the judiciary is somewhat unsystematic due to the rapid ups and downs in the number of cases heard, the (lowess) smoothed dashed line brings out the pattern very clearly: hearings concerning misconduct in the judiciary peaked toward the late eighteenth century. Most conspicuous among those on trial are the country judges (*häradsövding*) and city mayors (*borgmästare*). To a large extent, these cases dealt with correctives the higher levels of the judicial system made to the workings of the lower levels. A striving for universal rules to be applied throughout the country can be discerned in the motivations underlying the sentences of the Supreme Court in particular. Our reading of this pattern in the data is that the Swedish judicial system itself underwent reforms with potentially long-term consequences under the reign of Gustavus III (Wedberg 1922; Westman 1924; Awebro 1977; cf Metcalf 1989).

A final point to notice concerns the general downturn in the number of appeals cases that we observe in 1850. To what extent can we believe in this downward trend when it is substantiated by a single year observation? As a

Figure 4. Malfeasance within the Judiciary.



matter of fact, starting in the year 1857, the Swedish National Bureau of Statistics started to collect systematic data on criminal court cases heard at any level within the Swedish judicial system. As Sundell’s (2014) count of these cases concerning malfeasance among public officials shows, the incidence of both more serious and minor offences slope downward from the 1860s. Moreover, starting in 1874 there is another systematic source of published information on the court cases heard by the High Court (the so-called ‘*Nytt Juridiskt Arkiv*’). An extensive search of its first ten years of publication clearly attests to the fact that malfeasance did not take up any prominent part of the court’s hearings again. We may thus rest assured that the decline in malfeasance toward the mid-nineteenth century is not simply an artifact of our sample. Equally important, there is no evidence whatsoever that the decline could have been the outcome of a deteriorated judicial system. On the contrary, from 1864 there is, as mentioned above, a new penal code that more clearly outlawed most forms of malfeasance. We thus interpret this as a clear indication of the fact that the Swedish state had by this time been thoroughly reformed and transformed from a patrimonial into a more professionalised, Weberian bureaucracy.<sup>11</sup>

To sum up, our data on malfeasance shows that a behavioural shift towards Weberianism and rule compliance among public officials occurred

*before* the ‘big bang’ (Rothstein 2011a; 2011b) reform process of the mid-nineteenth century was initiated. How can this sea change be explained?

## The Significance of War-making

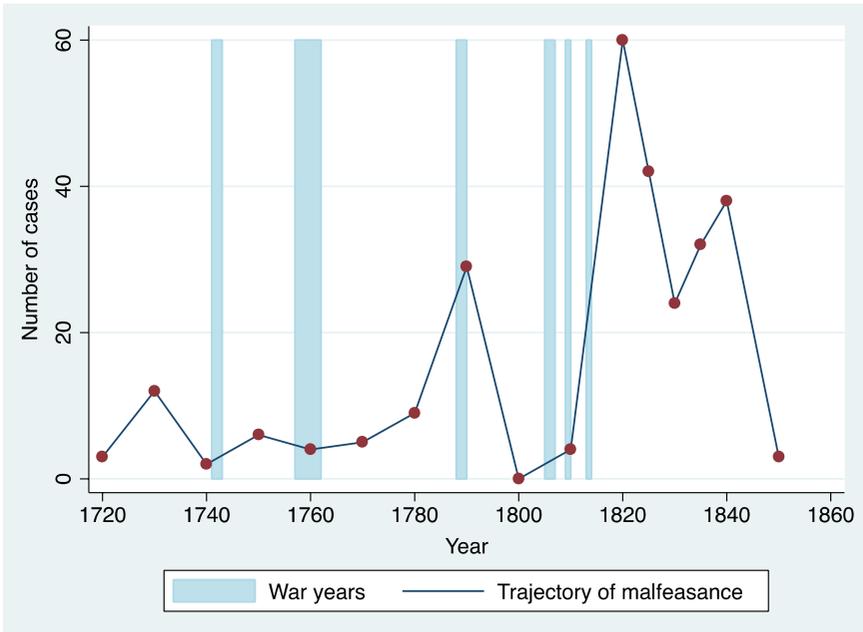
First of all, we would like to point to a set of factors that *cannot* explain the trajectory of change due to reversed or inconsistent timing. To begin with, industrialisation, urbanisation and income growth came fairly late to Sweden, starting by the mid-1800s but not taking off in earnest until the 1890s (Jörberg 1975; Lindbeck 1975; Myhrman 1994). Similarly, the emergence of civil society organisations – most importantly, the temperance, revivalist/free church and labour movements – was a late nineteenth-century phenomenon (Lundkvist 1977, 66–71). By implication, neither socioeconomic modernisation nor broader societal pressures for reform are likely explanations for the early nineteenth-century sea change in behavioural misconduct (or the mid-nineteenth-century sets of reforms) in Sweden.

Second, despite Count de Vergennes remark that Sweden in the 1770s was already ‘in love with democracy’, modern democratic institutions such as universal suffrage and parliamentary control over the cabinet was not installed until in the early twentieth century (Verney 1957; Rustow 1955; Tilton 1974; Lewin 2006). Again, the timing of democratic reform thus precludes the possibility that they may have caused the trajectory of bureaucratic change a century earlier.

If these broad-based societal changes cannot explain bureaucratic reform, then what can? Drawing on Tilly (1990), we would like to stress the likely crucial importance of war-making. In Figure 5 we have plotted the trajectory of heard cases of malfeasance from Figure 1 again, but now against the background of years in which Sweden was at war during the time period.<sup>12</sup> As should be clear, there is no universal relationship between war participation and bureaucratic reform (cf Fukuyama 2011, 111). Neither the Swedish war against Russia in 1741–3, nor its participation in the Seven Years War 1757–62 was accompanied by any observed changes in the number of malfeasance cases.<sup>13</sup> Interestingly, however, there is a clear connection between wars and the twin peaks in malfeasance cases.

First, the domestic maneuvering of Gustavus III, that in 1789 led to absolutism and the abolition of the Council of Realm and the inauguration of the Supreme Court, was directly related to the king’s bold attempt to initiate a war on Russia (Lönnroth 1986). As noted above, the Supreme Court (already in its second year of existence in 1790) marked a steep rise in the number of appeals cases concerning malfeasance among public officials. As a more long-term legacy, moreover, one could argue that the entire

Figure 5. War Years and the Trajectory of Malfeasance.



sea change in terms of the frequency of such cases occurring later in the nineteenth century would never have been possible without a functioning highest court of appeals.<sup>14</sup>

Second, and even more importantly, the loss of Finland in the war against Russia triggered the ‘Revolution of 1809’ (Alm 2010; Isaksson 2009). What is important in this case, however, is not simply the incidence of war itself, as Tilly (1990) would have it, but the fact that Sweden *lost* this war.<sup>15</sup> The most direct outcome of the loss of Finland was the great overhaul of the entire constitution and political system, bringing a new constitution that balanced the power of the king and the diet, and a new king from abroad. This constitutional reform in itself had important implications for the structure of the public administration, both in terms of further reforms of the Supreme Court, which only now was granted secure independence (Wedberg 1940), as well as decreased influence by the nobility and the ensuing rise in meritocratic recruitment (Carlsson 1973; Nilsson 2000).

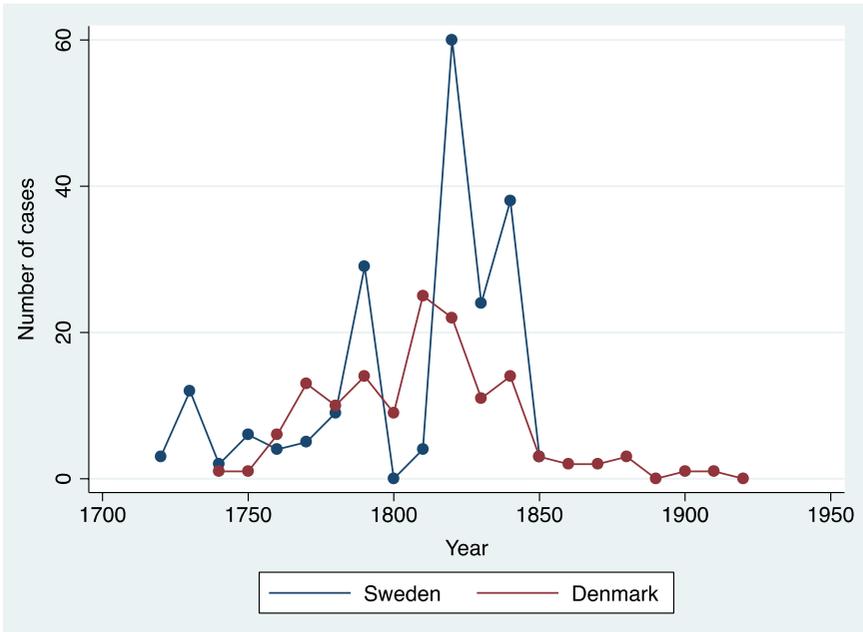
Moreover, as we substantiate more elaborately in the companion paper (Rothstein & Teorell 2015), ‘loosing big time’ may have created the impetus for behavioural change by transforming the mindset of the political elites. When Sweden lost Finland to Russia in 1809, it was not a loss of a minor and

distant part of the country which as a separate territory had been traded in various peace agreement with the arch-enemy in the east. On the contrary, Finland had been an integrated part of Sweden for an uninterrupted period of 600 years and in landmass consisted of a third of the country. But the point is not simply that the war of 1808–9 led to the loss of Finland, which was apparently far less ‘traumatising’ than previous historians have thought (Edgren 2010), but that it produced a generally held insight among the Swedish political and military elite that the very existence of Sweden as a sovereign nation had been under severe threat. The officers who took the initiative to the revolution of 1809 were convinced that Napoleon and the Tsar had decided to divide the country, incorporating the southern half with Denmark and giving the northern part to Russia (Isaksson 2009; Edgren 2010; Roth 2009).<sup>16</sup> During the first months of 1808, large French, Spanish and Dutch forces joined the Danish army in order to attack the south of Sweden which, moreover, was ill-defended. Had these forces attacked, they would have outnumbered the part of the Swedish army stationed in Scania (*Skåne*) at a 6:1 ratio and the future of Sweden as a sovereign nation-state would have been severely threatened (Roth 2009).

This importance of a general sense of severe threat to the state as a motive for overcoming obstacles for increasing state capacity is also underlined by Uslaner’s (2008) analysis of why Hong Kong and Singapore managed to reduced corruption during the 1980s. Although Britain did not lose the Crimean War, there seems to have been a similar impulse to administrative reform from the gross mismanagement of the war (Searle 1993). Interestingly, the same seems to have been the case for another of Sweden’s nearest neighbours: Denmark. In Figure 6, we provide a direct comparison between our data and Frisk Jensen’s (2013) mapping of the number of public officials that were suspended from office due to malfeasance in the period 1736–1936. The similarities with the Swedish trajectory are striking: the Swedish rise in the number of cases toward the late eighteenth century, a dip (or leveling out) in the first decade of the nineteenth century, the ‘grand peak’ following that in the subsequent decades, followed by a sharp decline from 1850 onward – all these trajectories are mirrored in the Danish case.

We believe it is very unlikely this is a mere coincidence, and would instead like to point to a potential explanation for why the Swedish and Danish processes seem to have coincided: both countries not only lost wars in the years preceding this sea change, they also lost ‘big time’.<sup>17</sup> For Denmark, the story seems largely to be the same as for Sweden. Losing a number of wars led the Danish state to declare bankruptcy in 1813, which in itself heightened the general sense of emergency (Frisk Jensen 2013). Interestingly, the long-term effects of war loss for both countries appear to have been largely beneficial. Instead of leading to revanchism against the enemy (Russia for

Figure 6. Cases of Malfeasance in Sweden and Denmark.



Sweden, Prussia for Denmark), in both cases the result was an acceptance of the loss and of being reduced to ‘small states’ (Edgren 2010).

## Conclusion

In summary, drawing on a novel dataset of 237 appeal cases on malfeasance heard in the highest court between 1720 and 1850, we have documented a previously unknown period of bureaucratic change in Sweden in the late eighteenth century and, even more importantly, between 1820 and 1850, thus *before* the ‘big bang’ reform period toward the mid-nineteenth century stressed by previous research (Rothstein 1998; 2011a; 2011b). Whereas the bulk of these appeal cases pertain to milder instances of misconduct, a substantial proportion included allegations of embezzlement and third party abuse such as bribery and extortion, mostly in the local administration. We have furthermore argued that neither of the twin peaks of cases of malfeasance can be explained in terms of socioeconomic modernisation, the rise of civil society organisations or democratic reform. Instead, we have highlighted the crucial importance of war-making for the early rise of the Swedish Weberian state. First, although judicial reform was an ongoing and

underlying trend during the rule of Gustavus III, the war on Russia in 1789 was the direct trigger of the abolition of the Council of the Realm and the preceding inauguration of the High Court that to a large part explains the first peak in malfeasance cases. Second, and more importantly, the loss of Finland in the war against Russia in 1808–9 triggered the ‘Revolution of 1809’ and a new constitutional order in its wake. We argue that the latter should be seen as an important precursor for the upsurge in malfeasance cases in the 1820s and 1830s.

Although this argument at face value might seem to fit well with Tilly’s (1990) view that ‘war made states’, there is an important twist: whereas Tilly stresses the importance of preparations for war or the winning of wars, the Swedish case brings forward the crucial importance of *losing* wars. Moreover, whereas Tilly (1990), Ertman (1997) and other state-building theorists has pointed to the effects war may have on stateness in a more basic sense – such as establishing a monopoly in the use of violence and the capacity to raise taxes and uphold the law – we instead attempt to relate war-making to the eradication of corruption and establishment of a Weberian bureaucracy.

Based on the rise of the number of liberal democracies after the First and Second World Wars, Therborn (1977, 19) in a seminal essay once suggested that maybe ‘democracy is largely a martial accomplishment’. While this has been disputed by quantitative evidence (Mansfield & Snyder 2010), we would like to suggest a similar hypothesis but with respect to the other of the twin diseases Count de Vergennes pointed to in the quote in the introduction to this article: maybe the rise of the Weberian state is ‘largely a martial accomplishment’. But what were the actor-centric mechanisms linking the war loss to the behavioural change in the bureaucracy? This is the question we address in the companion article to this one (see Rothstein & Teorell 2015).

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#### NOTES

1. Sundell (2014) provides an original approach to understanding Swedish state-building in the nineteenth century that in many ways dovetails with our account. Whereas he concentrates on the informal payments public officials received through the so-called ‘*sportler*’ system, and how that system was reformed and eventually abolished, we include other patrimonial patterns of behaviour and incorporate data and evidence also from the eighteenth century.

2. In support of this notion, Bicchieri and Xiao (2009) have shown using experiments that people are willing 'to do the right thing', but only if they are convinced that others are also willing to do so in a similar situation.
3. The word Heckscher uses in Swedish is '*försumpad*', which literally translates as 'turned into a marsh' or 'marshy'/'boggy'.
4. However, according to biblical law, which also applied, bribery was condemned in general: 'And thou shalt take no gift (heb: *bribe*): for the gift blindeth the wise, and perverteth the words of the righteous' (2 Mos 23:8). We owe thanks to Kim Olsen for pointing this out.
5. Even among this rare set, Sweden stands out for its early development, according to Glete (2002) by being among the first countries to develop a fiscal-military state in the sixteenth and seventeenth centuries (together with Spain and the Netherlands).
6. The mid-decennial data from 1825 and 1835, however, only cover every other month. To account for this we have weighted the cases from these two years by the order of two.
7. The court sentence in each case has been coded as (1) acquit, (2) convict, (3) referral to another court/instance or (4) no decision (*ad acta*). In 16 cases, the verdict could not be identified. The acquittal rate is the proportion of cases where the applicant was acquitted out of the cases where the sentence could be observed.
8. There is also an infrequent 'other' category, consisting of ten cases where the information from the file is too vague or incomplete to allow classification.
9. In this case, there is also evidence that the judicial code changed, since in 1823, a government bill was enacted to strike down embezzlement more effectively (Bihang till Riksståndens protokoll 1823, saml. 7 avd. 2, pp. 1296, 1300). This bill can thus 'explain' to a great extent the upturn in the number of embezzlement cases in the 1820s–1830s, but hardly the steep downturn after that.
10. A preliminary breakdown by region, although fraught with large amounts of missing data (in many instances the locality of the official charged with malfeasance has not been recorded), also shows very few signs of concentration in Stockholm or even in the more densely populated parts of the country.
11. This of course does not mean that no cases of malfeasance ever took place thereafter. Wångmar (2013, 28–31, 258, 274), for example, tries to make a big case out of two legislative bills in the 1920s and 1930s concerning misconduct and embezzlement in the municipal administration. Whether the municipal level followed the same over-time trajectory as the state administration (centrally and locally) is a topic that deserves further study.
12. The war years draw on Sundberg (1998), but with two minor changes: (1) we have coded the end year of Sweden's first participation in the Napoleonic wars as 1807 (the last year of battle) rather than 1810 (the peace treaty); and (2) we have not coded Sweden's 'war' with Britain in 1810–12, since this was only a war on paper, without a single shot being fired.
13. Both of these wars had wide-ranging implications for domestic politics, however: the loss of the war against Russia in 1743 led to the appointment of a new monarch after pressure from the Russian Empress, and the loss of the Seven Years War in 1762 was the springboard for the victory of the Caps over the Hats in the elections of 1765.
14. That something happened with the judiciary around this time is further strengthened by the fact that the acquittal rate in the appeals cases declined from around 20 percent on average during the eighteenth century to roughly 8 percent in the nineteenth century.
15. According to Sundberg (1998, 419–24), Sweden lost all its wars from 1658 until the war with Norway in 1814, with the exception of Gustavus III's war on Russia in 1788–90, which is hard to classify but could be argued to have ended in a draw.
16. Esaias Tegnér – one of the most well-known intellectual figures of the time – thought that the final hour of Sweden had come.
17. We have found no evidence for Ertman's (2005, 171–2, 178) claim that the Scandinavian countries in the early nineteenth century simply imitated the radical set of reforms first initiated by the 'enlightened Bavarian minister Count Montgelas'.

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