

Graft and Governance:
Corruption as an Informal Mechanism of State Control

August 6, 2002

Keith Darden
Department of Political Science
Yale University
P.O. Box 208301
New Haven, CT 06520
keith.darden@yale.edu

As the use of the term “corruption” implies, pervasive bribery and embezzlement by state officials is conventionally taken as a sign that the integrity of governing institutions has broken down. Indeed, the argument linking graft and the disintegration of institutions is so straightforward and compelling: If the strength of state institutions lies in the implementation of laws and directives, then officials who cease to implement those laws and directives in exchange for bribes, or siphon away resources from the state budget through embezzlement, undermine the basis of governance. Following this reasoning, one would conclude that the capacity of the state decreases proportionately with the increase in graft. In support of this argument, many scholars point to a syndrome of corruption, state weakness, and slow economic growth in countries undergoing a transition away from Communism and in the developing world.

As compelling as this argument may be, it constitutes an incomplete picture of the relationship between graft and governance. I argue that its validity rests on the implicit assumption that the rule of law is a *conditio sine qua non* of ‘stateness’, so that violations of the law necessarily constitute evidence of the collapse of the state hierarchy. In this article I question that assumption and arrive at a different set of conclusions about governance and graft. Focusing specifically on the extent to which subordinate officials comply with the directives of state leaders, I argue that in some circumstances, bribery and graft enhance rather than erode state capacity. Indeed, graft and lawlessness often serve as critical elements of informal institutions of state control. Contrary to the conventional view, such informal institutions of the state can complement, rather than undermine, the formal institutions for securing compliance with political objectives.¹ In particular, graft, combined with systematic surveillance, blackmail, and the selective

enforcement of laws, is a means employed by state leaders to exert control over their subordinates and to expand their authority into areas where its exercise is formally prohibited. In certain circumstances, pervasive graft may signify not the breakdown of the state, but rather the existence of a “shadow state” alongside or behind the façade of formal legal institutions.²

To make this case, I start by examining the existing arguments about the relationship between graft and state strength. Then, beginning from a set of assumptions about the state that do not privilege the rule of law, I examine how graft and other “corrupt” practices can enhance state capacity by providing informal means for leaders to gain the compliance of subordinate officials. To establish the plausibility of the proposition that such informal mechanisms may account for some of the high rates of corruption that we find in the post-Communist and developing world, I provide evidence that the theorized dynamic appears to operate in Ukraine, which ranks as one of the world’s most corrupt states according to corruption perception indices but where formal and informal institutional mechanisms combine to make a very strong state. Finally, I provide preliminary evidence that the argument can be generalized to account for the pervasiveness of corruption in additional cases.

Defining Corruption and the State

Since many of the disagreements about whether states are strong or weak appear to stem from disagreements about the definition of the state rather than different interpretations of the available data, it makes sense to start by defining the concept of the state that underpins the argument below. For my purposes here, I define the state as a compulsory rule-making organization that is sustained through the extraction of wealth

from within its territorial domain. Of these four defining elements (compulsion, rule, resource-extraction, and territoriality), it is the compulsory character of the state that is ultimately character-defining and that distinguishes the state from other organizational forms. It is this aspect of “stateness” that most scholars of corruption are concerned with. When I speak of the “strength” or “weakness” of the state, I am referring to the extent to which the rules and directives established by state leaders are complied with – i.e. the extent to which rule is indeed compulsory. This article is concerned primarily with the extent to which rules are followed within the state organization itself, what one might call the “internal capacity” or “integrity” of the state.

In measuring state capacity, I look at two elements: 1) the probability that the directives of top leaders will be obeyed by subordinate officials³ and 2) the scope of issues over which leaders may issue commands. Much of the confusion surrounding the notion of state strength appears to stem from authors favoring one of these two elements over the other. Those who argue, for example, that the US has a strong state and that the state was weak in the USSR (at least in the late 1980s) appear to have in mind the extent to which laws, rules, or directives were complied with (Holmes, 1997; Kotkin, 2001; Solnick, 1998). Those who argue that the U.S. is an example of a country with a weak state and the USSR was the quintessential strong state appear to have in mind the second criterion: In the US the sphere of human activity subject to regulation by the state is bounded and relatively small whereas in the USSR it was unlimited. In the discussion that follows, I am primarily concerned with the first of these criteria, but I will argue that under certain circumstances graft can enhance both.

Defining corruption is a bit trickier.⁴ In principle, the term “corruption” should be restricted to those practices by state officials which deviate from or undermine the integrity of the command hierarchy – i.e. which undermine rule by substituting personal goals for the goals and rules of the organization. This is consistent with the term’s etymological origins and is the intuition captured in the conventional definition used in the social sciences – “the misuse of public office for private gain” (Nye, 1976; Bardhan, 1997; Treisman, 2000). In common usage, however, the term “corruption” usually refers to a specific set of illegal practices: bribery, embezzlement, kickbacks, etc. So long as one assumes that this set of illegal practices has the effect of undermining rule, the use of the term “corruption” is unproblematic. But if one argues, as I do below, that there are circumstances in which illegal practices like bribery and embezzlement can enhance the ability of state leaders to achieve compliance with their commands, then the failure of common usage to distinguish between a specific set of practices and their consequences for rule wreaks linguistic havoc: One is left with the oxymoronic statement that “corruption” promotes the integrity of the state. To resolve this problem I have chosen to refer to the illegal *practices* as “graft” and the breakdown of institutional integrity or effective command as corruption.

Existing Approaches

The main contemporary approaches to the study of corruption draw their insights from agency theories in economics and treat corruption as a failure to resolve a principal-agent problem, or the break-down of the authority of principals over their agents. In such work, the principal-agent relationship is generally defined in one of two ways.

In one version, voters are seen as the principals and their political representatives are seen as the agents (Rose-Ackerman, 1999, Ch. 8; Persson and Tabellini, 2000, Ch. 9; Persson et al., 2001; Kunicova and Rose-Ackerman, 2001). In this model, voters entrust politicians to act on their behalf, bestowing upon them the resources of state office so that they may do so effectively. When politicians use these resources to serve special interests rather than the public that they have been entrusted to represent, they are no longer acting as agents of the public – they have been corrupted. Instances of this form of corruption are many: politicians accept money or favors in exchange for advancing legislation; politicians award government contracts or sell off enterprises in exchange for kickbacks rather than seeking the lowest bid; politicians raid state coffers or draw on state resources for personal use. In many such cases, we speak of the state as having been “captured” by private interests, so that government no longer represents the public’s interest (Hellman et al., 2000).

This first type of corruption is generally associated with the regime – corruption signifies the subversion of democracy and the capture of the state. A second principal-agent problem – and the one which is of most concern here – is generally identified as the problem of law enforcement, compliance, and more generally, the capacity of the state. Here, in contrast, the politician or decision-maker is viewed as the principal and subordinate state officials are viewed as agents (Becker and Stigler, 1974; Banfield, 1975; Rose-Ackerman, 1975, 1978; Solnick, 1998, pp. 246-247).⁵ If state officials, in exchange for material rewards, fail to enforce the laws or decrees passed by decision-makers, then the principal-agent relationship has been corrupted. Instances of this form of corruption are also quite common: tax collectors who accept bribes in exchange for not

penalizing under-reported revenues; customs officials who allow goods to cross the border in exchange for a bribe instead of imposing the tariff; regulators or police officers who turn a blind eye in exchange for payments. Such instances of corruption are law enforcement problems both in the sense that laws are not imposed on society and in the sense that the problem lies with the defection of the law enforcers. To the extent that state capacity is defined as the capacity to secure compliance with formal legal directives, the corruption of this key principal-agent relationship means that state capacity is undermined. Thus, it is common to speak of states with low rates of tax collection, uneven enforcement of laws and regulations, and high levels of graft as “weak” states.

These two approaches to the problem of corruption are entirely compatible with one another, and rest on similar if not identical assumptions. Both see corrupt practices as the violation of a contract between principal and agent due to defection by the agent. In both cases, the causes of corruption are the inadequate incentives of agents to comply, due to the principals’ incapacity to properly monitor agents and punish defections and/or to provide sufficient compensation for compliance. Somewhat less obviously, both approaches rest on a critical, but implicit, assumption: *that the contractual relationship between principal and agent is the relationship between them defined by formal institutions and the law.* It is precisely because of this assumption that “corrupt practices” and other violations of the law by state officials are taken as evidence of a “broken contract” with their superiors. Insofar as this “contract” establishes the hierarchical relationship of command and compliance that is the essence of the state, graft is assumed to evidence the breakdown of the formal institutional hierarchy of the state.

But there is no a priori reason to assume that the arrangement that decision-makers use to secure compliance of the state officials is a legal arrangement, nor, by extension, that the goal of the decision-maker is to secure compliance with the laws that they have drafted. And while the assumption that the principal-agent relationship is a formal legal relationship may seem intuitively obvious to scholars in countries where the rule of law is the norm, there is a substantial body of data suggesting that this assumption does not hold in the majority of countries in the world where graft is pervasive.

Indeed, one might easily draw the opposite conclusion – that in a great many countries, the law is not intended to be followed. One may note that in many if not most countries of the world, it would be impossible to follow “the law” in many situations given the contradictory mandates of different pieces of legislation. Moreover, this situation does not always appear to have occurred by chance; in a non-trivial number of instances, it is reasonable to assume that some laws are drafted *so as to insure non-compliance*. Indeed, the idea that laws and regulations are drafted primarily to serve the purpose of extracting fines and other “rents” from a population forced into non-compliance is a pervasive theme in another body of economic literature.⁶ In sum, I suggest that even in the contemporary historical period where most states are cloaked in formal legalistic trappings, law often does not play the role of a contract between decision-makers and state agents as posited by agency theories.

The abandonment of the assumption that formal legal institutions constitute the contract between decision-making principals and state agents has several important ramifications. First and foremost, one can no longer assume that corrupt practices and other violations of the law necessarily imply that the command relationship between state

leaders and their subordinates is being undermined. If the “contract” between state leaders and their subordinates can be an *informal* one that is not grounded in the law, then it is possible that the illegal practices we identify as corruption may reflect the fulfillment rather than the violation of this informal “contract”. Below, I will argue that this is often the case. From this, we may also conclude that even widespread deviations from legal norms do not constitute sufficient evidence of the breakdown of central political authority. Indeed, the conventional claim that corruption reflects, or is due to, state incapacity or weakness holds necessarily only insofar as we equate state capacity with the enforcement of the rule of law – in which case the relationship between state weakness and corruption is tautological rather than causal. If we view the state as a form of organized domination that is not necessarily based on law, the illegal practices that we identify as “corrupt” could simply be informal institutions of governance. Bribery and other “corrupt” practices could enhance rather than undermine the capacity of state leaders to secure compliance with their directives. Whether this is the case or not is an empirical question, but before sketching out possible empirical avenues, let us examine how, in theory, graft might serve as a mechanism of state control.

Conceptualizing the “Corrupt” State

One way that graft could enhance rather than undermine the capacity of state leaders to secure compliance with their directives would be if the receipts from graft were considered an informal payment in exchange for loyalty and obedience – thus reinforcing the vertical hierarchy. Here, we would have an implicit and illegal “contract” between state leaders and subordinate officials, whereby the rents that officials earned through graft would be allowed in exchange for compliance in other spheres.

The nature and scope of the compliance offered by subordinate officials in exchange for the privilege of drawing such rents could vary considerably. In its simplest form, the revenues from graft might be exchanged for nothing more than tacit support for the government or for the regime – a way of “buying off” the potential leaders of political opposition or key societal groups by giving them access to informal revenues as members of the state apparatus (see Scott, 1969). In this sense, “compliance” would be limited to the acceptance of the existing leadership, and the scope of leaders’ authority would be limited. Here, we might legitimately speak of corruption as a feature of state weakness – although due less to a lack of enforcement capacity on the part of the leadership than the fact that they are weak enough politically that they need to buy support in a way that compromises or limits the scope of their command.

In a somewhat more institutionalized arrangement, graft could be used to sustain or even extend leaders’ authority over their subordinates. The receipts from graft would serve as an additional incentive – effectively an informal second salary – to be granted or licensed to subordinates in exchange for their continued loyalty and compliance with central directives. Under such an arrangement, a certain degree of bribery and embezzlement would be condoned other laws and directives of the leadership were rigorously enforced. In such an arrangement, the rule of law is clearly compromised, but the capacity of the state is not – the probability of compliance with leaders’ licit and illicit directives is enhanced.

In addition to the incentive provided by the receipt of a second informal salary through the permission to engage in graft, pervasive and systematic “corruption” in regimes that maintain a public façade of legalism or religious morality provides

additional sanctions for non-compliance. In a graft-free, legal hierarchy, the lower-level official risks nothing more than the loss of his position and immediate livelihood for the failure to serve his superiors and implement orders from above. He retains whatever assets he has acquired from his past earnings and no claim is made on his future earnings. In a state hierarchy where much of the compensation has been illicit, the disloyal bureaucrat faces much harsher punishment. Assets acquired with illegal funds can be seized, which makes all assets of the corrupt official vulnerable. Moreover, evidence of prior abuse of office may be grounds for imprisonment, which in addition to the loss of freedom constitutes a loss of future income and generally leads to the impoverishment of the official's family. In sum, the entire livelihood and "freedom" of the corrupt official is dependent on the continued good will of his superiors within the state hierarchy. Hence, the threat of exposing and enforcing his wrongdoing constitutes an enormously powerful sanction and places lower-level officials in an especially vulnerable position. The severity of this sanction allows the state leadership to practice a systematic form of blackmail, with payment exacted not in cash but in obedience (Darden, 2001).

In order for this combination of graft and blackmail to be an effective mechanism of control, state leaders require a robust capacity to monitor their subordinates. Accordingly, in sharp contrast to agency theories which assume that corruption occurs because monitoring capacities are too limited for principals to keep tabs on their agents, we would expect to find that a great many countries with high levels of corruption will also have extensive state surveillance. A robust surveillance apparatus (including the tax ministry, interior ministry, and secret police) provides leaders with the ability monitor

and record the illegal activities of their subordinates necessary to insure their compliance through the implicit or explicit threat of a sudden decision to enforce the law.

In this way, systematic graft, so long as it is tracked and recorded by a surveillance apparatus, provides both an added incentive to comply with leaders' directives and increases the potency of the sanctions that leaders can impose on their subordinates for disobedience. Accordingly it enhances rather than undermines state capacity.

The Empirical Problem

Clearly not all graft is part of an informal system that reinforces the formal hierarchy of command within state structures. Some forms of corruption have “a random and sporadic character” (Scott, 1969, p. 1154), are not systematically controlled and monitored, and clearly constitute the subversion of the state hierarchy through the defection of state agents seeking nothing more than personal gain. But this raises a critical empirical question: How do we determine whether the state hierarchy is reinforced or undermined by graft? How do we know whether state agents are “defecting” when they break the law or are simply complying with a tacit or informal contract with their superiors that runs counter to the law? Given that high levels of graft could be evidence both of the state's inadequate enforcement capacity or indicate a shadowy mechanism of state control, simple measures of the extent of bribe taking or the “level” of corruption in a country, such as the data collected by Transparency International (TI) or the World Bank are not useful. We need an alternative set of methods and indicators to identify where graft signifies the breakdown of the state and those in which it is an informal second pillar of the state hierarchy.

A formal set of indicators may prove difficult to construct without further case-study work, but based on the previous discussion there are several things we would expect to find if graft serves as an informal mechanism of state control. First, we should see evidence that the state leadership has specific knowledge of the illegal activities of their subordinates, but only rarely and selectively prosecutes the offenders. The extent of the disparity between monitoring capacity and enforcement is an important indicator for differentiating the cases where graft is part of an informal institution. Traditional agency theories suggest that the level of “corruption” should be directly correlated to the ability to monitor, as corruption stems from the fact that the defection of the agent cannot be monitored and enforced. The approach offered here suggests that in some cases enforcement is not the principal’s intent, and that monitoring capacity in corrupt states might be quite robust. Evidence that graft is monitored and that leaders are capable of enforcing the law, but choose not to, would thus favor an assessment that corruption was an informal state institution. Where high levels of corruption are found in countries with an extensive state surveillance apparatus – such as many of the post-Communist states – and where files and records of official wrongdoing are maintained but not acted upon, it would suggest that some legal violations by subordinate officials stem from an informal contract between state leaders and their subordinates rather than the leaders’ incapacity to enforce the law.

Second, we would expect that those officials who move into opposition to the existing leadership would be prosecuted on well-documented charges of corruption. If political opposition violates the most basic informal contract between state leaders and their subordinates, and subordinates can be implicated due to their participation in the

informal governance practices of the state, then we would expect leaders to employ their capacity to sanction. To some extent this only occurs where the informal hierarchy has broken down – i.e. where subordinates are no longer bought off and blackmailed into submission. Moreover, it is essential that the corruption charges not be “trumped-up” or undocumented, as we often find in authoritarian regimes where such charges may be applied without substantiation as a means to tar or imprison potential rivals. The whole point is that subordinates will indeed be guilty of the crimes for which they are accused, but that the law is being applied selectively in their case.

Third, we would expect the country to score relatively well on other indicators of state strength. Ideally, one would like to have a direct measure of the extent to which leadership directives were implemented by subordinates, but such a measure is likely to be impossible to construct. Aside from corruption, criminal activity should be relatively limited. Moreover, the leadership should endeavor to root out and eradicate corrupt practices that are not tied in to the informal hierarchy, such as truly “criminal” syndicates that are not loyal to the regime. There should be no manifest threats to the territorial integrity of the state such as civil wars or separatist movements. Where corruption levels were inversely correlated with other measures of “stateness”, we would suspect that corrupt practices are part of an informal control mechanism.⁷

Informal Governance in Ukraine

In the absence of acceptable cross-national measures for the relevant variables, I illustrate the argument made above using the case of post-Soviet Ukraine. The Ukrainian state is widely recognized to be “corrupt”. The country ranks 83rd out of 91 countries in the Transparency International index (Lambsdorff, 1998). And on a scale that runs from

0 (most corrupt) to 10 (clean), Ukraine comes in at 2.1, just below Tanzania. According to the conventional thinking about the relationship between graft and governance, Ukraine would be identified as a particularly weak state in which the formal institutions of rule were effectively undermined by corruption. And indeed, this was the common perception of Ukraine, Russia, and other post-Soviet states where bribery and embezzlement are pervasive.⁸ As I will demonstrate below, however, there are important ways in which graft enhances compliance with presidential directives and is used as a mechanism of control that enhances Presidential authority beyond the boundaries defined by law.

To do this, I rely not on traditional ethnographic methods but on a unique new data source that provides insight into the workings of informal state institutions: a set of audio recordings that were reportedly made between 1999 and 2000 in the office of the President of Ukraine, Leonid Kuchma, by a member of the Presidential security detail. The recordings were made without the knowledge of Kuchma or his interlocutors, and thus represent a remarkable resource. They capture the informal practice of rule in a setting which is unbiased by the observer. Over 1000 hours were supposedly recorded, of which 30 have recently been made available.⁹

The Ukrainian case presented here is meant primarily to be illustrative, for as valuable as the recordings are, they have some obvious limitations as source materials. For one, we only have recordings of what transpired in the president's office rather than in the offices of his subordinates, so our coverage of the principal-agent relationship will necessarily be one-sided, although I compensate for this problem below by drawing on other data sources. Moreover, the principles behind the selection of those recordings that

have been released are unknown and presumably biased – they were intended to highlight those activities of the President which were most abhorrent. And there are also the obvious limitations of generalizing the insights drawn from a single case. My purpose here is primarily to emphasize the plausibility of the notion that graft can serve as part of an informal mechanism of state control, along the lines outlined above, by providing some suggestive empirical evidence. For this purpose, the recordings are well-suited, as they provide insights into informal practices that would have been virtually impossible to document and which illustrate the existence of important mechanisms even if we were to assume that the specific activities referred to were only isolated events.

The Formal Institutional Hierarchy

Before examining whether those powers are undermined or enhanced, let us first examine the formal institutions as entailed by the Ukrainian Constitution. The formal powers of the President of Ukraine over state officials are considerable. The President has full authority to appoint and dismiss regional governors (they are not elected), who in turn may appoint and dismiss their subordinates.¹⁰ The President has the sole and complete authority to dismiss the Prime Minister, the Cabinet Ministers, the Procurator General, Chief officers of other central bodies of executive power (such as the Ukrainian Security Service, or SBU, the successor organization to the KGB and the Tax Administration), as well as the high command of the Armed Forces and other military formations.¹¹ The President also appoints one-half of the composition of the National Council of Ukraine on Television and Radio Broadcasting (which has the authority to issue and revoke broadcast licenses). With the consent of Parliament, the President may dismiss the Chairman of the Antimonopoly Committee of Ukraine, the Chairman of the

State Property Fund of Ukraine, and the Chairman of the State Committee on Television and Radio Broadcasting of Ukraine.¹² The President also “issues decrees and directives that are mandatory for execution on the territory of Ukraine” (i.e. he may rule by decree).¹³ In short, with the exception of the judiciary, which is appointed to permanent terms of office by the Parliament, the President has clear hierarchical authority over the state apparatus and in most cases can enforce this authority by his right to hire and fire virtually all subordinate officials. Formally speaking, Ukraine has a strong centralized state apparatus subject to Presidential control.

There are nonetheless several areas outside of the formal authority of the state. State officials are obligated to be politically neutral; they cannot use their position and resources as agents of the state to campaign on behalf of particular parliamentary or presidential candidates. Moreover, officials do not have the right to act to eliminate political opposition movements or to restrict freedom of expression, organization, and other constitutional guarantees. The right to engage in torture and murder of citizens is not part of their official portfolio. The manipulation of electoral procedures is similarly taboo. Thus, certain political projects or directives that the President may wish to see implemented by his subordinates are not covered or indeed prohibited under the formal institutions of the state.

The extent to which the informal institutions reinforce the day-to-day commands that the President has the formal right to demand of his subordinates is uncertain, but as Lucan Way (2000) has shown in detail, the Ukrainian state performs well on some basic indicators of state capacity. The Ukrainian state provides basic services, it distributes pensions and other benefits in a timely manner, and redistributes wealth from richer to

poorer regions of the country (Way, 2000). The state also has evident formal extractive capacity – tax revenues amounted to 22% of GDP in 2000 (World Bank, 2000).

Let us now turn to the informal institutions. To present the case that graft can expand the scope and resources of leaders' authority, I first examine the extent to which the state leaders are able to monitor the graft of their subordinates, and whether known illegal practices are allowed to go unpunished and used as the basis for blackmail. I then explore the ways that the informal contract between state leaders and their subordinates was enforced. Finally, I demonstrate how the informal command hierarchy was used effectively to manipulate the presidential elections in 1999.

Surveillance Capacity and Monitoring of Corruption

Several recordings suggest that officials were allowed, if not encouraged, to steal from the state organs and enterprises under their control. The surveillance institutions, particularly the State Security Service and the Tax Inspection Agency, appear to have monitored this activity – but not for the purpose of enforcement. To the contrary, these organs occasionally intervened to assist the perpetrators in covering their tracks. Consider, for example, the report by Mykola Azarov, head of the Tax Inspection Agency, to President Kuchma on a conversation he had with Igor Bakai, then head of Ukraine's oil and gas monopoly, Naftohaz. Note that Kuchma's and Azarov's primary concern is not with Bakai's embezzlement of funds from a state company, but with ensuring that the embezzlement is properly hidden from view.

Azarov: Now, concerning Naftohaz: I invited Bakai, as we agreed, and showed him all of these accounting records [*skhemy*]. My people did this, [people] I trust. I talked to Oleksandr Mykhailovych, found out how much was actually coming in, and told him [Bakai] exactly the following: "Well, Iggy, at a minimum, you put a hundred million in your pocket. Minimum.

I understand, of course, that I will not expose you. I give you two weeks, a month at maximum” – and I showed him the accounting records – “Destroy all the papers that bear witness directly or indirectly to all that you have been up to. You did everything stupidly and senselessly.” And I showed that he was doing everything stupidly and senselessly. But what’s done is done. That’s the way it is. He says to me: “Call your people away – we have a tax post here [i.e. at the company]. Call them away.” I called them away. I gave him the month of February, and after that I can’t keep calling them off. After that someone will say to me, “Why did you call them away?”

Kuchma: Absolutely. I told him, “Listen dearie, nobody is going to cover your ass.”

[The two men exchange harsh words about Bakai.]

Azarov: I tell you, everything could have been done intelligently, but no, he did it so that any stupid auditor would notice his sham expenditures records, even a stupid one (“Yulyu nado unichtozhit’ [Yulia should be destroyed],” 2001).

In addition to the material on Bakai, Kuchma received reports from both the Security Service and the Tax police regarding the various accounts and illegal activities of other prominent state and non-state figures. Particular attention was paid to potential rivals or those with the financial resources to generate a significant opposition if they were to choose to do so. Careful records were collected of the accounts that these individuals kept both in Ukraine and abroad. But despite the extensive monitoring and gathering of incriminating evidence, legal action was taken against only a very small minority of these individuals.¹⁴

This combination of impunity and surveillance extended well beyond the upper ranks of the elite. Kuchma acted to preserve those at the bottom of the “loot chain” as well. In a recorded conversation between Kuchma and his General Prosecutor, Mikhail Potebenko, for example, Kuchma directs Potebenko to ask the Prosecutor’s office in the Zborivsky region to back off the prosecution of the ex-director of a hatchery who had stolen 12,000 gryvna, or about \$2,400 (“Suddi vzagali podonki [Judges are bastards],”

2001). And although it is difficult to judge on the basis of the recordings alone, the reach of the surveillance apparatus appears to be extensive. In one recorded conversation between Kuchma and the head of the State Security Service at the time, Leonid Derkach, Kuchma gives Derkach approval to start an operation to examine the contents of all of the safes around the country (“Ob nyogo, yak ob tryaku, nogi vitrut’ ... [We’ll Clean our Feet with Him...],” 2001). The capacity for such surveillance – and in particular the fact that all government buildings are wired with listening devices and the Security Service has a pre-existing network of informants – is one of the most important legacies of the USSR.

In most cases it appears that evidence of illegal activities was kept in a special case file that could be used at any point to prosecute the officials in question on charges of corruption or abuse of office. The tapes show Leonid Derkach, head of the State Security Service (Sluzhba Bezpeki Ukraini, or SBU), reporting on the completion of such a case file against Yulia Timoshenko, a prior head of the national energy company who at the time was a deputy prime minister.¹⁵

Derkach (speaking to Kuchma): I have a plan laid out for dealing with Yulia, and if, tomorrow, it suddenly becomes necessary, it will be set in motion. I have materials on contraband, criminal activities. . . . [a criminal investigation that] is not over and was never closed, just set aside. [Based on the context, it seems that Timoshenko was caught flying out of the country with \$26,000 in cash, a criminal offense.] The material is just lying there. That is, we could open it up tomorrow and bring her in. (“Fragmenti rozmov Leonida Kuchmi iz zapisiv, zroblenikh ofitserom Mikoloiu Melnichenkom.” *Radio Svoboda*, Epizod 20).

These case files could be used at any time, but in many cases they were more effective when they were not used; the mere fact of their presence was important as a means of control. Individuals who believed that they could be subject to arrest at any time would be more likely to obey orders from above.¹⁶

But in the event of disloyalty, the files could be used to intimidate officials into supporting the regime. And indeed, after discovering that Timoshenko was secretly financing an opposition politician whose newspaper printed negative articles about Kuchma, Kuchma, in a phone conversation with State Security Service Head Derkach, ordered him to intimidate her:

Kuchma: So then you invite Yulia. (Expletive) your mother, you invite Yulia, and ask: “dear one, what are you, (expletive), (expletive) doing? Do you want us to (expletive) you (expletive) completely (expletive) or what? [In the sense of, “destroy you completely”].” And say: “why are you financing Omelchenko, why are you doing this-and-that.” Don't you know the method of your job, or what? How that (type of thing) is done all over the world? So, if they aren't one (expletive) bit afraid of you... (Expletive) your mother, what's with you? Why should you be feared? It is your service that they are afraid of. ... I am the one who appointed you. So that's why, let's go (Fragmenti rozmov Leonida Kuchmi iz zapisiv, zroblenikh ofitserom Mikoloiu Melnichenkom. *Radio Svoboda*, Epizod 7).¹⁷

Occasionally, individuals were actually arrested on corruption charges. In most cases, these cases appear to be political actions designed to punish opposition figures or prophylactic purges to remove possible opposition cells. For example, when Pavlo Lazarenko, a former prime minister who had once been in charge of the gas-distribution system, declared his intention to run in the 1999 elections, he was indicted on corruption charges pertaining to the embezzlement of millions of dollars of state funds. The available recordings suggest that this was not an isolated incident and that it would be a mistake to interpret corruption prosecution as an effort to remove the “bad apples”.

Enforcement of the Informal Contract

Part of the activity of the surveillance apparatus was also dedicated to enforcing the unwritten code of the informal institutions. From the recordings it becomes clear that

a substantial portion of the receipts from corrupt practices had to be channeled into fictional companies controlled by state leaders.¹⁸ Several of the conversations between Kuchma and the heads of both the Tax Inspection Agency and the State Security Service are devoted to efforts to identify and punish those subordinate officials who take too much for themselves rather than working “for the state”.¹⁹ In one conversation, Azarov reports that Didenko, one of Bakai’s associates at the state oil and gas company, has stolen 184 million dollars by transferring the funds to fictional companies under the control of himself and Bakai. Again, it is important to note that Azarov and Kuchma are not concerned about the fact of the embezzlement, but that the embezzlement was not being passed up the state hierarchy according to the informal rules of the game. Here, the principal-agent relationship – the informal contract – has broken down and needs to be enforced:

Azarov: I worked with him (Didenko) delicately...but by the 22 March this was still happening; I first thought that these were our companies, though (our companies?) I know them all, and these I hear absolutely...for the first time.
Kuchma: And...he worked for himself!

At the end of the conversation, Kuchma notes that he intends to relieve Didenko and Bakai of their posts (“Yulyu nado unichtozhit’ [Yulia should be destroyed],” 2001).

Criminal syndicates, such as the “thieves in law” of the Soviet underworld²⁰, were also the object of surveillance and subject to enforcement efforts of the state, since they also presented a threat to, and violation of, the informal command structure of the state apparatus. Note the report made by the Interior Minister Kravchenko about the efforts to destroy a criminal syndicate which had become powerful in Vinnitsia, one of Ukraine’s Western oblasts, and penetrated the state apparatus (“Kravchenko: Smirnov znav, zhto yomu tut govoreli....[Kravchenko: Smirnov knew what you told him...],” 2001):

Kravchenko: Ok, what we should do about Vinnitsa. ... The economy of oblast is practically controlled by Prodius, a “thief in law”. The stores in the center are his, he controls the supply of elite water, some enterprises. He had a connection to the ex-mayor, governor, with this Jew. After that... he had a rival, another thief in law, who competed with him – didn’t allow him to act broadly. This guy, who was killed by a bomb, was working for this thief in law... So, by the information we got, we arrested those who poured out the gasoline. Now we want to learn who was behind this. Today I sent six men with Harlamov, a group...took the most experienced from the republic to destroy this Prodius and his economy. ...This grew during the conflict between Matvienko and the governor. We have registered 60 people there.

Kuchma: 60?

Kravchenko: 60. We removed from their posts the local heads of administration, three deputy heads, ... the heads of two services and two heads of district level.

It is impossible to develop a sense of how successful this type of law enforcement effort was at eradicating criminal influences or to measure the state’s capacity on this score, but what is relevant is that violations of the law that were not part of the shadow state were treated differently. Indeed, we may note that an important distinction is made between the treatment of four types of officials: “Criminal” officials, who threatened the state’s authority by virtue of their obedience to principals outside of the state apparatus (like thieves-in-law); “selfish” officials, who broke the law to achieve personal wealth and did not pass their receipts up for use by their superiors, “disloyal” officials who sought to usurp existing leaders or supported those who challenged the existing state leadership, and “loyal” officials who violated the law but remained loyal to the informal institutional hierarchy. The first three categories of officials violated the informal principal-agent relationship and were subject to punishment. Only the “loyal” officials were not subject to law enforcement, but were nonetheless monitored by their superiors in the state. Here we can clearly see the difference in the state’s treatment of illegal

activities that were part of informal state institutions and those that were not. The critical point here is that it was not violations of the law, *per se*, that were punished, but violations of the law that were not undertaken at the direction of, or with the approval of the state leadership.

Manipulation of Elections

One of the obligations of being a “loyal” official was to assist in the manipulation of elections to insure the victory of the head of state. In this respect, the governance in Ukraine has a great deal in common with the informal arrangements that underpin political machines (Scott, 1969, pp. 1143-1169). It is clear from the recordings and other sources that Kuchma employed the state apparatus, particularly the tax inspectorate, interior ministry, and the SBU to manipulate the 1999 Presidential election. Lower-level officials were threatened with loss of office and imprisonment if they failed to comply with central directives to secure votes for Kuchma’s reelection. In this respect, the recordings show how informal and formal state mechanisms were used in concert to secure compliance with Presidential directives (“New Tape Translation of Kuchma Allegedly Ordering Falsification of Presidential Election Returns,” *KPNews*, 2001).

One set of directives involved fundraising for the campaign. Top-level officials were pressed to donate funds. In a conversation between Kuchma and his campaign manager, Vladimir Volkov, Volkov points out that Kuchma needs a 20 million dollar contribution from Bakai but that Bakai has only given 10 million (“Nu, Surkisom oni i tak zanimayutsa....[Well, they are dealing with Surkis anyway...],” 1). Kuchma becomes frustrated with Volkov’s efforts, asks for the bank account number for the shadow campaign funds, and tells Volkov that he will figure out who to ask money from.

On another recording, Kuchma is heard saying to an unknown person on the telephone, “I looked into your eyes and you told me ‘I’ll ensure you 250 million dollars for the campaign...” (“Nu, Surkisom oni i tak zanimayutsa....[Well, they are dealing with Surkis anyway...],” 10). The available recordings are not extensive enough to determine how far the contribution requirements extended. It is clear only that certain top officials were asked to donate rather large sums.

The key directive to lower level officials was to use the power of their office to secure votes by whatever means available. These instructions were passed down through the informal hierarchy and blackmail and other informal mechanisms of enforcement appear to have played a critical role. Note the following exchange between Kuchma and Azarov, the head of the State Tax Administration:

Kuchma: Hi. Sit down, let's have some tea.... Well, I have several instructions (for you). You should gather all your, [expletive] tax workers in the raions - I don't know, at least the ones from the oblasts. And you should warn them: those who lose elections in the raions, after the elections, they won't be working.

Azarov: ...

Kuchma: We will not leave one of them (working). You understand – all the way down to the raion village. You have to sit down with every head, [expletive], and tell him, do you (want to), [expletive], that he will go to jail (and I have the most on you), or you have to provide votes. Yes, or no?

Azarov: I understand... Everything's going to be (like you say)...

Kuchma: Right now I'm going to tell Kravchenko [The interior minister.] And then you'll tell, I mean, they together... together with every head of the collective farm...

Azarov: OK... Starting from the head of the regional department, right?

Kuchma (speaking over the phone to Interior Minister Kravchenko): Azarov is here. This is the mechanism at work here. They have a case on virtually every collective farm head. They have to be collected in every rayon, so that every militia head and tax service head... And say: guys, if you don't give, [expletive], the number (of votes), say it like that, that are needed, then tomorrow all of you will be where you should be...

And the systematic use of blackmail as a means for securing compliance is also clearly evident in Kuchma's directives to Leonid Derkach, the head of the SBU, the successor organization to the KGB:

Kuchma: The police will have to work seriously... It's necessary for a tax worker to go to every collective farm head in every village and say: dear friend, you understand clearly how much material we have on you so that you could find yourself in jail tomorrow...And there is probably more than enough material on every collective farm head. Yes or no? Probably yes. That's why the militia,... that is, the services... they all have to, that is, take to (the task) and have a serious talk with every collective farm head (KPNews Translation).

Kuchma: We can't relax. Secondly, we have to win with a comfortable advantage. That's also important. You understand. When they say two, three percent, this is no victory.

Here we clearly see the informal institutions of the state at work. And in addition to the use of the tax police, secret services, and interior ministry to blackmail or pressure local elites to falsify election results, the recordings reveal that similar methods of intimidation, from harassment by tax officials to the assassination of opposition journalists, were used to effectively eliminate opposition media outlets and to control the press.²¹

With respect to the elections, we have a fairly good sense of how effective the informal chain of command operated. Indeed, OSCE reports demonstrate that Kuchma's election orders were fully carried out. State administration officials were consistently observed interfering directly in the pre-election period. Oblast and raion state administration officials throughout the country were observed organizing the campaign

on behalf of Kuchma: printing leaflets and distributing them using postal workers or police, threatening and harassing the campaign staffs of opposition candidates, demanding support from enterprise heads, forcing the staff of medical and educational institutions to campaign for Kuchma (OSCE, 2000, pp. 16-17). The OSCE obtained a copy of a telex from the Ministry of Interior to the heads of City and Raion authorities with detailed instructions on how the administration should campaign in favor of Kuchma (OSCE, 2000, p. 18). Teachers and medical personnel were asked to campaign on Kuchma's behalf whether they supported him or not, and those who refused were threatened with the loss of their jobs (OSCE, 2000, p. 17). Indeed, the threat of job loss was evident all the way down the political hierarchy, from the top elites such as regional governors to the average state worker. In Kharkiv, Odessa, and Chernihiv oblasts, OSCE observers verified reports that the heads of villages and collective farms had been threatened with the loss of their jobs by the heads of the raion if they did not secure support for Kuchma in the first round of the election. And in fact the political carnage was considerable in those parts of the country that failed to secure strong support for Kuchma. Immediately following the first round, the governors "resigned" in the three oblasts where Kuchma's main rival, Oleksandr Moroz, received more votes than Kuchma. It was alleged that all of Ukraine's governors had signed undated letters of resignation prior to the election and that the letters had simply been dated after their poor performance in the first round (OSCE, 2000, p. 18). An additional 11 governors were "resigned" between the first and the second round for their failure to secure the necessary votes.

The vote was also used as a test of loyalty. Officials voted in their place of work, and following the elections Kuchma received reports from the SBU for each region of the country detailing how each branch of the state apparatus voted in the Presidential election. This was clearly scrutinized very closely by Kuchma. In a meeting with SBU chief Derkach, Kuchma questions him on why the members of one segment of the SBU in Odessa oblast voted overwhelmingly for another presidential candidate. In closing, Kuchma tells Derkach, seemingly in jest, that he “should hit them all” (“Zver’yo prosto! [Real animals!],” 2001).

Thus, to the extent that we are able to get a limited picture based on the scattered record provided in the recordings, we do find some evidence that at least part of the “corruption” in Ukraine is systematically monitored, condoned, and plays an important role in establishing informal mechanisms of governance. At the very least, this “shadow state” plays an important role in suppressing political opposition through both blackmail and covert coercion, and played a significant role in the manipulation of the one presidential election for which we have such records.

Extension to Additional Cases: FSU, Morocco, Pakistan, and Peru

Although the extent and quality of the data available on the Ukrainian case are unique, more limited evidence available from other countries suggests that the argument can be generalized to other cases.

As might be expected given their commonalities with Ukraine, the role of graft in sustaining political control appears to be an important element of the explanation of the high levels of corruption that we find among several of the post-Soviet states. With the exception of Estonia, all of the post-Soviet countries have high levels of corruption as

measured by Transparency International's Corruption Perceptions Index (CPI), all have inherited extensive surveillance capacity from the Soviet KGB, and the available evidence points to the fact that, as in Ukraine, the top leadership condones graft and uses it as a means of securing compliance and control.

One indicator that the mechanisms of control identified in Ukraine are replicated in other post-Soviet countries is the apparent frequency with which the blackmail sanction has been employed. We find in several countries in the region that former government officials who move into opposition have subsequently been prosecuted on corruption charges. In Belarus, former Prime Minister Mikhail Chigir was arrested for embezzlement of funds in 1999 shortly after putting forward his candidacy in the Presidential election.²² In Kazakhstan, former Prime Minister Akezhan Kazhegeldin was subject to arrest and convicted (in absentia) on charges of tax evasion after announcing his candidacy in the 1999 Presidential elections. And more recently, former Energy Minister Mukhtar Ablyazov and former regional governor Galymzhan Zhakiyanov, the co-founders of Kazakhstan's "Democratic Choice" opposition movement, were arrested and convicted on charges of corruption and abuse of office shortly after the founding of their movement.²³ Similarly, in Kyrgyzstan, Felix Kulov, President Akaev's primary rival, was eliminated as a candidate in the 1998 elections when he was arrested for abuse of office during the years he served as Minister of National Security and for embezzlement and abuse of office when he was Mayor of Bishkek and the Governor of the Chui region.²⁴ In Azerbaijan, Rasul Guliev, the Chairman of the Parliament, was forced to resign his post in 1996 and flee to exile in the US to avoid arrest on corruption charges after openly challenging President Haidar Aliev. In Georgia, Zurab Zhvania, the

former Chairman of the Parliament and the manager of President Eduard Shevardnadze's campaign in 1999, has noted that all "anti-corruption" campaigns in Georgia have been political purges and that Shevardnadze keeps his inner circle under control by blackmailing them with compromising materials (Personal Communication, 2002).

Other Non-Democracies

While prevalent in the post-Soviet states, the use of systematic graft and blackmail to secure compliance from subordinates is common to many regimes. Particularly in many non-democratic regimes, where threats to the leadership are most likely to arise from within the ranks of the state itself and the legitimacy required for voluntary compliance may be scarce, it is not uncommon to find subordinates licensed to commit graft as a way of securing their obedience (see Tullock, 1987).

Writing of the "planned and endemic corruption" in Morocco in the 1970s, John Waterbury (1973) identifies a similar use of graft and blackmail for the purpose of political control:

Above all else, access [to the spoils system] is subject to the arbitrary manipulation of the Palace... At whatever level – the policeman who takes a bribe or the minister who builds a chateau on \$13,000 a year – access is a privilege which is *not earned* or *merited*. It is a privilege whose ultimate source is always known and which can easily be revoked. Finally, it is a privilege which is always to some degree illicit. The participant runs the risk of exposure by rivals or superiors, of scandals, and of the confiscation of the fruits of his acquiescence and participation... What holds it [the system] together is not necessarily loyalty to its master; rather it is the commensal sharing of its spoils. When the privileges are revoked, the erstwhile participant has no recourse. He must simply keep his silence, for what he knows of the system's corruption he learned through participation in it (p. 553).

Waterbury further notes that within 48 hours of the 1971 coup, the Moroccan King "published the inventory of the rebel officers' ill-gotten gains" (p. 554). And while the

blackmail mechanism was clearly inadequate means for deterring the original coup plot, the publication of the compromising materials played a critical role in discrediting the authors of the coup and contributed to the coup's ultimate failure. Consistent with the argument presented here, Waterbury suggests that "corruption is far more than an accompanying phenomenon of the political process. It may be seen as a planned, cultivated, and vital element in assuring the survival of a regime... Thus, in Morocco, free-floating corruption is manipulated, guided, planned, and desired by the regime itself" (p. 534).

We find a similar combination of graft and blackmail underpinning central control in Pakistan in the 1970s. As documented extensively by the military government that deposed him, Prime Minister Zulfikar Ali Bhutto established a "Dossier Cell" that collected information on members of his ruling party as well as the opposition and key societal figures. Officials in the cell were instructed to collect, in addition to other basic intelligence, a record of each subject's "involvement in murder cases and criminal cases of moral turpitude" and to construct a "pen picture" – a detailed record of compromising materials and culpable offenses (Government of Pakistan, 1979). In the government report documenting the graft and surveillance of the Bhutto regime, it is noted that in the over 8000 pages of files collected by the Dossier Cell:

Particular attention was paid...to the extent of benefits extracted by [subjects] through fraud or from favours by Government. Many of the pen pictures reveal culpable offences by, or in connivance with, the subject, *but no action appears to have been taken under the law against any of the persons involved* (Government of Pakistan, 1979, p. 129, emphasis added).

Again, the high level of graft was clearly not the result of an inability of the Pakistani leader to monitor his subordinates, but rather was part of an informal system that enhanced his effective control.

The combination of graft and blackmail to secure compliance with central directives was perhaps used most extensively in Peru in the 1990s, where pervasive graft was encouraged, practiced, and extensively monitored and documented. Under President Alberto Fujimori, the National Intelligence Service (NIS) was expanded more than sevenfold (Hinton, 2001).²⁵ The expanded surveillance apparatus amassed an archive of over twenty-five hundred video tapes documenting the illicit “second salaries” paid to the leadership of the parliament, the army, the judiciary, and other state institutions. Graft served as an informal inducement to loyalty and compliance, and the documentation of it by the surveillance apparatus was used for blackmail and political control rather than law enforcement. The incriminating materials were released only when the regime was overthrown and its leaders fled the country.

Critically, in all of these cases, the reward of informal graft payments and the incurred threat of potential exposure and arrest combined to enhance rather than undermine the formal hierarchy of command.

Conclusions

This article has examined the extent to which practices such as bribery and embezzlement, which scholars have previously assumed to be evidence of the breakdown of state authority, can, particularly in states with extensive surveillance capacity, serve to enhance the capacity of state leaders to secure compliance with their directives. I have argued that the permission to engage in graft may serve as a means through which state

leaders buy compliance from subordinate officials – i.e. an informal contract – and also provides the basis for control through systematic blackmail and the threat of selective enforcement of the law. In this respect, widespread “corruption” may not indicate the breakdown of state capacity, but instead the existence of an extensive informal state apparatus – a shadow state – that may be used to extend the effective power of state leaders beyond the limits of their legal authority. Indeed, this political basis for “corruption” may contribute to an explanation of why graft is so pervasive in countries of the post-Communist and developing world and may account for why corruption has been so difficult to eradicate in certain countries. If the pervasiveness of corrupt practices only signaled the breakdown of political authority, then political leaders would have clear incentives to overcome it, but if graft plays an important role in the informal institutions of political domination, then leaders have every incentive to sustain it.

The findings presented here suggest that an attention to the operation of informal institutions is imperative if we are to develop useful theoretical claims about the relationship between graft and governance. Existing approaches have focused entirely on governance through formal institutions, viewing deviation from those formal institutions as the breakdown of governance itself. It is because of this bias that scholars have concluded that the corrupted state is simply too weak to enforce or sustain the loyalty of its officials, so that the agents of the state serve themselves rather than their superiors and the state disintegrates into an assemblage of private actors using their offices to secure personal gain. It is precisely because of this focus on formal institutions and law that existing approaches have failed even to consider the prospect that practices we identify as

corruption are often the informal solution to a principle-agent problem rather than its breakdown.

REFERENCES

- Amnesty International. (2002). Annual Report. London, UK: Author.
<http://web.amnesty.org/web/ar2002.nsf/>
- Banfield, Edward. (1975). Corruption as a feature of government organization. *Journal of Law and Economics*, 17, 587-605
- Bardhan, Pranab. (1997). Corruption and development: a review of issues. *Journal of Economic Literature*, 35, 1320-1346.
- Becker, Gary S. & George Stigler (1974). Law enforcement, malfeasance, and the compensation of enforcers. *Journal of Legal Studies*, 3, 1-19
- Belorusskaja Gazeta*, (1999, March 15).
- Buchanan, James, M. R.D. Tollison and Gordon Tullock (eds). (1980). *Toward A Theory of the Rent-Seeking Society*. College Station: Texas A&M Press.
- Darden, Keith, A. (2001). Blackmail as a tool of state domination. *East European Constitutional Review*, 10, 67-72.
- Easter, Gerald M. (2000). *Reconstructing the State: Personal Networks and Elite Identities in Soviet Russia*. New York: Cambridge University Press.
- Fragmentsi rozmov Leonida Kuchmi iz zapisiv, zroblenikh ofitserom Mikoloiu Melnichenkom [Fragments of Leonid Kuchma's conversations from the recordings made by the officer Mikola Melnichenko]. *Radio Svoboda*. (2001). Epizod 20. Author's translation.
<http://www.radiosvoboda.org/programs/kuchma/2001/04/20010420061624.asp>
- Fragmentsi rozmov Leonida Kuchmi iz zapisiv, zroblenikh ofitserom Mikoloiu Melnichenkom [Fragments of Leonid Kuchma's conversations from the recordings made by the officer Mikola Melnichenko]. *Radio Svoboda*. (2001). Epizod 7. Author's translation.
<http://www.radiosvoboda.org/programs/kuchma/2001/04/20010402050205.asp>
- Government of Pakistan (1979). *White Paper on the Performance of the Bhutto Regime, Vol. III: Misuse of the Instruments of State Power*. Islamabad.
- Hellman, Joel, et.al. (2000). Seize the state, seize the day: State capture, corruption, and influence in transition. *World Bank Policy Research Working Paper* 2444.
- Isabel Hinton, Isabel. (2001, March 5) The government is missing. *The New Yorker*.
- Holmes, Stephen. (1997). What Russia teaches us now: How weak states threaten freedom. *The American Prospect*, 33, 30-40.

Holmes, Stephen. (1996). Cultural legacies or state collapse? Probing the post-communist dilemma. in Michael Mandelbaum (ed.), *Post-Communism: Four Perspectives*. New York: Council on Foreign Relations.

Kotkin, Stephen. (2001). *Armageddon Averted: The Soviet Collapse 1970-2000*. New York: Oxford University Press.

Kravchenko: Smirnov znav, zhto yomu tut govorili....[Kravchenko: Smirnov knew what you told him...] (2001, April 24). *Ukrainska Pravda*. Author's translation. <http://www.pravda.com.ua/?10424-8-8>

Krueger, Anne O. (1974). The political economy of a rent-seeking society. *American Economic Review*, 64, 291-303.

Kunicova, Jana, & Susan Rose-Ackerman, (2001). Electoral rules as constraints on corruption: The risks of closed-list proportional representation." Leitner Working Paper 2001-14.

Lambsdorff, J.G. (1998). The transparency international corruption perception index: 7th Edition. <http://www.uni-goettingen.de/~uwwv>.

New Tape Translation of Kuchma Allegedly Ordering Falsification of Presidential Election Returns. (2001, February 14). *KPNews*. <http://kpnews.com/main.php?arid=7458>

Nu, Surkisom oni i tak zanimayutsa....[Well, they are dealing with Surkis anyway...] (2001, April 3). *Ukrainska Pravda*. Author's translation. <http://www.pravda.com.ua/?10423-11-8>

Nye, Joseph S. (1967). Corruption and political development. *American Political Science Review*, 61, 417-427.

Ob nyogo, yak ob tryaku, nogi vitrut'... [We'll Clean our Feet with Him...] (supposedly recorded on March 29, 2000) (2001, April 13). *Ukrainska Pravda*. Author's translation. <http://www.pravda.com.ua/?10413-4-8>

Office for Democratic Institutions and Human Rights (OSCE). (2000). *Ukrainian Presidential Elections 31 October and 14 November 1999*. Warsaw: Author. http://www.osce.org/odihr/documents/reports/election_reports/ua/ukr99-1-final.pdf

Personal communication. (2002, February 19).

Persson, T. & G. Tabellini (2000). *Political Economics: Explaining Economic Policy*. Cambridge, MA: MIT Press.

- Persson, T., G. Tabellini, & F. Trebbi, (2001). "Electoral Rules and Corruption" Mimeo. <ftp://ftp.igier.uni-bocconi.it/homepages/tabellini/tp001213.pdf>.
- Philip, Mark. (1997). Defining political corruption," *Political Studies*, 45, 436-462.
- Reno, William. (1995). *Corruption and State Politics in Sierra Leone*. New York: Cambridge University Press.
- Rose-Ackerman, Susan. (1975). The economics of corruption. *Journal of Public Economics*, 4, 187-203.
- Rose-Ackerman, Susan. (1978). *Corruption: A Study of Political Economy*. New York: Academic Press.
- Rose-Ackerman, Susan. (1999). *Corruption and Government: Causes, Consequences, and Reform*. New York: Cambridge University Press.
- Scott, James C. (1969). Corruption, machine politics, and political change. *American Political Science Review*, 63, 1142-1158.
- Solnick, Steven. (1998). *Stealing the State: Control and Collapse in Soviet Institutions* Cambridge, MA: Harvard University Press.
- Solovyov, Dmitry. (2002, July 15). Kazakh opposition leader slams trial as 'revenge'. *Reuters*.
- Suddi vzagali podonki [Judges are bastards] (2001, February 1). *Ukrainska Pravda*. Author's translation. <http://www.pravda.com.ua/?1021-1-8>
- Treisman, Daniel. (2000). The causes of corruption: A cross-national study. *Journal of Public Economics*, 76, 399-457.
- Tullock, Gordon. (1987). *Autocracy*. Boston: Kluwer.
- Varese, Federico. (2001). *The Russian Mafia: Private Protection in a New Market Economy*. New York : Oxford University Press.
- The Verkhovna Rada of Ukraine. (1996.) *Constitution of Ukraine*. <http://www.rada.kiev.ua/const/conengl.htm>
- Vse svyazi evo kievskie vivertaem [We'll turn inside out all his Kiev connections] (2001, April 3). *Ukrainska Pravda*. Author's translation. <http://www.pravda.com.ua/?1043-6-8>

- Waterbury, John (1973). Endemic and planned corruption in a monarchical regime. *World Politics*, 25, 533-555.
- Way, Lucan Alan. (2000). Bureaucracy by default: budgetary politics and the post-Soviet Ukrainian state. (Doctoral Dissertation, University of California Berkeley, 2000).
- Weber, Max. (1978). *Economy and Society*. Berkeley: University of California Press.
- World Bank. (2000). *World Development Indicators*. Washington, DC.: Author.
- Yulyu nado unichtozhit' [Yulia should be destroyed]. (2001, April 14). *Ukrainska Pravda*. Author's translation. <http://www.pravda.com.ua/?10414-2-1>
- Zver'yo prosto! [Real animals!]. (2001, June 7). *Ukrainska Pravda*. Author's translation. <http://www.pravda.com.ua/?1067-1-8>

FOOTNOTES

¹ For an excellent account of the importance of informal networks in state-building, although not directly dealing with the issue of graft, see Easter (2000).

² On the concept of the “shadow state” see Reno (1995).

³ This is what Max Weber (1978) called “domination” (*herrschaft*).

⁴ For a useful discussion of the problem see Philip (1997).

⁵ The treatment of corruption as a problem of incentives for law enforcers, following the agency model presented in the seminal article by Stigler and Becker (1974), has become a dominant theme in the literature.

⁶ In particular the literature on “rent-seeking” (Krueger 1974; Buchanan et al. (eds) 1980).

⁷ The data problems with efforts to accomplish this in a large-n studies would be considerable. There are no agreed-upon measures of “state capacity” and proxy measures such as “tax collection” would obviously fail to capture the informal capacities of the state (as bribery can be viewed as an informal tax). Measures based on law enforcement are problematic given that we must rely on voluntary reporting of crime by governments using different criteria. The surveillance capacity of countries (given the secrecy of many of these organizations) would be even more difficult to measure. Measuring corruption, ironically, appears to be the least problematic. Even though surveys such as TI’s Corruption Perception Index which are likely to be non-standardized across countries, Treisman makes a strong case that the correlation between the perception indices are remarkably high (although this may indicate simply that the same set of factors influence people’s perceptions of the level of corruption in a country rather than the ‘objective’ accuracy of those perceptions) (Treisman 2000, pp. 400-401).

⁸ Stephen Holmes has put forward the most persuasive and influential articulation of this position (see Holmes 1996, 1997).

⁹ The audio files are available at <http://www.wcfia.harvard.edu/melnychenko>.

¹⁰ *Constitution of Ukraine*. (1996). Article 106, sec 10; Article 118.

¹¹ Article 106, sections 5, 9, 10, 11, 17.

¹² Article 106, section 14.

¹³ Article 106, section 31, part 2.

¹⁴ Note, for example, the conversation recorded between Kuchma and Derkach regarding Surkis' foreign accounts ("Vse svyazi evo kievskie vivertaem [We'll turn inside out all his Kiev connections]," (supposedly recorded on 3 October 2000), 2001).

¹⁵ Timoshenko was dismissed and then arrested on corruption charges in Spring of 1999.

¹⁶ This was obviously an important element of political control in Soviet times as well. There is evidence that the KGB had a similar practice of collecting compromising materials without acting on them, but using them as a means for intimidating the population into compliance. Mark Kramer, the Director of the Cold War Studies Project at Harvard University, informs me that the KGB archives in Lithuania were full of reports on illegal activities that were never acted upon by the authorities.

¹⁷ Kuchma making phone call to Derkach.

¹⁸ These resources were then used for, among other things, financing Kuchma's reelection in 1999.

¹⁹ Kuchma actually uses this expression in talking about Timoshenko. In several of the recordings, Azarov and Derkach report to Kuchma on individuals who have taken more than their share or who have taken resources without permission. See the discussion of Feldman and Shuba in "Yulyu nado unichtozhit' [Yulia should be destroyed]," 24 March 2000 conversation between Kuchma and Azarov.

²⁰ For a history and description of the "thieves-in-law" (*vory v zakone*), see Varese (2001).

²¹ The recordings reveal that Kuchma vigilantly monitored even the local press in every region of the country for opposition. At several points there is discussion of Kravchenko using a special unit "with no morals" to "muffle" these opposition channels. A television station that Kuchma demands to be shut down was in fact temporarily shut down during the campaign.

²² The embezzlement charge stemmed from unpaid loans allocated when Chigir was the Chairman of the Board of a state-owned bank in 1994, prior to being named as Prime Minister. Chigir affirmed that the whole "loan repayment" campaign was started by Lukashenko with the single purpose to eliminate him as a political opponent (*Belorusskaja Gazeta*, 1999, March 15). Note that the presidential elections in this case were unofficial and organized by the opposition.

²³ Zhakiyanov argued that he angered Nazarbaev, his former patron, by taking up opposition politics in the previous year (Solovyov, 2002).

²⁴ Amnesty International classifies Kulov as a "political prisoner" and states that the charges were clearly politically motivated (Amnesty International Report, 2002).

²⁵ From 300 to 2300 employees.