



The sources of continuity and change of Ukraine's incomplete state

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ABSTRACT

This article examines the evolution of the state in Ukraine from an object of elite predation in early 1990s into a dominant actor in relations with non-state actors under Kuchma, an instrument of elite struggles for power and rents under Yushchenko and a return to a centralized state authority under Yanukovych. Despite its different transformations the state in Ukraine has been continuously characterized by the prevalence of informal levers of power and the absence of strong formal institutional foundations. As a result, after twenty years it still lacks the prerequisites of effective governance in a modern state – an impersonal bureaucracy, rule of law and mechanisms of accountability. This institutional void produces Ukraine's vicious cycling between hybrid types of authoritarianism and democracy leaving the state dysfunctional and incomplete.

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By the time Ukrainians en masse voted for an independent Ukraine in a nationwide referendum in December 1991 this former Soviet republic already fulfilled the minimal 'stateness' requirements (Linz and Stepan, 1996). In a matter of several months in the fall of 1991 the Ukrainian parliament adopted the new country's citizenship law and the law on state border. Ukraine resolved some of the most contentious issues in the state-building project in the most non-confrontational manner. Everyone officially living on Ukraine's territory received citizenship rights irrespective of their ethnicity. Its new borders coincided with post-1954 boundaries of Ukrainian Soviet republic and received recognition from most of the world community. The parliament also voted to establish the Ministry of Defense and put all of the armed forces on Ukraine's territory under its command. Following its first internationally recognized presidential election in December 1991 the new country gained another classic attribute of 'stateness' – a centralized authority claiming a monopoly on the legitimate use of force (Weber, 1946, p. 78). Election frontrunner Leonid Kravchuk received an absolute majority of votes already in the first round. As the new leaders of three Slavic republics met in Belovezhskaya Pushcha to seal the fate of the Soviet state, Ukraine was ready to sail off in an independent, albeit uncertain journey. The initial push for state-building has largely come from self-interested political elites (von Zon, 2000). Over the next twenty years, however, many of these same actors derailed and undermined the construction of a modern state by strengthening informal levers of control to pursue their own political or economic agendas. The imperatives of institution-building were subordinated to the personal interests of accumulation and perpetuation of political power and financial wealth. As a result, the future of the Ukrainian state remains as uncertain twenty years into independence as it was at its inception.

This article uses a micro-level approach to the process of state-building with an emphasis on power struggles between various actors within the state and a rational choice focus on the incentive structure of various actors. It shows how initial power advantage of decentralized elite networks and the dominance of informal rules locked the state in a dysfunctional equilibrium at the very onset of its independence. Since then Ukraine has oscillated between a highly centralized and a fractured executive while preserving the informal norms guiding elite relations within the state and with various non-state groups. Patrimonial bureaucracy, limited government accountability and a weak rule of law have emerged as the key

structural characteristics of a Ukrainian state. As I demonstrate further, their persistence has not been the result of an ambivalent and short-sighted political leadership, but rather a purposeful choice of self-interested and insecure elites.

Explaining Ukraine's incomplete state

The emergence of an international recognized state with defined borders, rules for acquiring citizenship, and an established monopoly over the legitimate use of force on its territory is only the first step in the process of state consolidation. Michael Mann suggests that the overall state capacity depends on its “despotic” or distributive and “infrastructural” powers (Mann, 1993). The former refers to its decision-making power regarding the distribution of public and private goods, while the latter deals with the capacity to implement and enforce state decisions. Both of these functions depend on the institutional basis for an organization and the distribution of power. Francis Fukuyama points to three institutional elements underpinning any stable political order and effective governance (Fukuyama, 2011). The first is a Weberian rational-legal merit-based autonomous civil service, which implements executive decisions in an impartial manner. The second is the set of legal institutions that apply legal norms equally to all citizens and constrain actions of executive authority. Third is the system of institutions that keep political authority accountable vertically (elections, civil society, media) and horizontally (courts, law-enforcement, parliament). In Fukuyama's view, one of the main obstacles to the institutional development of a state is the persistent pressure for its “repatrimonialization.” (Ibid., p. 81) As he argues, “natural human propensity to favor family and friends constantly reasserts itself in the absence of strong countervailing incentives.” Pressure to return to personalized relations often comes from various non-state groups within the society like family clans or business groups. In Fukuyama's framework, the capacity of a state and the strength of its various institutional elements depend on outcome of power struggle between state and social groups (Ibid., 423–424). Weak and dysfunctional states usually result from power dominance of non-state actors predating on state resources. By contrast, under a predominant and unconstrained state non-state actors tend to form clientilistic networks pledging loyalty in return for special privileges. In both cases patrimonial relations and weak institutionalization preclude the emergence of an effective state. Ukraine constantly oscillated between the two unfavorable outcomes without developing a modern governance infrastructure.

In early independent Ukraine, the power balance clearly favored patronage-clientele networks – primarily old *nomeklatura* and the rising entrepreneurial class (von Zon, 2000). Meanwhile, patrimonialism was not an aberration seeking to regain ground, but a principal mode of elite relations inherited from the Soviet state. Gerald Easter demonstrates that the patrimonial nature of a post-revolutionary Soviet bureaucracy became even more insular and particularistic in the last decades of the Soviet rule (Easter, 2000, p. 170). Hence, pervasive corruption, which became wide-spread already in the Soviet times, turned into massive rent-seeking and asset-stripping in the late Mikhail Gorbachev era (Solnick, 1999). Arguably, the Soviet state ceased to exist even before the official declaration on December 31, 1991. As Easter notes, while “the formal structures of the Soviet state collapsed or were dismantled, informal personal networks were left standing.” The fragmentation of the Soviet central authority turned Soviet-era institutions, in Colton's apt characterization, into “orphans cast adrift in search of a mission” (Colton, 2006, p. 7). Since the republican governments were incapable of coordinating their actions, these “bureaucratic asteroids” became a target for regional elite networks and emerging business groups interested in maximizing their profits at the expense of an incapacitated state. Operating under short-term time horizons and facing little constraints from the state or other non-state actors, they became “roving bandits” interested in extracting maximum resources for their personal benefit (Olson, 1993). Grzymala-Busse characterized this strategy of dealing with the state as “predation” since the resources extracted from the state are neither redistributed nor invested in building up political organizations that could compete in elections (Grzymala-Busse, 2008, p. 644). Rent-seeking, therefore, became the dominant informal norm guiding the behavior of non-state actors in their relation with the newly independent state.

Predation, however, cannot be a long run equilibrium strategy. Eventually it either leads to state collapse, as happened in many African countries, or it pushes the state to resist, which may ultimately lead to its consolidation (Bates, 2008). According to Migdal, at the center of the struggle between state and non-state actors is “whether the state will be able to displace or harness other organizations making rules against wishes of state leaders” (Migdal, 1988, p. 31). While the viability of Ukrainian statehood was briefly discussed in academic debates and analytical reports in the early 1990s, it never came close to becoming a ‘failed state’ and its territorial integrity was never seriously threatened (Brusstar, 1994; Kuzio, 1995; Aslund, 2009, p. 56). Leonid Kuchma's election in 1994 paved the path for centralization of executive authority, which helped the state to reclaim some of its rule-making and enforcement powers. Rapid proliferation of various rent-seeking groups and the competition between them exacerbated their collective action problem and allowed the state to gain a temporary advantage. However, this did not help to establish the dominance of formal institutions and rules. Rather, as Henry Hale later argued, Kuchma used expanded formal powers of the presidency following the adoption of Ukraine's Constitution in 1996 to accumulate even more informal power (Hale, 2010, p. 85). Firstly, the state leadership managed to establish a relatively centralized control over the distribution of rents. Secondly, it turned patronage or exchange of public sector employment for political loyalty into one of its main levers of control over the bureaucratic hierarchy. This allowed the state to accommodate business groups and co-opt elite networks.

Despite its dominance, the state failed to subordinate all social organizations fully. The increasing assertiveness of civil society groups, particularly media and civic activists, and resistance to cooptation by some political groups, pushed the ruling elites to employ coercion or state-sponsored “blackmail” as another informal lever of influence (Darden, 2001).

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