

Name of Presentation: Upholding a Competitively Authoritarian Regime in Ukraine – Human Rights Abuses and the Neopatrimonial State

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Abstract: This paper seeks to analyze why after 21 years of independence there is a lack of significant political and economic reform in Ukraine that has negatively impacted the opportunity for growth and development. Indeed citizens experience numerous instances of human right violations, and are confronted with poverty and widespread social and economic inequality. This paper attributes this to the fact that the state governance structure is a form of competitive authoritarianism underpinned by neopatrimonial networks. Hence it is able to reproduce itself as well as engage in a range of human rights violation without real political and economic consequences.

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Key Words: Ukraine, neo-patrimonialism, competitive authoritarianism, human rights

1. Introduction

“Borderland” is the meaning behind the name Ukraine and seems to reflect the character of the country not only in its history but also its present state. Its geographic location and the cultures of the region have throughout history situated it as a border between separate and often confrontational worlds: agrarian and nomadic societies, Europe and Asia, Orthodoxy and Catholicism and communism and capitalism (Subtelny, 2000). Due to the size of the country, its geographic location, powerful neighbours and proximity to various historical empires the country and its people have suffered incessant warfare with neighbouring states and peoples, foreign incursion attempts, partitions and foreign domination at multiple hands for centuries (Prizel, 2000). As a result, over the centuries, Ukrainian elites have been murdered or assimilated into the various neighboring states, most recently by Poland, the Soviet Union and Russia, and most did not associate or identify primarily with their birth country. Many problems have arisen due to this with the result of a lack of experienced Ukrainian nationals in spheres of high culture, politics, economics, and popular culture (Subtelny, 2000). While there were periods of independence, they were relatively short-lived and the nation has faced the loss of its people, their lives and systematic attempts to wipe out their heritage, culture and identity. Yet it has survived and its people have remained resilient, patient and hopeful.

By 1991 the independence of Ukraine was long overdue and in a referendum on its independence 90.3% of those voting voiced their support for independence (Basiuk, 2000). The independence was anti-climactic however; it did not produce the heroes and mythology which are often produced in struggles due to the party elites and workers in various wealthy industries supporting independence not for a revolution but in order to preserve the existing order (Basiuk, 2000). At present - 21 years following independence - there have been social and political gains. However the hopes and expectations of the population for the achievement of democracy, the protection of human rights and the implementation of economic and social developments have not even come close to being met. Although the last four elections were hailed as drastically improved and democratic and there had been a substantial improvement in civic involvement, the country and its people currently face numerous problems with the economy, politics, corruption, the respect and endorsement of various human rights.

By virtue of its history, location and experiences the case study of Ukraine presents both a familiar story and a unique case historically, politically and socially. This paper seeks to bring together analyses of Ukraine as a competitively authoritarian state in which neo-patrimonialism exists and as a result questions of good governance and human rights remain problematic. To date, 21 years following independence, there exists a significant lack of reforms and democratization process remains weak which have negatively impacted the growth and development potential of the country. In addition, human rights are often violated and issues of transitional justice remain unresolved. This paper will argue that because the state is competitively authoritarian and due to its neo-patrimonial nature, it is at once able to reproduce itself as well as engage in a range of human rights violation without real political and economic consequences. The fact that the state has been captured by a few interest groups and the existence of widespread corruption within the militia helps to strengthen the state and its ability to repress

the citizens. Against this background the paper seeks to:

1. Critically examine the extent to which the rhetoric of democratic reform is consistent with the reality on the ground
2. Demonstrate the limitations of the rhetoric of democratization and reforms in Ukraine
3. Consider the implications of Ukraine as a Competitively Neopatrimonial Authoritarian State

2. Background Context

The security of the people would be best served by a democratic system which fosters civil society and the rule of law while promoting and protecting democratic values and human rights. In such a society the rule of law prevails, political, social and spiritual rights and interests of the citizens are guaranteed and respected and access to available material benefits is guaranteed (Kulinich, p. 2000). However polls show that the majority of the Ukrainian population feels that a Western-type democracy had never been achieved or established in Ukraine (Holovakha, 2000). Beginning in 1990 former Soviet states, such as Poland and the Czech Republic, completely reformed their political systems. In contrast, the Soviet elite in Ukraine were not expelled from power in 1991 and institutions along with patterns of behavior were merely modified in order to satisfy international standards and expectations which included but were not limited to democratization, respect of human rights and the rule of law. The constitution in 1996 was also formed using procedures and structures which had been laid down in the old Soviet constitution (Lynch, 2009). As a result the political reform in the country has been more cosmetic than anything. However, in 2004-5, a series of protest known as the Orange Revolution showed a glimmer of nationalist sentiment. The protesters were contesting the flawed presidential election in which Viktor Yanukovich (seen by many as a supporter of Russia) supposedly beat the incumbent Viktor Yushchenko (a Ukrainian nationalist and supporter of Western-style democracy). Following the protests and much international attention a revote was held and Viktor Yushchenko won the election. During his presidency he had removed power from the presidency and ceded it to the parliament and prime minister, moving the country towards a European parliamentary system. However in his current presidency Yanukovich has reversed these moves, which can be viewed as a step back from the development of democracy.

Democratic reforms, or lack thereof and Neopatrimonial elements: the Clan system

The history of the country can best help to understand how Ukraine has come to be a competitive neopatrimonial authoritarian state. Historically citizens have been unable to trust or rely on the state, its rulers, or apparatus which caused them to create and rely on informal structures, such as the blat system, thereby laying the ground for neopatrimonialism. The lack of a true democratic process in Ukraine has been attributed to the high level of continuity from Soviet times by many politicians and scholars. Such a continuity exists because the Soviet era has provided the current elites with many tools, resources and opportunities which have helped to maintain and reproduce the competitively neopatrimonial authoritarian nature of the state. The

elite are able to maintain economic and political control through the use of large security forces, extensive surveillance infrastructures, and tools of influence, including but not limited to state run television, radio, and newspapers (Schedler, p. 172). The second president of Ukraine, Leonid Kutchma, continued the use of Soviet tactics such as the use of the tax police and prosecutor general's office in order to maintain his power and bring dissidents in line. Thereby using authoritarian and neopatrimonial practices to stay gain and maintain power while setting a precedent for future presidents, politicians and elites (Lynch, 2009).

Ukraine's independence came largely from the work of the elite who saw that the abolition of communism and achievement of independence on their terms would best serve their interests. As a result a large part of the current or new capitalist class in the country comes from old Communist nomenklatura; a select class from which the Communist Party chose appointees for top-level state, party or important organization positions. The leaders in the 1990s had strong ties to the old regime and were writing the constitution, holding elections, and using extralegal measures to stay in power and undercut the opposition (Schedler, p. 171). The Ukrainian oligarchy, who were the existing elites, attained significant financial and political prominence following independence as they were best positioned to become the first new capitalists. Alongside the old elite members of criminal groups, low-level directors of collective farms, and young businessmen were also able to take advantage of the existing culture of neopatrimonialism and amass significant amounts of wealth during the transition. Their wealth and influence has allowed them to actively participate in high level political and official life as they are an important power base and provide crucial support to politicians. Thusly "A new monopolist or rentier-capitalist elite has arisen phoenix like out of the ashes of the old Communist elite and has used its influence to delay real reforms or to freeze them in an interim state that suits its purpose" (Gallina, 2009). These elites largely rely on state financial support and privileges and can be defined as "rent-seekers" as they lobby, extort and blackmail governments for various privileges which allow them to capture the rent profits of their monopoly-like position (Havrylyshyn, 2000). This neopatrimonial system is invaluable to a small fraction of the population, the elite, as the majority of the wealth is concentrated in their hands and their livelihood depends on their relations with patrons in the government. Such systems are extremely problematic as the majority of such actors are primarily concerned with their immediate personal and economic interests and are ill-suited to have significant roles in managing the country (Markovskaya, Pridemore & Nakajima, 2003; van Zon, 2005).

The significant rise in crime and corruption can be attributed to the regionally based lobbies and interest groups who bring together regional, political and oligarchic interests and can otherwise be called clans (Bukkvoll 2004, Kuzio 2005, van Zon 2005). In the late 1990s after major privatization had occurred there emerged three regionally defined clans based in the cities of Dnipropetrovsk, Donetsk, and Kyiv that competed for influence over and support from the president. Each clan has its oligarchs, backs its own specific political party and parliamentary factions and controls and owns its own newspaper and television channels (Bukkvoll, 2004). The support these clans provide to politicians is invaluable in order to both secure wins in elections

and rule the country. Their financial and media resources have much to offer to politicians, especially the president, as they can be used to create a positive image of the president, which is extremely useful during elections. It can also be used to control the access of information given to the public and majority of the citizens concerning the workings of Ukraine's political process (Bukkvoll, 2004). The interests of competing clans were managed by various presidents through multiple bureaucratic means such as the formulation of a tender process which only allowed for a specific clan to win the control of state property. As a result, Ukraine is a neopatrimonial state where each civil servant has his own fief and the state apparatus contains many institutions and rulers that are more concerned with safeguarding their own privileges than with serving and protecting society (van Zon, 2005). It is in weak states such as this that locally powerful figures usurp state authority which allows them to shirk accountability as they control the local representatives of higher authorities. Such co-optation of the authorities allows those in power to maintain it through the use of violence and intimidation that often results in human rights abuses (Englehart, 2009). This has resulted in a system of governance which is completely in the hands of the officials and jeopardizes the liberties and safety of not only enterprises and other organizations but also of ordinary citizens (van Zon, 2005).

While semi-authoritarian rulers and elites do not openly steal elections or commit glaring human rights violations which could provoke protests and international sanctions - they instead resort to more sophisticated tactics of random repression which do not appear political alongside occasional cheating which do not seem clearly masterminded (Riabchuk, 2009). They also use bribery, co-optation and more subtle forms of persecution such as: the use of tax authorities, compliant judiciaries and other state agencies to legally harass, persecute or extort cooperation or silence from critics and opponents (Levitsky & Way, 2002). The tactics and system of repression which had existed in Soviet times have been tailored and made to be much more subtle so as not to draw international attention and to keep the population from voicing their dissent. As a result there seems to be confusion and ambiguity in the international community especially for Western states, on how to perceive these sorts of instances for the casting and counting of votes is usually free and fair but election campaigns are dirty and unfair, journalists disappear, opposition leaders are bribed, jailed or killed in car "accidents" and very little independent media exists (Riabchuk, 2009).

Historic Structures of Torture and Impunity

One of the major inhibitors of the ability of Ukraine to democratize is the inability to reconceptualize policing through restructuring and redefining law enforcement agencies and practices (Shelley, 1999). The militia and criminal justice system in Ukraine resemble their predecessor – the secret police and since the 1990's the militia have contributed to the lack of law and order in the country. A main contributing factor is the legacy of a demoralized and corrupted police force with little or no respect for the rights of the citizen's that the country was left with. As a result the police are now more authoritarian than they were in the final years of the Soviet period (Shelley, 1999). The lack of meaningful reforms in the criminal justice system has resulted in the perpetuation of human rights abuses and corruption. The criminal justice system

currently resembles its Soviet predecessors: the Cheka, KGB and other Soviet state security organizations, whose main role was to oppress all opposition to the Soviet dictatorship (Berman, 2006). These organizations were responsible for torture, murder and execution of not only dissidents and deserters but also ordinary citizens who had engaged in customary market activities such as unauthorized public assembly, violation of public curfew and so forth. They operated with total impunity and any calls made for legal procedures and checks were met with scorn from their leaders (Berman, 2006).

While the militia of the Soviet regime, over its 74 years of existence, inevitably experienced a transformation from a militarized body; whose primary function was to suppress political opposition and the general public, to a body of law enforcement; whose primary responsibilities lie in the protection of social and economic order. Similar transformations occurred in the majority of industrialized societies however they were more successful as they occurred over time with a distance formed and entrenched between the police and political structure of the nations. The transformation of some post-Soviet states was not as effective because historically in the USSR the militia was a tool of the Communist party which resulted in a much closer relationship between the militia and political structures than in democratic societies (Shelley, 1999). As a result, following the collapse of the Soviet Union, 15 newly-independent states, including Ukraine, were left with criminal justice systems which bore the mark of totalitarian regimes due to their legal, cultural and organizational frameworks (Beck & Robertson, 2009).

Some post-socialist states such as Germany, Hungary, Estonia and Czech Republic have devoted not only substantial resources in order to create more democratic police forces but also to dismantling the previous structures. Other states strove for transitional justice and removed much of the previous *nomenklatura*, including many senior ranks within the militia. In Ukraine however the previous elite and old Communist *nomenklatura* managed to retain their power and are now the dominant ruling elite. This has come to have profound influence over the nature and pace of proposed militia reform (Beck, Povolotskiy & Yarmysh, 2004). The successor governments and rulers not only preserved the structures of the militia and security organizations but also co-opted them in order to use them as a part of their personal political machine which both anchored and served the new oligarchy of rulers (Berman, 2006). The influence of the elites and their interest in avoiding any significant political or structural changes can be seen in the extensive laws, presidential edicts and governmental decrees which deal with the militia and have been passed since 1991. They are strong on rhetoric, extremely weak on detail and more often than not lack the necessary enabling legislation and financial support (Beck et al, 2004). It is important to remember that such systems of impunity and corruption do not exist in a vacuum and are often instruments of the political elites. The elites then are as morally responsible for totalitarian crimes as the (secret)police because for such crimes to occur there must exist levers of intimidation, co-optation, and coercion. These are made possible through the granting of impunity and support of a mass political party, a host of cultural and social pressures alongside levers of domination and control (Berman, 2006).

3. Theoretical Frameworks

Competitive Authoritarianism

The current system in Ukraine can be classified as competitively authoritarian and seems to be moving towards the authoritarian spectrum of ruling. Competitive authoritarianism is a hybrid regime type which consist of the following democratic attributes: free, fair and competitive elections, full adult suffrage, broad protection of civil liberties, absence of unelected tutelary authorities while violating at least one of the following democratic attributes - free elections, broad protection of civil liberties and a reasonably level playing field (Levitsky & Way, 2010). Consequently by and large the post-Soviet regime of Ukraine is competitive in the sense that opposition forces use democratic institutions to contest for power and occasionally are able to win. However they are not fully democratic as there exists electoral manipulation, unequal access to media, abuse of state resources and degrees of harassment and violence which create an unfair advantage for the incumbents, so while competition exists it is largely unfair (Levitsky & Way, 2010). They should then be treated as distinct nondemocratic regime types rather than incomplete democracies and it should not be assumed that they are in transition to democracy. The election of Viktor Yanukovich in 2010 can be seen as proof that competitive authoritarian regimes are not bound to collapse and many of them have proved to be remarkably robust (Levitsky & Way, 2010).

Competitive authoritarianism can be seen through the existence of three clans (mentioned below) which are more or less evenly matched and compete against each other to capture the benefits and goods that come along with seizing power. They have the allegiance of political parties, leading politicians, seats in the Verkhovna Rada (Parliament), as well as the ownership and control a variety of media outlets. Although competition for power exists it should be noted that in the end the goods and concessions go to the clans and their lackeys and not to the benefit of the general population of Ukraine.

Neopatrimonialism

The concepts of patrimonialism and neopatrimonialism have been used and applied to a number of developing countries in Latin America and Africa in order to explain and analyze different types of authority, leaders, systems and regimes (Bratton & van de Walle, 1994 & 1997; Chehabi & Linz, 1998; Clapham, 1982; Ekeh, 1975; Erdmann, 2002; Geddes, 1999; Pitcher, Moran & Johnston, 2009; Schwartzman, 1976). These concepts have been applied to post-Soviet states through the exploration of the oligarchization of the Ukrainian state, the impediments posed by neopatrimonialism to the economic development of Ukraine, the tottering of the country between democracy and authoritarianism and the lack of a transition to a true democracy, the various clans in Ukraine and the political parties to which they are tied. While a number of scholars have applied the concept of neopatrimonialism in their study of Ukraine there still exist numerous possibilities for more research and exploration (See Bukkvol 2004; Fisun 2003; van Zon 2005 & 2010).

Scholars use the prefix neo to differentiate the modern variant of Webers theory which

differs from the original because there exists a facade of rational-legal authority. The political sociology theories of Max Weber focused on the two concepts of domination and legitimacy. For Weber it was important to understand specific forms of authority and sources of legitimacy and through his theories he sought to understand how structural positions were accorded the right or the power to expect and obtain the compliance of others (Erdmann & Engel, 2002). His work then catalogued varied ways through which legitimate exercises of power could be framed in a cultural manner (Pitcher et al, 2009). He posited that there are three types of domination which exist depending on the kind of claim to legitimacy made by each. The three types of authority are: legal, charismatic and traditional (Roth, 1978). The branches of traditional authority or domination were the feudal form of government, bureaucratic rational-legal, and patrimonial. Patrimonial rule is based on the appropriation and personal use of the governmental sphere by those in power while the exercise of political power is discretionary and the public and private spheres of society are interlinked (Ilkhamov, 2007) Elements of patrimonialism include principles of personal loyalty, traditional rule and allegiance to the person, not to the office. While in a number of patrimonial societies all over the world the state was the personal domain of either one or a few leaders, there also existed legitimacy and compliance in such systems, which was created through reciprocities, and this in turn helped to cement patrimonial authority. Rulers pursued obedience from their subjects through various reciprocities which were both personal and densely interwoven and not only based on material exchange but also dynamics of status, loyalty, and deference (Pitcher, 2009).

Neo-patrimonialism differs because it does not rely on just traditional forms of legitimacy or hereditary succession but also on formal and informal mechanisms. The formal mechanisms include parliament, multi-party system, electoral competition, the legal and judicial systems, and so forth. In this manner the neopatrimonial system is a symbiosis of patrimonial and rational-bureaucratic rule with the formal institutions being co-opted and adapted into the system of patrimonialism (Fisun, 2003). Central to the neopatrimonial system is the patron-client relationship, where the leader controls the political and economic resources of the state and grants concession or offices to members of their clan. This further consolidating their rule through the exchange of loyalty being bought from the client by the patron via the protection of the clients' interests, concession of goods or office. While there exists a developed bureaucratic system, formal law, and various other democratic elements, the system functions not under the formal rules and laws but rather under the informal laws set by the ruling party (Hensell, 2012). While there have been a number of well founded critiques of neopatrimonialism a critical engagement with the critique allows for the concept to be seen as not only relevant but also effective in understanding various political situations throughout the world. One of the main critiques is that neopatrimonialism has been used by numerous scholars as a catch all concept which has resulted in its abuse. While the critique is valid it highlights the need to have further scholarly engagement and debate in order to solidify the appropriate meanings and uses of the concept. This critique also seems to show the strength of the theory as it can be used to understand a wide variety of different case studies. Scholars can effectively understand various

political structures through placing the concepts of (neo)patrimonialism in historical and cultural contexts. This is a real theoretical strength as often various theories can ignore historic and cultural contexts. Another important critique is one that many applications of the concept either treat types of authority and types of regime as synonymous or assume a direct causal relation between them (Pitcher et al, 2009). This critique further shows the need for scholarly interaction in order to solidify the appropriate meanings and uses of the concept. While the critique is well founded the fact remains that the concept of authority type can be very helpful in understanding and analyzing regime types. The critiques show that there needs to be a greater engagement and debate between scholars in order to clarify the uses and misuses of the concept. This would help to enhance and strengthen the utility and legitimacy of the concept.

Competitively neopatrimonial authoritarian state

In the case of Ukraine the competitively authoritarian regime derives its authority through the use of neopatrimonialism. The background of Ukraine shows that the existence of a neopatrimonial does not come with legitimacy and accountability, which can be seen to exist in other states and societies, as historically the state was responsible for repressing its citizens in order to maintain its power and control. A lack of accountability exists to this day with citizens often facing the threat of anonymous attacks, police detention and forced psychiatric treatment should they chose to become activists, speak out against the government or begin to form the foundation of a strong civil society. While reform rhetoric has been strong there has been little change and this can lead to a conclusion that real reform does not serve the interests of the elite who wish to keep civil society in fear in order to maintain their control and power.

The state can be considered an allocative one as it relies largely on the natural resources of the country, invests minimal amounts of wealth to society which then allows the leaders to do as they please with the rest of the wealth. The pervasiveness of neopatrimonialism in the country can be seen through the fact that the 50 wealthiest oligarchs in Ukraine account for 85% of the GDP of the country and that the greatest concentration of wealth can be found within the Party of regions, with a third of all assets belonging to the oligarchs in the Donetsk Clan, who back the party and the current President (Kuzio, 2008).

The competitive neopatrimonial authoritarian nature of the state helps to explain why conflict over the control of resources has not ensued and why the state structure has not failed. Due to the various levers of power and control over the political, social and economic systems the clans are able to vie for control over the state which allows them to have turns for ruling the country and benefitting from the neopatrimonial practices. It is understood by the clans and oligarchs that they are all dependent on this system for survival and that any outright conflict, violence or unrest would draw undesired international attention and bring the lack of true democracy to light. The existence of three clans gives the appearance that democracy and competition exists in the country which helps to strengthen the rhetoric of democratic reform and avoid international attention. As a result there exists a high level of active collaboration between the clans and oligarchs to keep the current system in place. In this manner the competitively

authoritarian neopatrimonial state is able to reproduce itself with little international attention or critique.

4. The Consequences of A Competitively Neopatrimonial Authoritarian State

1) Repression and Human Rights Abuses

Freedom of the Press and Freedom of Speech

"For the authorities, journalists are enemies because they cover public issues and they do so in a professional manner. Journalists are clearly a threat to the regime." Stanislav Fedorchuk

Freedom of the press improved significantly from 2004-2009, during the presidency of Yuschenko, however since February of 2010 there has been a decline of press freedom which has coincided with the election and presidency of Yanukovych. Currently the majority of Ukrainians rely on television to provide them with news and information and it has been observed that news coverage has worsened due to the domination of the medium by state and government-friendly oligarchs which results in a biased and distorted picture. Television is increasingly being used as a platform for entertainment instead of news, forcing people to turn to the internet for reliable information, which is problematic as only around 34% of the population have access to the internet (Internet World Stats, 2012). Journalists wishing to report and cover stories critically are faced with the reality of visits from security personnel, which have increased since the beginning of the Yanukovych presidency (Kramer et al, 2011). The Committee to Protect Journalists concluded attacks on critical journalists alongside the reluctance of police in some cases to pursue or find the perpetrators contributes to fostering "an atmosphere of impunity against independent journalists" (Human Rights Watch, 2007).

Most concerning is the 2010 disappearance of Vasyl Klymentyev who was an investigative journalist and editor-in-chief of the newspaper *Novy Stil*. His investigations mainly covered corruption in the Kharkiv area and he had unearthed "juicy scandals about corrupt local officials" and his case has been compared to that of Gongadze (Harding, 2010). He was extremely critical of local prosecutors and prior to his death he had received threats after his refusal to take bribes to halt the publication of an article which accused a prosecutor of taking bribes (Dorovshykh, 2010). To this day the case has not been solved and Klymentyev is still missing and now presumed dead with no serious investigation of his disappearance having been conducted.

It has been reported by media watchdog groups that not only were there notably fewer appearances on television of opposition politicians but also a serious commentary on current events has become increasingly rare (Kramer et al, 2011). This can be attributed to most major media outlets in Ukraine being controlled by oligarchs. The editorial decisions at the media outlets are driven by calculations of the potential effects on the businesses and political interests

of the owners (Kramer, Nurick, Wilson, & Alterman, 2011). Media ownership and political power have become much more intimate in the last number of years with Inter - the largest media holding company in Ukraine - being owned by the head of the Security Service of Ukraine (SBU), the major state television channel being run by a close political ally of Yanukovich, and with a number of groups loyal to the ruling Party of Regions controlling numerous key regional outlets. The conflict of interest or even the appearance of it in such matters casts a shadow on the legitimacy of both organizations. This is a clear example of neo-patrimonialism as the president has awarded office to a member of his clan who has used it to strengthen the rule of the clan, political party and repress opposition.

2. Torture, Police Impunity and Corruption

This section argues that the competitively authoritarian and neopatrimonial nature of the Ukrainian state not only undermines the rule of law but that it also lays the ground for police corruption and impunity. Corruption and impunity exist because of the continuity of the historical structures, the use of the militia and security services for political purposes, the inadequacy of the pay and rank system and also the neopatrimonial practices which exist not only throughout the various levels of the political sphere but also in the militia.

One of the key components of strengthening democracy, holding the government accountable and enforcing the rule of law is to have an active, engaged and strong civil society along with interest representation both of which are currently weak in Ukraine. The widespread apathy and cynicism of the citizens has deep historic roots as the population has been subject to a history of repression and violence which has resulted in most Ukrainians obeying those in power as a means of self-preservation and survival (van Zon, 2005). This can be seen in case studies where various activists, NGO workers and union leaders have faced torture, police detention, imprisonment, forced psychiatric treatment and anonymous physical attacks which were not adequately investigated by the police (see AI, Human Rights In Ukraine, and Kyiv Post). The lack of effective reforms show that the elite use the militia and criminal system in order to maintain control and power through keeping civil society weak. While there have been numerous attempts to reform the practices and structures they have been largely ineffective. The lack of reforms due to the will of the police forces, political and police hierarchy can only signify their unwillingness to create and implement significant reforms. This unwillingness can be attributed to the authoritarian nature of the state and neopatrimonial practices which create and allow for high levels of corruption to exist. In a competitively neopatrimonial authoritarian regime such as Ukraine there exists intense competition for power which yields access to goods and often results in corruption. Corruption itself can be considered an important tool of governmental crime which permits and even encourages various wrong-doings and is preventing not only the rule of law, the establishment of a legitimate democracy but also economic development (Marakovska et al, p. 196). Systems of corruption, torture and impunity exist in regimes which need repression in order for the elite and ruling parties to remain in power. In a competitively neopatrimonial authoritarian regime such as Ukraine there exists intense competition for power which yields access to goods. In the end, it boils down to a matter of

political will. Unfortunately, politicians frequently think in terms of a cost-benefit calculation, often in the context of short-term political advantage. The challenge to the international community is to find means of increasing the political costs to governments when they give a “green light” to their law-enforcement officials to combat crime by resorting to internationally recognized illegal tactics. Vigorous exposure can involve real costs, which is why governments often go to great lengths to conceal or deny it (Duner, 1998).

Corruption

Corruption is one of the most serious problems facing the country as it is found in all branches and levels of society. While there had been some progress made in previous years to find and address corruption more recently there has been a backslide and corruption has managed to retain its place in all the areas of the state. If anything, it has become worse, as in 2007 Ukraine had placed 118th out of 179 countries on the Transparency International Corruption Perceptions Index but by 2012 it had dropped all the way 144th place out of 176 countries (Transparency International 2007, p. 6; Transparency International 2012, p. 3). It has also been placed alongside Colombia and Brazil by Ernst and Young as the world's three most corrupt nations (Balmforth, 2012). With the highest levels of corruption found in vehicle inspection, the police, healthcare, the courts and higher education (Global Corruption report 2008). Corruption within the police is so problematic and serious that it has become an entrenched part of regular procedures and practices; with many police officers not perceiving any practices of corruption as a wrongdoing. Small-scale corruption is the target of internal police curbs than the large scale corruption which is often more serious and damaging. The corruption at the higher levels is much more concerning as law enforcement personnel collude with criminal groups and individuals and participate in organized crime and illegal schemes of politicians (Robertson, 2005). Research suggests that a large portion of crime is committed by or with the help of high-level public officials and politicians which completely undermines the integrity of legal, political and economic institutions in the country (Marakovskaya et al, p. 194).

Corruption can be attributed to the following factors: a lack of accountability, the granting of high-level positions to non-impartial arbitrators, the lack of funds allocated to implementation proper reforms and improper use of existing funds, and the low wages of police officers. All of these problems have caused the population to be so dissatisfied with the lack of professionalism and motivation of the police and to fear contact with them that often times people are unwilling to cooperate with them even when they have become victims of crime (Beck & Chistyakova, 2004). Stories of police mistreatment are spread with a great deal of citizens being afraid of coming into contact with the police forces which then creates an intimidated and docile population. Citizens then come to live in fear of the police and they are too afraid to go to them due to the chance of torture and mistreatment.

External oversight is a key aspect of creating and maintaining a respect for human rights. The ability of the public to hold the police and security services accountable and when needed challenge them along with independent monitoring allows for the establishment of the rule of

law, legitimacy and a good relationship between the public, police forces and security services. Corruption in the country impedes the creation and implementation of effective monitoring mechanisms as the resources required to monitor employees are limited which in turn undermines the rule of law (Englehart, 2009). There are no effective programs or systems currently in place subsequently allowing perpetrators to abuse the human rights of citizens without fear of repercussion. The corruption which exists at high levels is significantly problematic. Much like good practices, experience and knowledge corruption too can be passed down and taught along the ranks. It is then important to target the highest levels of crime and corruption existing within the police and security forces in order to instill and implement anti-corruption practices effectively.

One of the more telling signs of the existence of neopatrimonial practices within the police force is the practice of buying and selling of police posts. Amnesty International was informed by lawyers and journalists that such practices are common with police officers paying their superiors in order to be appointed to better posts which allow them to obtain bank loans. When officers take out such loans they are then faced with the pressure to ensure that they are paid off. Such schemes result in a greater spread of bribery and corruption. Officers then may borrow money in order to pay for a position and then be placed under pressure to repay those loans which will further pressure them to supplement their income with bribes and extortion. The following case study was encountered during a pilot study of corruption in Ukraine with the respondent describing a particular border crossing incident. During Christmas time many people in Ukraine sell holiday items brought over from Poland and because these items need to be sold before Christmas, the sellers must cross the border quickly. It was realized by one of the sellers that the queue to the customs checkpoint to enter Ukraine was unusually long with hundreds of cars waiting in line. The reason for the delay was the presence of an inspector from Kyiv who had come to check on the work of the crew at said border crossing. The majority of those in the queue had Christmas items to sell and these sales would be impeded if they had to wait the full time at customs. The sellers discussed their options and decided to collect money to bribe the high-level inspector and with around \$60,000 US in hand the representatives of the sellers went to discuss the possibilities of a quick entry with the inspector. They were informed by the inspector that their offer did not offset the bribe that he had given to his superiors to be assigned to that particular checkpoint. The local customs officials decided to raise additional funds amongst themselves in order to offset the deficit of the sellers bribe. Such may be considered extraordinary in other places but in Ukraine they are part of business as usual (Markovskaya et al, p. 2003).

Corruption and neopatrimonial practices extend to external practices such as information about clients' bank accounts being sold to the tax police by criminal groups. Tax officials, who work in the police department, are paid off by crime figures as well for the sharing of information. This information is then used by both the tax police and criminal groups in order to extort money from various businesses (Shelley, 1998). Such cooperation between police and organized crime groups completely undermines the rule of law and continues the normality of

corruption. Such practices prevent international business investments which hinder economic growth. Lack and improper use of funding causes improper training and low wages which perpetuate corruption. The average monthly salary of police officers in Ukraine is 210 Euros which is slightly under the average Ukrainian salary; however most citizens agree that it is rather difficult to survive in the city on such an amount. This often causes police officers to attempt to supplement their low salaries through obtaining bribes (AI 2011, p. 12). Circumstances such as this are often common with poorly paid state employees having little to no incentive to follow the rules. Such a combination often results in the state employees choosing to use their power to commit abuses in order to gain profits with few disincentives to deter them (Englehart, 2009).

The improper use of funding, by both the national and regional government, is a major contributing factor to the low salaries. The head of the police trade union, Anatoliy Onishchuk, has acknowledged that corruption in part stems from the fact that the central budget provides each police station with only about 40 percent of the funding that is needed (AI 2011, p. 12). Such constant underfunding also contributes to police officers turning to bribes, extortion and even torture in order to supplement their salaries. A male respondent 65 years of age reported the following incident in the survey about attitudes towards police:

“Once, my son was taken to a detoxification center. He wasn't even very drunk, but they took him anyway. So I went there to rescue him. Well, they didn't beat him, but they took all the money he had with him... But I saw another guy there, who had been hit so much by a police worker that he fell down on the floor...” (Beck, 2004).

Unfortunately such cases and reports are neither exceptional nor uncommon and have been reported and documented by AI, Ukrainian Helsinki Human Rights Union, International Helsinki Federation for Human Rights, the UN Committee Against Torture, Reporters without Borders, the Committee to Protect Journalists, Kharkiv Human Rights Group and various Ukrainian newspapers such as Kyiv Post and Ukrainska Pravda.

Conclusion

“Revolutions happen if there isn't enough democracy, but they cannot fill the democracy gap. They just open a window to engage in democracy building.”

George Soros

The Orange Revolution helped to show the desires of Ukrainian citizens for a truly democratic state which respects the rule of law and human rights – a country in which people are able to live freely, without fear and hardships. There were gains made by the revolution however they were not enough because the systems and structures outlined in the paper were not dismantled and perpetrators of previous crimes were not held accountable or punished. This allowed for the clans to bid their time and enhance their support to the various members in the political sphere. In such a system true democracy cannot flourish and the state should not be studied or understood to be a transitional one. Categorizing the country as a competitively neopatrimonial

authoritarian state helps to understand the lack of reforms and economic development. The theoretical implications of this case study help to highlight the importance of understanding how neopatrimonialism as a concept can be effectively applied to various other case studies through a critical examination of the historical and cultural backgrounds of various countries. This application can help to understand the variations of this concept and its strength in being able to account for a wide variety of cultures and histories. Secondly the case study shows the importance to enhance the debate and use of various concepts and theories through merging them. The combination and merging of theories helps to provide a more nuanced and multifaceted understanding of various complex situations and case studies. Understanding the existing historic structures which are still operating at the hands of the elites and regional clans shows the need to dismantle these structures. Gaining an understanding of how the system works and the types of corruption that exist at each level helps to understand the complex and intricate web of systems and gives insight into how to thoroughly dismantle them. While the situation may seem grave there are a number of organizations which are working to bring justice and safety to the citizens. Western states need not be unsure of how to proceed as there exists funding which is given to the country by the US and Europe in order to bring about police reform, such funding must come with strict oversight, project monitoring and evaluation. The country is in negotiations to take out international loans; these loans must come with strict stipulations and oversight as well so that the repression and human rights abuses do not continue. Abuses are not one off events that exist in a transition state they are a systematic attempt by those in power to maintain it at any cost. Such structures are much more deceiving as there is no longer a KGB, NKVD or CHEKA organization and Soviet government to blame, overthrow, and shut down but rather a system which runs itself no matter which leader or ruling party is in power. Other post-Soviet countries have succeeded and so can Ukraine - it is not too late to create an appropriate model of transitional justice for the country.

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