

Institutional Change and State Capacity in Ukraine: A Study of Ukrainian State Building, 1991–2004

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Synopsis

Most people wonder why countries such as Ukraine should be in the foreground when it comes to state theory. However, post-Soviet countries after 1991 offer much insight into state building processes, mainly into the factors that hinder the build-up of strong, democratic states. I have chosen Ukraine as a showcase for its proclaimed goals in state transformation have been Western models of state development (in contrary to Russia, for example). One proof for the determination of this path in fact has been the Orange Revolution of 2004. The book *Institutional Change and State Capacity in Ukraine* was compiled before that event, and still offers much insight into political processes and power structures of Ukraine.

The monograph starts from the breakdown of communism in Eastern Europe in the late 1980s. The sudden and rapid transformation of the Eastern European state signified a change of the state's role and its institutions. The question was how the former communist states would cope with the breakdown of the old political ideology and with the fact that most institutions were not dissolved, but continued working under a new (mostly democratic) political regime.

Here, state theory claims that an adaptive state is the prerequisite for successful institutional change. This signifies that some institutions have to be dissolved, others have to be founded anew. However, that rarely has happened in Eastern Europe. Here, the World Bank claimed among others that institutional weakness is one of the main reasons for overall state weakness and slow reform. If old, and at their time strong, institutions have remained within a new (and yet weak) state there has been some danger that they have influenced the functioning of the state to their advantage. The overweight of some strong institutions, such as the institution of the state president, can provoke a weak state. A weak state then becomes dependent of the will of institutional actors who can follow different rules and goals than the state as such. For example those institutional actors might rely on

networks and informal structures while the state has to act according to formal norms and to accept certain procedures before taking a decision. This setting leads to an uncertain institutional framework as some actors do not follow the written rules and create uncertainty within the whole system.

This dissertation analyses the relation of weak institutions (e.g. the parliament, executive agencies) and overall state weakness for the case of Ukraine. The prerequisites for state building and state capacity are an important question in this respect. I understand state building as the set-up of working state institutions and propose a theoretical framework for describing state capacities. In contrary to traditional analyses, this work concentrates on the factors that impede state building for the case of Ukraine, but also aims at creating overall categories for state capacity analysis. The monograph builds on insights of state development research and works that include the issue of state building, and tries to systematize the findings. State building as such has been looked at from an institutional viewpoint, i.e. the build-up of state institutions; but also from a systematic viewpoint, i.e. the classification and evaluation of state structures. The book tries to link theoretical insights on the functioning of state institutions with analytical concepts of state capacities and aims at presenting a model for state building.

The case of Ukraine is very suitable for the above purpose as it offers a wide range of factors that influence state building. Authors on Ukraine all identify weaknesses of the Ukrainian state, but do not offer a structured theoretical state building framework. This book tries to close that gap. I identify four essential factors that influence Ukrainian state building. The insufficient institutionalization of state institutions, such as the parliament and the judiciary (1), the strength of informal structures/networks (2) – here deficient formal structures lay the grounds for informality – the strength of elite structures and the design of the current elite system (3), and the relationship between state and society (4). This work depicts the weaknesses of the Ukrainian state both at the national and sub-national levels to show that the whole state has institutional deficiencies (and additionally ask whether there are not centers of change that might fuel institutional change on a central level – and indeed, such a center did exist with the Lviv oblast).

I conclude that the Ukrainian state is an instrumentalized state. Informal structures fuelled by the political elite have outweighed formal institutions, and endanger not only democracy, but the very existence of the Ukrainian state.

The dissertation includes the following questions:

- i. Which factors are important in state theory in order to analyze state structures and how is it possible to conceptualize state capacity?
- ii. How do these factors influence the state of the state in Eastern European transformation states?
- iii. Is it possible to construct a theoretical framework of the post-communist state that is based the assumption that weak institutions support informal structures and an elite-based economic-political system? What can state capacity concepts offer to improve such models?
- iv. Are the above factors important in Ukraine and how do they influence the state?
- v. Do they play a role in the institutional relationship between central state and sub-national state levels (considering in particular Ukrainian regional policy, decentralization measures and regional power structures).
- vi. Do forces exist on a sub-national level that might neutralize the destructive state building factors?

The work offers the following hypotheses to answer the above questions:

- i. Weak informal institutions, informality and a elite-dominated economic and political system are the main responsible for the lamentable state of the post-communist state, in particular the Ukrainian state.
- ii. The above factors have a negative influence on the build-up of a strong state. Therefore, we cannot state that the state building process is concluded in Eastern European states, namely Ukraine.
- iii. A state theoretical and state sociological analysis of the Ukrainian state illustrates the influence of four main factors on state building in Ukraine. Those are institutional design, the use of informal structures, the influence of elite structures and the relationship between state and society. I base a model of post-communist state quality on those factors and thereby show the relationship between weak institutions, informal structures and political elite.

- iv. In Ukraine, informal economic and political power groups and institutional weaknesses are phenomena that strike the observer. The power groups have narrow interests that emphasize elite advantage over state development, and use or even create institutional weaknesses in their favor. Here, we can speak of a fragmented state of limited capability of acting.
- v. Those insights for the central state level are also valid on a sub-national state level. Under such circumstances effective and consistent regional policy and decentralization measures are not possible. However, there are regional differences of institutionalization and informality in East and West. The variety of Ukrainian elite groups has provoked different sub-national and national action patterns in Ukraine. However, neither group has managed to consolidate power and to support the institutionalization of the state, i.e. to prefer the formal institutional rules over informal structures (rather contrarily). Thus, elite fragmentation has a strong impact on the state of the state in Ukraine.
- vi. The nature of power structures, namely elite fragmentation, could be a very important factor when it comes to state building and state functioning. Elite fragmentation does not only signify the concurrence between old elite working with informality for their own advantage, it also implies the emergence of new, democratic oriented elite groups opposed to old, communist-thinking-rooted elite. Here, Western Ukraine could be a show case for possible change toward governance and democratic elite competition. In Western Ukraine oppositional forces and independent elite are pressing for another way of state development. However, they are opposed by strong governing elite, and on a regional level independent elite are too weak to push alternative forms of state building, and to break through the mechanism of insufficient institutionalization, informality and egoistic elite conduct. The question remains open whether and when regional, independent elite will succeed on the national level.

The main assumption of the work is that weak state institutions are not the reason for the state of the state in Ukraine, but that informal structures together with the old (and unreformed) elite system use the weaknesses of the newly established democratic regime for their advantage.

Post-script on the situation after the Orange Revolution:

The state of the Ukrainian state before the revolution of 2004 was somehow disappointing. The biggest success in institution-building after the independence of 1991 had been the ratification of the Ukrainian Constitution in 1996 – after endless struggles between different political power groups, namely between the president and the parliament. In the end, the Constitution was only a compromise that did not separate presidential and parliamentary powers strictly, and could not develop as an own force. Both president and parliament continued to use informal instruments to enforce their will: the president used its decree power, the parliament its power to block necessary legislation and the state budget.

In the eve of the Orange Revolution the competences had clearly shifted in favor of the president. At this stage, the political system of Ukraine resembled a semi-authoritarian system (with the judiciary, government, governors and presidential administration being loyal allies to the president). The only state institution that had achieved its institutionalization within Ukrainian state building was that of the president – at the expense of all the other institutions.

However, the insufficient institutionalization of the political institutions at the central political level, namely the insufficient regulation of central-regional competences had created some scope for development on the local-regional level. Institutional uncertainties often led to corruption and power accumulation to the detriment of democratic developments. But there were also some exceptions, especially in Western Ukraine. This region used the windows of opportunity that had opened on the ground of insufficient central regulation and control to drive democratic developments. In Western Ukraine, local and regional elite were allied with the central opposition in the capital, and the population backed the oppositional movement, and was ready for action. The oppositional elite were different to other elite in Ukraine as they were interested in real political change that would bring future well-being for the whole population. The Western Ukrainian elite were one, and maybe the most important driving factor stimulating public protest which enabled political change.

Until the change of 2005 Ukraine had been the opposite of a capable (and democratic) state. The state was weak and instrumentalized by the political elite in power. After the political change, there was much hope that the country would develop to a better place. But it took only 100 days for disillusion to take roots.

A new power elite established themselves in Ukraine with Victor Jushchenko and Yulia Tymoshenko being the most prominent faces as Ukrainian State President and Prime Minister. However, those new elite did not manage to find a common language, both in daily politics and in institutional questions. A few years after the events of 2004/2005 the parliament-presidential gap is still very important and frictions between the parliament and the president paralyze the country until today. The prime minister and the president constantly struggle over their competences and try to outweigh each other. Additionally, President Victor Jushchenko has been astonishingly passive in taking important political decisions – in contrary to Prime Minister Yulia Tymoshenko. Both took either the activity or the passivity of the other as a reason for negative developments in the country.

The power elite change of 2004/2005 did not bring a major elite change in Ukraine. As a cause of intra-elite struggles, the new persons in power failed to de-power the old economic-political elite and power system. Five years after the revolution this system is still relevant, and the new power elite established themselves within it. Even if old elite have been weakened, for example the Social-Democratic Party SPDU(o)), other, similar, elite have taken their place, such as the Party of the Region. A fundamental problem here seems to be that the new elite have made their career within the old Kuchma-led political system. Their decisions and behavior as political responsible have proven that they do not have managed to disconnect from old mechanisms of power consolidation and governance. Intra-elite struggles weakened the position of the new power elite, and strengthened old elite that had a realistic chance to win the presidential elections of 2010.

The events of 2004/2005 have shown that frustration of certain elite and population can lead to a power elite and system change, also in former Soviet countries. Even if the political system appeared stable and the political power of President Kuchma consolidated there apparently was room for independent political thinking and movements to take root and to provoke political change. But since then, the population (and even independent elite) have accepted the rather disappointing political developments and stick to a rather apolitical and passive position.

In order to make a strong out of the still weak (and by the economic crisis severely affected) Ukrainian state there remains much to do. First, the political elite have to assume responsibility and to clearly define the relationship of the most important political institutions. The weakening of the presidency and the strengthening of the parliament in 2005 have not brought the desirable political stability.

Some causes might be the low institutionalization of political parties, insufficient experience with parliamentary work and parliamentary-based decision-making processes, and the changed (and still contested) roles of institutional players, such as the parliament, the prime minister and the state president. In such an instable institutional setting with little corrective powers it is very difficult to establish a political system based on the rule of law. In contrary, it is dangerous for state development to proceed with unclear institutional relationships and weak regulation which attempts at giving certain institutions power instruments in detriment to other institutions. Here, informal relationships and networks find sufficient space to fill power gaps, give room for corruption and additionally weaken the formal democratic institutional framework.

A showcase for the failure of democratic reform and the establishment of the rule of law after the revolution has been the incapability to come to terms with the Gongadze-case. Other examples have been the incapability to cope with budget problems and to foster the development of the infrastructure of the country (e.g. in the context of the Soccer Euro 2012 championship planning), and the overall handling of the economic crisis.

In sum, the change of the Ukrainian can be termed erratic. From the quasi feudal governing style of former President Kuchma Ukraine now has turned to weak presidencies with strong parliaments and prime ministers. This setting has not brought the desirable state development toward a strong state based on democratic decision-making and rule of law. The fact that political institutions have remained instable prepares grounds for sudden political change. Social and political gaps are still existent, for example between society and political elite, and between the most important political institutions parliament, prime minister and president. The effects are unpredictable, and therefore it is not very probable that a sustainable state building and development of Ukraine will take place before those institutional relationships have been clarified and put on more stable bases. Here, it is the political elite that should take action before popular unrest will provoke another revolution.

See also the recent paper on the topic

Gallina, Nicole 2008: "The Impact of Political Elite Conduct on State Reform: The Case of Ukraine", *CEU Political Science Journal*, Vol. 3, No. 2, 183–200.

Selected English Literature on State Development in Ukraine

Bruszt, Laszlo / Stark, David, 1998: *Postsocialist Pathways*, New York: Cambridge University Press.

Bunce, Valerie, 1999: *Subversive Institutions*, Cambridge: Cambridge University Press.

D'Anieri, Paul / Kuzio, Taras / Umland, Andreas, 2008: *Aspects of the Orange Revolution I: Democratization and Elections in Post-Communist Ukraine*, Stuttgart: Ibidem.

D'Anieri, Paul, 2006: *Understanding Ukrainian Politics: Power, Politics, and Institutional Design*, Armonk: M.E. Sharpe.

D'Anieri, Paul, 2003: *Leonid Kuchma and the Personalization of the Ukrainian Presidency*, in: Problems of Post-Communism, Vol. 50, No. 5, 58-65.

D'Anieri, Paul / Kravchuk, Robert S. / Kuzio, Taras, 1999: *Politics and Society in Ukraine*, Boulder: Westview Press.

Dyczok, Marta, 2000: *Ukraine. Movement without Change, Change without Movement*, Reading: Harwood Academic Publishers.

Fukuyama, Francis, 2004: *State Building. Governance and World Order in the Twenty-First Century*, London: Profile Books.

Grzymala-Busse, Anna / Luong, Pauline Jones, 2002: *Reconceptualizing the State: Lessons from Post-Communism*, in: Politics & Society, Vol. 30, No. 4, 529-554.

Higley, John / Lengyel, György, 2000: *Elites After State Socialism*, Lanham: Rowman and Littlefield.

Kubicek, Paul, 1997: *Post-Soviet Ukraine: In Search of a Constituency for Reform*, in: Journal of Communist Studies and Transition Politics, Vol. 13, No. 3, 103-126.

Kuzio, Taras, 2004: *Ten Ways Ukraine is a Neo-Soviet Country*, in: Ukrayinska Pravda, 25 March 2004.

Kuzio, Taras, 2002: *Between Totalitarianism and Democracy: Assessing Regime Type in Ukraine*. Paper prepared for the conference: Ukraine: Challenges of a Country in Transition, April 19-20, University of Fribourg, Switzerland.

Kuzio, Taras, 2001: *Transition in Post-Communist States: Triple or Quadruple?* in: Politics, Vol. 21, No. 3, 168-177.

Kuzio, Taras, 1998b: *Ukraine. State and Nation Building*, New York: Routledge.

Way, Lucan A., 2004: *The Sources and Dynamics of Competitive Authoritarianism in Ukraine*, in: The Journal of Communist Studies and Transition Politics, Vol. 20, No. 1, 143-161.

Wolczuk, Kataryna, 2001: *The Moulding of Ukraine: The Constitutional Process of State Formation*, Budapest: Central European University Press.

World Bank, 2002: *Transition. The First Ten Years. Analysis and Lessons for Eastern Europe and the Soviet Union*, Washington D.C.: The World Bank.

World Bank 1998: *Institutions Matter*. Washington D.C.: The World Bank.