



Central European University  
Department of International Relations and European Studies

Project in Making

**Explaining State Capture and State Capture Modes:  
The Cases of Russia and Ukraine**

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## To Suffering Societies

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### **Abstract**

More than a decade into the simultaneous political and economic transition in Central Eastern Europe has produced different outcomes in different countries. Some nations advanced well on the road of transition (e.g. Hungary, Poland, Estonia, Slovenia) yet, some cases produced disturbing transition outcomes in both economic and political terms (Ukraine, Russia, Azerbaijan, Moldova, etc).

The fear that the leviathan state would be an obstacle to the process of democracy and market building is now ceding to a new worry. It is the concern that powerful self-interested economic actors gain control over the states to their own advantage and to the enormous losses to the entire societies. Media reports throughout the region have been telling of powerful "oligarchs" buying off politicians and bureaucrats to shape the legal, policy and regulatory environments in their own interests. Preliminary inquiries of the scholars showed that these interests radically contradict the interests of societies and national economies. The empirical data reporting the aggregate costs of such an activity do not reveal the human suffering brought about.

Some important progress has been made in understanding the phenomenon under discussion called "state capture". Initial attempts carried out by the international institutions and individual authors laid the foundation for unbundling the phenomenon. Yet, some substantial gaps are still to be covered before the consistent state capture theory can emerge.

The given project is intended to contribute to advancing the theoretical and empirical knowledge about state capture and to combating the phenomenon in the transition countries. Specifically, the project is intended to answer two crucial questions. What are the causes of the state capture? What explains for the different state capture modes? The project is thus divided into two parts, each exploring the respective question. Structural and institutional analyses are invoked to explore the questions and link the two autonomous parts of the project into the full picture of state capture.

The first part of the project explores the hypothesis that state capture as such can be explained by two structural variables that deserve analytical primacy. These are the correlation of the concentration of economic and political power and the level of development of civil society.

The second part of the research suggests that channelling of state capture is determined by the explanatory variable of distribution of powers between the President, Assembly and Cabinet in the presidential systems.

The project will explore state capture on the cases of Russia and Ukraine.

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## Introduction

After only a decade of transition, the fear of the *leviathan state* is giving way to a new concern about powerful *oligarchs* who manipulate politicians, shape institutions, and control the media to advance and protect their own empires at the expense of social interest in some countries. The main challenge of the transition has been to redefine how state interacts with economic actors. Yet, little attention has been paid to the flip side of the relationship: how economic actors influence the state, more specifically, how vested interests collude with public officials and capture state institutions to extract advantages. Some actors in the transition economies have been able to shape the rules of the game to their own advantage creating considerable costs for the whole societies and consolidating the “capture economies”. In the capture economies, public officials and politicians serve the vested interests providing rent-generating advantages to them. In the capture economies the “captor” actors derive significant private benefits at an enormous price to the whole economies. (Hellman, Kaufmann & Jones 2000).

Combating the state capture as a form of corruption has become the central institutional priority of the World Bank (WB). A number of transition countries have been requesting the assistance of international institutions including the WB and the European Bank for Reconstruction and Development (EBRD) to target the phenomenon. (World Bank 2000a: xiv) Some substantial progress has been made in studying the phenomenon of state capture in the scholarly literature in the recent years. The WB and EBRD scholarly teams (World Bank 2000a, 2000b, 2000c, EBRD 1999, Hellman, Kaufmann & Jones 2000, etc.) as well as individual authors (Hellman 1998; Bruszt 2000, 2001; Levy & Spiller 1994; etc.) have made important attempts to approach the phenomenon from different perspectives.

Yet, most of these efforts represented only the initial theoretical and empirical bids to unbundle the contemporary forms of state capture. Substantial theoretical gaps and calls for subsequent research invite further theoretical and empirical inquiries into the phenomenon of state capture (Hellman, Kaufmann & Jones 2000: 32-3). The present project is aimed at filling some such theoretical gaps as well as advancing the empirical knowledge on state capture in the countries of transition.

### **State Capture**

In order to highlight the theoretical gaps to be filled and empirical knowledge advanced, it would be necessary to firstly critically review the argument on state capture as it is presented in the respective literature.

A path-breaking contribution to understanding of state capture in the transition countries of the third wave of democratisation belongs to Joel Hellman (1998). In his insightful work pictorially titled “Winners Take All: the Politics of Partial Reform in Postcommunist Transitions” Hellman suggested a revolutionary interpretation of the difficulties that the postcommunist states face on the path of the reform process. Based upon logical exercise and empirical investigations Hellman criticised the conventional ‘J-curve’ model that interprets the distribution of costs and benefits and the central political challenge of the reform. Instead he suggested the ‘partial reform model’ explanatory framework. The core argument of his work is that unlike in the “J-curve model” which assumes that costs of the reform are concentrated and benefits are widely spread, the partial reform model suggests the opposite. The start of the reform creates the narrow constituency of short-term winners, while the burden of costs of the reform is dispersed throughout the economy.

Partial economic reforms produce market distortions that generate a pattern of concentrated gains and disperses losses in the short term. Winners have the incentive to try to preserve these sources of considerable rents as long as possible by blocking any measures to eliminate these distortions. Thus, the primary political challenge to the progress of the economic reform derives from the narrow segment of the winners in the overall reform process. Hellman laid foundation for comprehending the incentives of the powerful economic actors to preserve the partial reform equilibrium in order to maximise the concentration of rents in the economy. He answered the question why many postcommunist countries chose a course of partial reforms. He namely showed that the pressure to adopt a sub-optimal course of reform does not derive from traditional losers – unemployed workers, impoverished pensioners, superfluous state bureaucrats, and so on, but it derives from the short-term winners – narrow groups of economic and political actors. Yet, Hellman refrained from any further analysis of the forms and mechanisms in which the preservation of the partial economic reform condition occurs in the transition countries. Hellman only intuitively spoke of the state capture as such, mentioning some *veto power* that the winners from the partial reforms possess. Hence, the obvious gap is understanding how the so-called oligarchs preserve the partial reform status quo and advance their interests in the form of state capture as well as what allows them to do so?

Some of the most important contributions to comprehending the problem of state capture are the WB/EBRD studies (World Bank 2000a, 2000b, 2000c, EBRD 1999, Hellman, Kaufmann & Jones 2000), which stem from the regulative capture literature. (Stigler 1971; Peltzman 1976, Laffont and Tirole 1993). The WB/EBRD findings suggest that *state capture* refers to the actions of individuals, groups, or firms both in the public and private sectors *to influence the formation* of laws, regulations, decrees, and other government policies to their own advantage as a result of



the illicit and non-transparent provision of private benefits to public officials. There are many different forms of the problem. Distinctions can be drawn between the types of institutions subject to capture – the legislature, the executive, the judiciary, or regulatory agencies and the types of actors engaged in the capturing – private firms, political leaders, or narrow interest groups. Yet, all forms of state capture are directed toward extracting rents from the state for a narrow range of individuals, firms, or sectors through distorting the basic legal and regulatory framework with potentially enormous losses for the society at large. They thrive where economic power is highly concentrated, countervailing social interests are weak, and the formal channels of political influence and interest intermediation are underdeveloped. (World Bank 2000: xvi)

The WB/EBRD literature distinguishes between the *state capture*, *administrative corruption* and *influence*. While state capture encodes advantages for particular individuals or groups in the basic legal or regulatory framework, administrative corruption refers to the intentional imposition of distortions in the prescribed *implementation* of existing laws, rules, and regulations to provide advantages to either state or non-state actors as a result of the illicit and non-transparent provision of private gains to public officials. Beyond such forms of extortion, administrative corruption also includes such familiar examples of “grease payments” as bribes to gain licenses, to smooth customs procedures, to win public procurement contracts, or to be given priority in the provision of a variety of other government services. State officials can misdirect public funds under their control for their own or their family’s direct financial benefit. At the root of this form of corruption is discretion on the part of public officials to grant selective exemptions, to prioritise the delivery of public services, or to discriminate in the application of rules and regulations. (World Bank 2000: xvii) Finally, *influence* refers to the extent to which firms have influence on the formation of laws, rules, regulations and decrees by state institutions

without recourse to illicit and non-transparent payments to public officials. (Hellman, Kaufmann & Jones 2000: 6)

The WB/EBRD research represents a circumstantial and quality, but incipient attempt to unbundle the state capture phenomenon in the transition countries. The research primarily draws on the empirical data obtained by the 1999 Business Environment and Enterprise Performance Survey (BEEPS) commissioned jointly by the WB and EBRD. BEEPS is a firm-level survey weighed towards small and medium sized firms. Hence, the limitation of the research is that the sample of the 'captor actors' is biased toward small and medium sized enterprises, thus leaving the 'grand captors' out of the focus of the investigation and cautious conceptualisation. (Hellman, Kaufmann & Jones 2000: 16) Yet, it is exactly this omitted sample of captors which plays the crucial role in the capture of the state on the highest political and institutional level, which is the most crucial one.

This gap in the WB/EBRD research results also in some limitations in the definition and conceptualisation of the notion of state capture as such. It regards state capture as a universalistic phenomenon and means to which all the economic actors from tiny firms to oligarchic empires recourse in order to survive in the existing economic environment. The problem in this regard is that the economic environment *per se* might be the result of the state capture that occurs on the highest political and institutional level and which is then communicated to other economic levels and actors. Yet, the WB/EBRD research completely omits the conceptualisation of the state capture on the highest political and institutional level and recourses only to detecting state capture largely in the microeconomic perspective saying 'look it is out there, we measured it!'.

Another problem with the WB/EBRD research is explaining the origins of state capture. Authors illuminate well the microeconomic incentives which underlie the decisions of economic

actors to attempt to ‘capture the state’. Yet, the macro perspective is lacking from the analysis. Authors attempt to explain the state capture “at the aggregate level”. However, the hypothesis they suggest in an attempt to explain the origins of state capture is “very tentative” and basically unexplored. (Hellman, Kaufmann & Jones 2000: 29) Authors observe that the degree of state capture correlates with the level of civil liberties in the transition countries. This hypothesis requires thorough testing as long as correlation does not necessarily entail causality and explanation.

Hence, the WB/EBRD research presented “the initial effort into empirical investigation of state capture and other forms of high-level corruption in transition. [Further] research is needed to aim to develop fully a conceptual framework modelling the interaction between firms and politicians where [t]he firm does play an active ‘captor’ role. (Hellman, Kaufmann & Jones 2000: 33)

Laszlo Bruszt (2000, 2001) approaches the phenomenon of state capture from the structural-institutional perspective. He advances the argument of the danger of monopoly representation of the public good by the particularistic interests. The modes of representation and relations among the representative institutions that allow a single branch of government to usurp the representation of public good are characteristic of the delegative democracies or poliarchies. Yet, countries where the mode of representation allows interdependent and autonomous institutions to express public good and relations among the representative institutions are characterised by balanced distribution of decision making are defined as heterarchies. Bruszt also maintains the link between the state organisation and the patterns of economic development. Countries that are less heterarchic and less able to produce balanced policies are easy prey for the

vested interests, which may result in the blockages of economic development. (Bruszt 2000: 1-2).

All in all, Bruszt presents an original and cautious perspective on the state capture, yet only that one which discusses the supply side. It means that the analysis is focused solely on the state institutions through which the representation of public good is carried out and where the state capture may potentially occur. This alone can not say much about the causes of the phenomenon of state capture in the transition countries. What is missing in order to make the picture complete is the conceptualisation of the demand side. The origins of state capture by the vested interests can be understood only by examining the vested interests themselves in relation to state institutions. Moreover, Bruszt is silent on how specifically state capture is carried out through the state institutions. Finally, it is not clear how specifically the vested interests use the 'public good' in the context of state capture. Hence, Bruszt partly answers the question where the state capture occurs. What is still necessary it is to answer the core questions of how it takes place occurs as well as why it occurs.

It is necessary to note, however, that Bruszt's framework is best of all adapted for defining the state capture on the highest institutional and political level as it brings to the foreground the powerful economic actors as potential captors of the state.

As may be observed, there has been some important progress in understanding the phenomenon of state capture in the transition societies. Yet there are some substantial theoretical gaps to be covered as well as empirical investigations to be carried out. A crucial question still to be answered is what are the origins of state capture? Little effort has been made to understand how the state capture occurs on the level are state's executive and legislative bodies: President (Prime-Minister) and Cabinet as well as the Assembly. These institutions deserve the analytical

primacy (Pontusson 130-1) as they assume the principle role in economic and political development. Hence, it is important to understand why particular institutions become subject to state capture.

*State capture* is defined in the given project as the systematic activity of individuals or groups to influence to their own advantage the activity of the principle state institutions using nominally legal mechanisms and to influence to their own advantage the activity of the high level politicians as the result of illicit and non-transparent provision of private benefits to them.

As may be observed, the given approach blends what WB/EBRD literature depicts as *state capture* and *influence*. Such an approximation is better adapted to understanding the phenomenon of state capture on the level of the state's central executive and legislative institutions.

### Questions

The given project is intended to answer to core questions relating to the state capture that have not been fully or in compelling manner explored in the respective literature. These are the following ones. What are the causes of state capture in the transition societies? And what explains for the different modes of state capture?

The first question is of highly important theoretical value and can be characterised as the core one in developing the state capture theory. Answering it will allow to learn about the causes of the state capture as such. The second question bears important theoretical and empirical value insofar as it explains how and why certain central political figures and state institutions become subject to capture. The two core questions specified have related questions which are presented

in the due course. The project is divided into two logical parts, each exploring the respective core question.

### **Putting in Order Structures and Institutions**

Institutions constrain and refract politics but they are never the sole ‘cause’ of outcomes as acknowledged by the proponents of the historical institutionalism (Thelen and Stedero 1992: 3) Without denying the fact that institutions matter, Jonas Pontusson maintains that underlying structures shape economic interests. (1995: 143) Thus structures shape the *interests* of economic actors whereas institutions determine the *strategies* of economic actors by virtue of the opportunities and constraints that they provide.<sup>1</sup> (Pontusson 1995: 119)

The first question of the project is approached from the structural perspective: structures determine state capture as such. The second question of the project is analysed from the institutional perspective: institutional setting intervenes to shape the strategies of the economic actors in their pursuit of state capture.

The project suggests that two structural variables explain state capture as such: correlation of the concentration of economic and political power and underdeveloped civil society. Institutional variable of distribution of powers among the President, Assembly and Cabinet projects the strategies of the economic actors and explains the state capture modes.<sup>2</sup>

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<sup>1</sup> It should be noted that in general structures shape institutions too. (Pontusson:143) Yet, the given project does not ask the question which structures shaped the particular institutions in the selected cases. Obviously, they were shaped by some structural variables which are out of the interest of the given project. It is not important which structural variables matter for explaining the particular institutional setting, but rather where one starts and how one organises his analysis. (Pontusson: 144) Thus, the institutions analysed here are taken the way they are, without inquiring into the question why they are endowed with or deprived of some powers.

<sup>2</sup> The interplay of variables is summarised in the appendix 4.

## **Case Selection**

### **Part I**

The project explores the cases of Russia and Ukraine. The two cases have one of the highest state capture degrees among the 21 transition countries according to the WB/EBRD BEEPS measurements.<sup>3</sup> The cases do not represent the whole universe of cases, yet constitute an important sample that allows to test the generated hypotheses. The cases have no variation on the state capture variable, conversely, they are similar in the outcome. Yet, explaining commonalities is just important as explaining cross-national variations (Pontusson 1995: 129) The project, however, will make references to the case of Poland, where the degree of state capture is one of the lowest among the transition countries. This will provide for the high methodological consciousness, illuminating and explaining both commonality and variation on the state capture variable. The case of Poland will not thus be a case study in the full sense. Yet, it will serve the purpose of showing the contrast contexts for the cases of Russia and Ukraine.<sup>4</sup>

### **Part II**

There is variation on the dependent variable in this part of the research.

The case of Russia is chosen in the time framework 1993-2001. It begins with adoption of the Russian Federation's Constitution and first Parliamentary Elections according to the new electoral law. The case of Ukraine is chosen in the time framework 1998-2001. It begins with the Parliamentary Elections according to the new electoral law (the Constitution was adopted earlier in 1996).

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<sup>3</sup> See the quantitative data (EBRD 1999: 118; WB 2000a: xvi)

<sup>4</sup> A method advocated by Skocpol & Somers (1994: 72-8)

The two cases are selected to analyse the variation on the dependent variable as the result of different institutional settings. Yet, other variables are similar which renders the most similar case selection characteristic to the second part of the project. Russia and Ukraine have analogous post-communist historical legacies of semi-authoritarian patrimonial communism. (Kitschelt et al. 1999: 39) Both countries undertook the mode of transition from communist rule by the pre-emptive reform. (Kitschelt et al. 1999: 39) Both have elected Presidents and according to Oleh Protsyk fall under the category of President-Parliamentary regimes in the selected period. (2000: 17) There are identical electoral formulas for electing the Congress in the two countries: mixed party lists – single-member plurality system.<sup>5</sup> The subject matter of the project allows for controlling for the variation on Russian federalism, which has little influence, if any, on the interplay of variables.<sup>6</sup>

### **Part I: Explaining State Capture**

The project starts by asking the question: what are the causes of state capture?

As have been previously observed there were two attempts to approach this question. WB/EBRD tentatively suggested that state capture correlates with the level of civil liberties in the respective countries. Another attempt belongs to Laszlo Bruszt who argued that on the supply side state capture is facilitated by the concentration of political power.

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<sup>5</sup> “Assembly” means legislature in general: an institution where the elected representatives assemble for whatever constitutional function they may be granted. “Congress” is used in cases in which that function is to sustain confidence in government. This classification is adopted from (Shugart and Carey 1992: 3).

<sup>6</sup> Assuming that federalism has influence on the dependent variable would suggest that the non-federal post-communist states were prone to the party capture by the business interest groups and Russia would be a deviant case. Yet, preliminary study shows that Ukraine is a deviant case regarding the specific behaviour of the business interest groups among the absolute majority of post-communist countries (or all of them). In turn, Ukraine’s institutional setting is very likely to be deviant as well.



Both hypotheses are plausible. Yet in case of WB/EBRD it is limited and has not been explored in detail. Bruszt's explanation on the concentration of political power is not complete as it does not take into account the state capture demand side.

The given project is intended to explore the hypothesis with two exogenous variables that might deserve analytical primacy in explaining state capture as such.

Hypothesis #1 derives from the framework suggested by Laszlo Bruszt. State capture occurs when the concentration of economic and political power is high. The high concentration of economic power provides the potential 'captors' with material capabilities to execute the capture of the state. The high concentration of political power facilitates the task for the potential captor, as in order to exercise state capture it is enough to capture the state institution(s) where the political power is concentrated. The project presents the state capture ideal type model with high/high concentration of the economic and political power.<sup>7</sup> Transition states that approximate the high/high ideal type would be exposed to the state capture. The high/low or low/high transition states would have an average degree of state capture. The states approximating the low/low ideal type would be immune to state capture.

Hypothesis #2 goes beyond the argument presented by the WB/EBRD. State capture occurs when the level of development of civil society is low. States with the high level of development of civil society will be exposed to the state capture in the minimal degree.

### **Operationalising Variables**

The explanatory variables presented are structural ones. Underlying structures shape economic and political institutions, as well as they shape the economic interests. (Pontusson 1995: 143) The latter point is important for the purposes of explaining state capture.

The analysis assumes that economic actors are rational in the sense that they do not act randomly and do their best to get what they want given their preferences and information available to them. Economic actors are also self-interested in the sense that they act to get more of what they want, whatever it is. (Shafer 1994: 9) The analysis also assumes that the partial reform model (Hellman 1998) illuminates what some powerful economic actors want. More specifically it suggests that the partial reform equilibrium is beneficial for the relatively narrow segment of short-term 'winners'. Advancing reform would eliminate economic and political distortions which enable extraction of the significant and concentrated rents. Hence, the interest of the powerful economic actors is to preserve such distortions or even advance them. The only rational way to do so is to capture the state institutions where the decisions on regulation and implementation of policies is concentrated. Such institutions are obviously state's central legislative and executive bodies which are constitutionally endowed with wide economic and political functions and powers. Hence, the rational choice for the economic actors is to capture the state through capturing the institutions endowed with wide economic and political powers. The demand for the state capture arises from the powerful economic actors, whereas the 'supply' of the state capture is placed on the part of the state institutions.

Two sensible issue arise in this regard. First, is the extent, to which the economic actors are capable of carrying out such a pretentious task. The more economic power such interested actors have and therefore less competitors, the more capabilities they will enjoy for getting what they want. In other words, the higher the degree of economic power concentration is, the higher the degree of capabilities is for carrying out state capture. Second, is the extent of how easy it is to perform the state capture with regard to the supply side. Put differently, how concentrated is the supply of the state capture? The more the political power is concentrated, the higher the

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<sup>7</sup> See Appendix 1

probability is that state capture will be successfully carried out by the powerful economic actors is. The more dispersed the political power, the more difficult it is to capture the state (Bruszt 2000; 20001)

Political power is considered dispersed, when it is disseminated and balanced both horizontally and vertically. Horizontally the power is disseminated among the executive, legislature and judicial branches of power. The capability *each* of the branches to impose the checks and balance the other two is vital. Vertically, autonomy in the decision making is granted to the local level, and the executive power is highly decentralised. Conversely, the power is considered to be concentrated, when some of the branches dominate(s) the other, thus invalidating the horizontal dispersion or when the executive power is highly centralised, thus invalidating the vertical spreading of power.

Level of development of civil society determines the capacity of the interest groups to articulate interests in serve the function of imposing constraints on the malfunctioning of state agencies. (Beyme 1985: 11-2) High level of development of civil society results in the effective oversight on public officials by the heterogeneous interest groups. Such oversight raises the costs to politicians of actions that provide highly concentrated gains to a small set of powerful actors, while imposing substantial costs on everyone else. (World Bank 2000a: 29-30) Low level of development of civil society results in the lack of organisation of the interest groups thus disables them from performing their function. In this condition, collusion of private interests with public officials remains unchecked. The link between the society and state is thus missing. This creates favourable conditions for the vested interests to engage into the capture of the state.

### Observable Implications

How would one make himself believe that the economic and political power is concentrated? Or how is it possible to measure the concentration of the economic and political power? Several approaches might be useful in this regard. A possible but rather tentative one is to do some sectoral analysis.<sup>8</sup>

Analysing the horizontal dispersion of power between the executive, legislative and judiciary branches as well as vertical dispersion of the executive power is required in order to measure the concentration of political power. This can be done by measuring the power assumed by the President (Prime-Minister), by indexing the powers of appointment, dismissal, veto power, power of decree, etc. (Shugart & Carey 1992; Protsyk 1995); analysing the powers assumed by the Assembly: indexing the power of impeachment of the President, appointment and dismissal of the members of the cabinet, Prime-minister and power ministers, budgetary powers, overwhelming the veto power of the President, etc; measuring the judicial strength, by determining the extent of the perceived judicial corruption and whether the courts have a history of deciding against the government. (Levi & Spiller 1994)

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<sup>8</sup> More specifically it might be useful to explore the leading sector in the economy, that is the sector that has the highest country's export share, tax revenues, etc.<sup>8</sup> This provides an opportunity to test a specification on the main hypothesis, deriving from the sectoral analysis. Namely, it is that if the economic power is assumed by the high/high leading sector in terms of the capital intensity and the extent of economies of scale, the state is more vulnerable to end up representing the vested interests. (Shafer 1994)

Fuel and energy constitute about 48 percent of export in Russia. (EIU, Russia Country Report 2000) Certain important sector-specific implications for the state capture in the examination of concentration of economic power in Russia can be drawn from the analysis focused on the leading oil sector (Karl 1997; 1999) Ukraine's leading sector, metallurgy constitutes 40% of the country's export. Both leading sectors can be conceptualised as the high/high ones in terms of capital intensity and the economies of scale. (EIU, Ukraine Country Report 2001)

Thus, if the economic power is concentrated in the 'bad' sectors, than it is even more likely that the state will become an easy prey for the vested interests. Yet, if in the process of the research it is proven that the economic power is assumed by the actors, whose economic activity is spread over several sectors, this may result in the non-applicability of the sectoral approach or at list illuminate its rigidities and limitations.

Qualitative analysis of the character of relations between the central and local executive organs is necessary. Federal structure of power with strong decentralisation to the local level contributes to the deconcentration of the political power (Levi and Spiller 1994: 206)

Correlating the powers of the state branches and determining by means of qualitative analysis the extent of separation of powers between legislative, executive and judicial state organs, exploring the mechanisms of checks and balances between the branches of power, as well as the evaluation of the vertical dispersion of power will produce the index of the concentration of the political power.<sup>9</sup>

It will be necessary to measure the concentration of economic power by evaluating the distribution of economic power among the economic actors. Evaluation of the actors' share in the GDP, export, ownership of the material resources, tax payments, respective market as well as the capital turnover of the respective economic actors and some other measurements will be necessary.<sup>10</sup>

The proxies for the measurement of the level of development of civil society includes the measurement of civil liberties, including freedoms to develop views, institutions, and personal autonomy apart from the state and the level of freedom of press.<sup>11</sup>

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<sup>9</sup> Levi and Spiller (1994) and Bruszt (2000; 2001) suggest some additional characteristics of the deconcentrated political power, such as availability of the bicameral parliament or an electoral system calibrated to produce either a proliferation of minority parties or a set of parties whose ability to impose discipline on their legislators is weak. These and some additional techniques might complement the analysis.

<sup>10</sup> The techniques for measuring the concentration of economic power are subject to further elaboration in the due course of the given project.

<sup>11</sup> Such data is obtainable from the Freedomhouse. Some additional techniques for measuring the level of civil society will be presented in the due course.

## Part II: Channelling State Capture

One state capture is explained as such by means of the structural variables, it is possible to see how institutions determine the *strategies* of economic actors by virtue of the opportunities and constraints that they provide (Pontusson 1995: 119)

The second question that the project attempts to explore is what explains for the different state capture modes. The question is limited to presidential systems. Yet, the absolute majority of the transition countries that have high degrees of state capture are systems with elected presidents. The following puzzle is used to illuminate the second research question.

*Institutional perspective:* The business interests dominate the Assembly in Ukraine (1998-2001) through the parties and groups under their control.<sup>12</sup> This is not the case in Russia (1993-2001), where businesses structure around political parties or party blocs. (Fleron, Ahl and Lane: 233)

Business interest groups (BIGs) interact with political parties in Ukraine in a profoundly specific manner. Namely, BIGs seize political parties (SDPU(u)) or create and control them as the extension to a business interest group (Lisnychuk 2000) (Democratic Union, “Hromada”, “Fatherland”, “Labour Ukraine”, “Yabloko”, “Labour Solidarity of Ukraine”).<sup>13</sup> This is not the case in Russia, where none of the parties that have been represented in the State Duma can be characterised as ones seized or created and controlled by a business interest group.<sup>14</sup>

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<sup>12</sup>The two Deputy Speakers represent the Social Democratic Party (united) (SDPU(u)) and the “Revival of Regions” and the Speaker himself has been promoted by the captured groups and parties. See also appendix 2 for the data on the deputies' numbers in the BIGs controlled parliamentary groups.

<sup>13</sup>All the mentioned parties are represented in the Assembly. More specifically, SDPU(u) and “Hromada” were elected in 1996 Parliamentary Elections. “Democratic Union”, “Fatherland”, “Labour Ukraine”, etc. were created after the 1996 Elections and have their respective factions in the Parliament.

<sup>14</sup>Out of the parties which were elected by party lists in the course of 1993, 1995, and 1999 State Duma elections (Communist Party of Russian Federation (CPRF); Liberal Democratic Party of Russia (LDPR); “Russia's Choice”; “Women of Russia”; Agrarian Party of Russia (APR); “Yabloko”; Party of Russian Unity and Concord (PRUC); Democratic Party of Russia (DPR); “Our Home is Russia” (OHR); “Unity”;

*State capture perspective:* Both Ukraine and Russia have the highest concentration of power over the state among key vested interests among the 21 transition countries, according to the BEEPS survey. (EBRD 1999: 118) Ukraine has the second highest state capture index after Azerbajdjan, Russia occupying the fourth place. (World Bank 2000: 13, 90)

Yet, Ukraine has the highest index of state capture through parliamentary legislation among transition countries, which is twice as high as the average one. (World Bank 2000: 13) In addition, Ukraine has the highest index of firms' influence on the state among transition countries. It is three times higher than in Russia on the national level.<sup>15</sup>

Although Ukraine and Russia have comparable state capture degrees, the modes of state capture are profoundly different. Namely, it appears that in Ukraine state capture occurs in a large extent through the Assembly by means of seizing or creating and controlling political parties, yet in Russia capture of the state is mostly concentrated on the executive.

## **Hypotheses**

*Hypothesis #1:* The specific modes of distribution of powers among President, Assembly, Cabinet explain for the different modes of state capture in Ukraine and Russia.

*Hypothesis #1.1:* There are incentives for the business interest groups to seize/create political parties under the conditions of specific distribution of powers among President, Assembly, Cabinet and an overcentralised executive. The weak party system allows for that. (The case of Ukraine)

Variation on the dependent variable:

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“Fatherland of Russia”; “Union of Right Forces”) only OHR (1995) may be conditionally referred to as a party that inter alia represented a “business interest group”. See (Khripunov and Matthews 1996).

<sup>15</sup> Including influence over legislature and executive on the content of new laws, rules, regulations or decrees. (EBRD 1999: 120)

- Captured Assembly and Presidency (Ukraine)
- Captured Presidency (Russia)

Explanatory Variable :

- Distribution of powers among President, Assembly and Cabinet

### **New Institutionalism about Systems with Elected Presidents**

The *new institutionalism* is an analysis, which uses tools derived from microeconomics, game theory, and social choice of the effects of decision-making rules and institutional structures on outcomes. (Grofman 1989: 1) It has a renewed focus on the importance of political institutions in accounting for the success or failure of democracy. (Shugart and Carey: 1992: 1) The new institutionalism emphasises the relative autonomy of political institutions, possibilities for inefficiency in history, and the importance of symbolic action to an understanding of politics. (March and Olsen 1984: 734) It is based on the fundamental premise that preferences in politics can be understood only in the context of the institutionally generated incentives and institutionally available options that structure choice. (Grofman 1989: 1)

Because of the exclusive nature of the unitary executive, the importance of capturing the presidency becomes paramount, dwarfing all other electoral goals for parties in presidential systems. It is the “winner-take-all” nature of presidentialism. As soon as the presidential elections are won, the ultimate prize is secured. Those who contributed to the victory are demanding compensation, patronage and cabinet positions. The losers have no reason to try to co-operate with the new incumbent. There is little to be gained, given the exclusive nature of the presidential executives. (Shugart and Carey: 1992: 31)



The inabilities of the assembly to remove the executive and of the executive to remove the assembly prevent either branch from resolving political crises based on fundamental mutual opposition. (Shugart and Carey: 1992: 29)

Any Presidential system is prone to difficulties of building and sustaining support for the legislative agenda of the President and Cabinet, thus posing a serious problem for effective government. The principle of separating legislative from executive powers as a check against the abuse either can go awry when neither branch is able to exercise power effectively. (Shugart and Carey: 1992: 35) It is furthermore relevant when the degree of separation of assembly is high. Chronic legislative-executive conflict presents dangers far greater than that of deadlock: it invites rule by executive decree and regime instability and immobilism. (Shugart and Carey: 1992: 35-8)

If President enjoys a stable coalition supporting him or her having a majority in Congress, assembly independence, the immobilism is not expected. The ability to coerce parliamentary majority can render the bloc of opposition votes in parliament meaningless. (Shugart and Carey: 1992: 47) Presidentialism without a presidential majority therefore can be highly problematic. (Mainwaring 1993)

### **Cases**

Political systems in both Russia and Ukraine have the executive nature. Presidents enjoy high degree of authority over the cabinet.<sup>16</sup> Both systems may conditionally be characterised as the “winner-take-all” ones. The importance of capturing the presidency is important therefore in both regimes.

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<sup>16</sup> See the "President's authority over cabinet", graph 1.1, appendix 3.

Yet, as may be observed, Russia and Ukraine have different degrees of survival of the Assembly.<sup>17</sup> Survival of Assembly is the level of Assembly's vulnerability with regard to President's powers to dissolve it in case of a legislative-executive immobilism, such as reluctance to approve the Prime Minister or a no confidence vote in Government by the Assembly. In Russia, institutional setting makes it relatively easy for the President to dissolve the Assembly if it does not approve the candidacy of the Prime Minister nominated by the President or if the Assembly expresses no confidence in the Government.<sup>18</sup> The institutional setting makes it different in Ukraine, where the President has no means for the dissolution of the Assembly in either case. It is virtually impossible for the President to dismiss the Assembly in Ukraine.<sup>19</sup> Likewise, it is infeasible to impeach the President in Ukraine because of the overcomplicated procedure.<sup>20</sup>

Given the presidential executive in Russia and Ukraine, losers have little incentives to cooperate with an elected incumbent. This however, is not so important in Russia, where the degree of separation of the executive and legislature is relatively low and the President is endowed with important legislative functions. The institutional setting allows the President in Russia to rule by decree, which has the power of law.<sup>21</sup> The case is different in Ukraine, where the degree of separation of the executive and legislature is relatively high and the President has no power to rule by decree.<sup>22</sup>

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<sup>17</sup> See the "Survival of Assembly", graph 1.1, appendix 3.

<sup>18</sup> Constitution of the Russian Federation: Articles 84, 109, 111, 117,

<sup>19</sup> Constitution of Ukraine: Articles 90, 106. There is only one case when the President ends the authorities of the Assembly. It is when the latter is unable to start the plenary session during 30 days of one regular sitting. Assuming the minimal rationality after the Assembly practically excludes such a case, unless the majority in the Assembly is interested in dissolution.

<sup>20</sup> Article 111, Constitution of Ukraine

<sup>21</sup> Article 90, Constitution of the Russian Federation.

<sup>22</sup> See graph 1.2, appendix 3. The President in Ukraine had some powers to rule by decree on specific issues for the duration of three years after the adoption of Constitution of Ukraine 1996. This concerned

Hence, it can be summarised that in Russia the vulnerability of cabinet is low, while in Ukraine it is high. President has relatively high legislative power in Russia, while in Ukraine it is low. Vulnerability of Assembly is high in Russia and low in Ukraine. The institutional setting makes immobilism very likely in Ukraine. Both executive and legislative branches are virtually deprived of the possibility to remove each other. Such conditions prevent either branch from resolving political crises based on fundamental mutual opposition. High degree of the Assembly's survival in Ukraine makes it difficult to sustain support of the legislative agenda of the President and Cabinet. This combined with the high level of the Cabinet's vulnerability in front of the Assembly and an absence of the decree power of the President makes Assembly a by far more important actor in Ukraine than it is in Russia.

Thus, Assembly as such is interesting for the businesses in the context of the state capture. Furthermore, it is attractive for capturing with regard to relations of the Assembly vis-à-vis the President and Cabinet. Hence, there are strong incentives for the BIGs to seize/create political parties in Ukraine with a view of conquering the Assembly. BIGs are prepared to heavily invest their energy and resources in the party capture enterprise. Their task is facilitated by the weak party system. (Protsyk and Wilson 2001)

As previously observed Russia and Ukraine have comparable degrees of the state capture. The mode of the state capture differs profoundly. In both Ukraine and Russia, the BIGs are seeking to capture the executive by definition. However, in the Ukrainian case it is not enough to capture the executive only. It is necessary to control the Assembly too. This is not the case in Russia, where BIGs have little incentives for capturing political parties and conquering the Assembly. Institutional setting disables the Assembly from preventing the executive from

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the economic issues not regulated by law. Assembly could reject the Presidential decree by the majority vote. See Constitution of Ukraine: Item 4 of the Transitional Provisions.

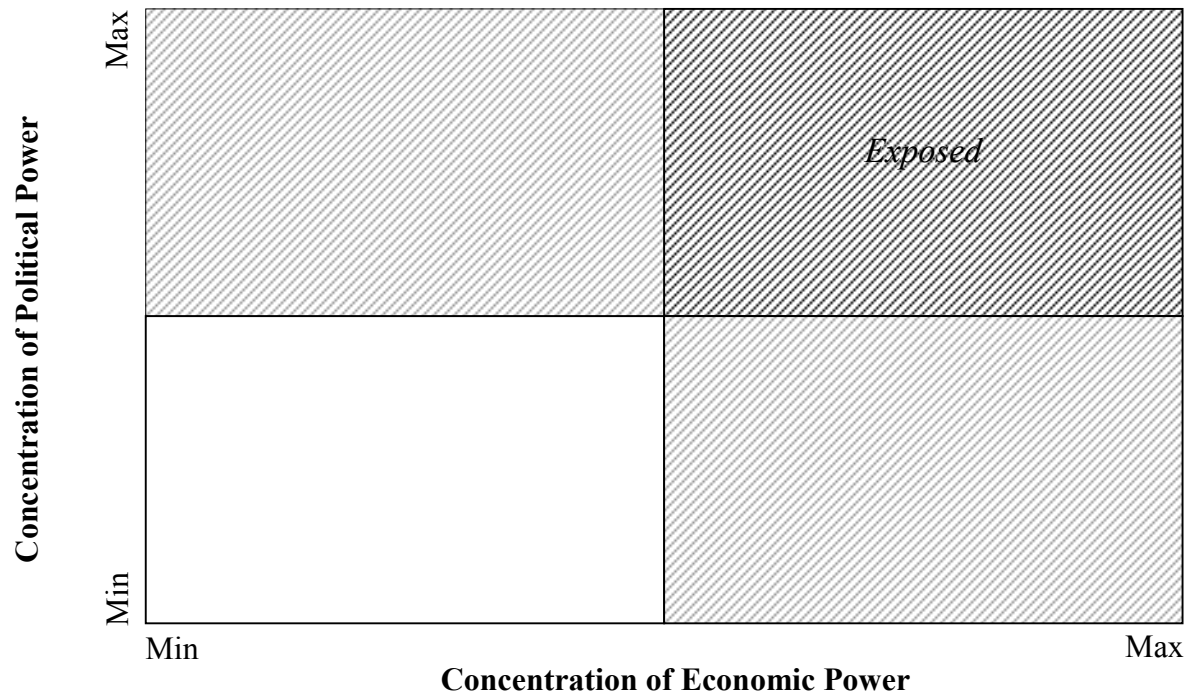
performing its functions. Moreover, the President is able to exercise important legislative functions himself. Hence, conquering the Assembly in Russia is “not a big deal” for both the regime and the business interests. Thus, state capture in Russia is mostly concentrated on the executive branch itself, while in Ukraine both the executive and legislature are subject to the capture by the BIGs.

### **Expertise and Schedule**

The primary source of consultations is current supervisor. Additionally, the project has been discussed and may need to be further consulted with some scholars working on state capture, namely Joel Hellman and Daniel Kaufmann as well as some scholars specialised on the selected cases Taras Kuzio, Sarah Birch, Grigori Golosov and Andrew Wilson. The project may also benefit from co-operation in the field studies with the local branches of the World Bank and the European Bank of Reconstruction and Development as well as assistance from the Governance, Regulation and Finance Division of the World Bank Institute in acquiring some statistical data.

The project will require short-term field studies. These will include collecting necessary statistical data and holding interviews with some representatives of business interest groups, political parties and (former) government officials. Thus, the field studies are planned for the second year. The writing of the dissertation is planned for the second and third years of the research. The dissertation is expected to be completed in the third year of the Ph.D. program.

**Appendixes**  
**Appendix 1**  
**Concentration of the Economic and Political Power**



## Appendix 2

<b>Parliamentary Group</b>	<b>No. of Deputies in the Congress<sup>23</sup></b>	<b>Political Party</b>	<b>Business Interest Group<sup>24</sup></b>
SDPU(o)	33	SDPU(o)	“Slavutych” Group: Banks, Energy Companies, Metal Plants, Media: “Kievskie Vedomosti”, “Inter”, etc.
“Fatherland” (“Hromada”)	32	“Fatherland” (“Hromada”)	“United Energy Systems”
“Solidarity”	23	Party of Regional Revival – “Labour Solidarity of Ukraine”	“Ukrprominvest” Group
“Labour Ukraine”	48	“Labour Ukraine”	Metal Plants, Media: “Fakty”, “Stolichnye Novosti”, “Kievskiy Telegraph”, etc.
“Revival of Regions”	35	“Democratic Union”	Media “1+1”, “Gravis”, “Segodnya”, “Novyi Vek”, Gas and Energy Traders, Banks, Energy Companies
“Yabloko”	14	“Yabloko”	Connected with the “Slavutych” Group
<b>Total No.</b> 6 out of 13	<b>Total No.</b> 185 out of 450 (41%)		

<sup>23</sup> As of January 19 2001.

Source: [http://guru.rada.kiev.ua:2000/web/owa/g\\_frack\\_list?ident=20217&krit=66](http://guru.rada.kiev.ua:2000/web/owa/g_frack_list?ident=20217&krit=66)

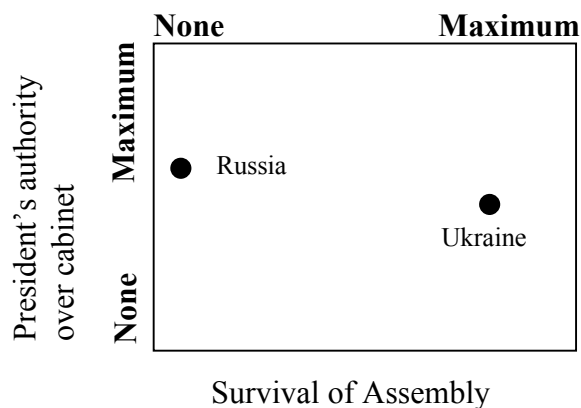
<sup>24</sup> Sources include: (Balmaceda 1998; Vavilov 2000);

“Pravda Ukrains’ka” 22.01.2001. <http://www.pravda.com.ua/ru/archive/?10122-2-8>.

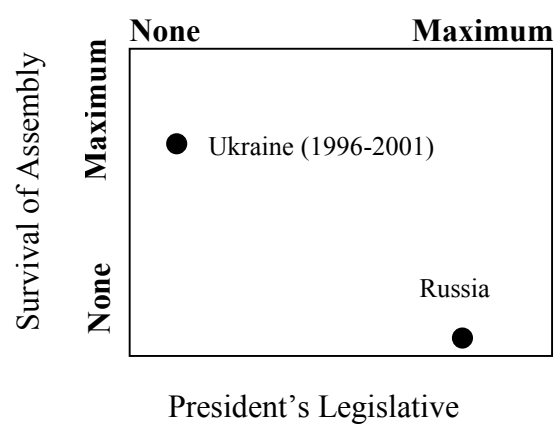
### Appendix 3

#### Russia and Ukraine: Distribution of Powers among President, Assembly and Cabinet

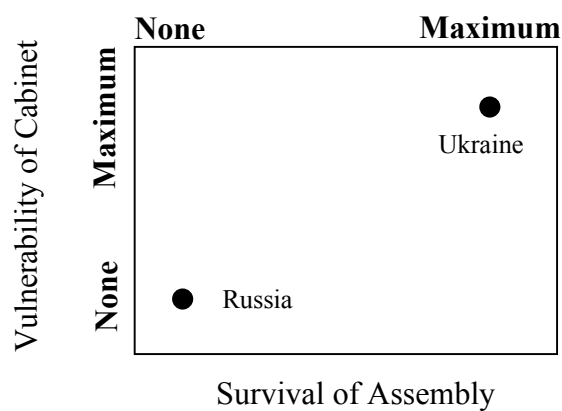
##### 1.1 President's authority over cabinet and Survival of Assembly<sup>25</sup>



##### 1.2 Separation of Power



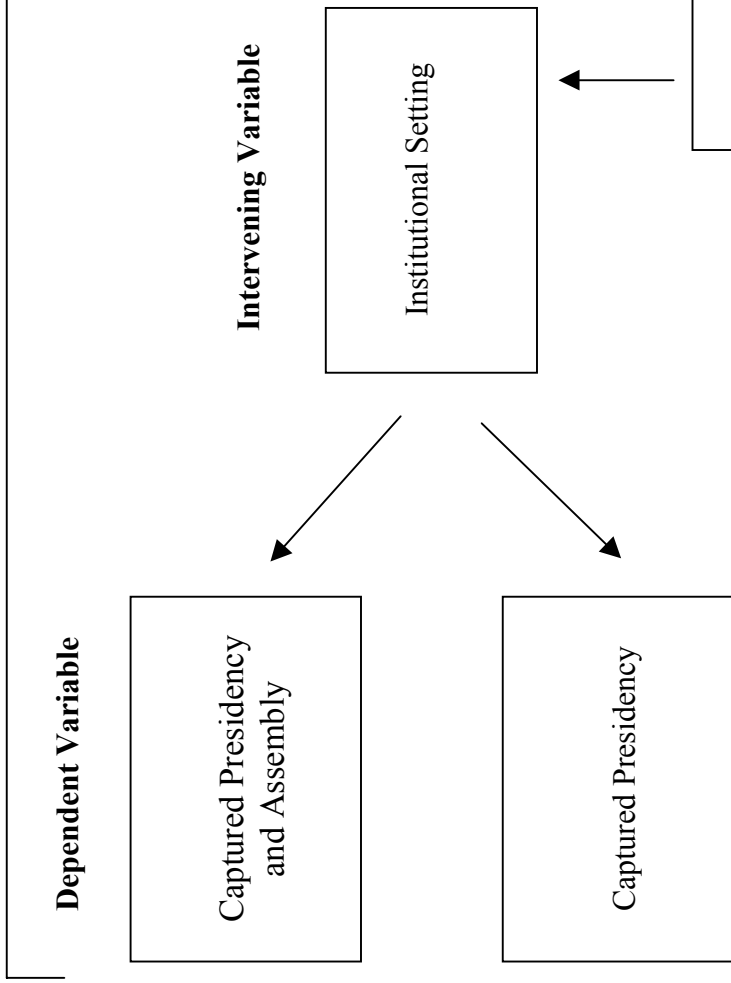
##### 1.3 The Case of No Confidence Vote by the Assembly



<sup>25</sup> Modified from (Shugart & Carey 1992: 26)

Appendix 4  
State Capture

Channelling State Capture  
PART 2



**Independent Variable**

*High/High Economic  
and Political Power  
Concentration*

Underdeveloped Civil  
Society

State Capture

Institutional Setting

Captured Presidency  
and Assembly

Captured Presidency

**Intervening Variable**

**Dependent Variable**

Explaining State Capture As Such  
PART 1



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