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Field Report

Informal Institutions in Hybrid Regimes: the Case of Ukraine

As my course is primarily focused on Ukraine's regime dynamics since independence, I will first situate Ukraine in the current literature on hybrid regimes, then I will turn to the debate on informal institutions and, finally, I will contextualize Ukraine's regime transformation in light of current debates.

Hybrid Regimes

The so-called "third wave" of democratization took place between the mid-seventies and early nineties across Latin American and Eastern Europe. Yet, the third wave did not produce as many democratic regimes as was expected by both theorists and policy makers. Since then, the entire "transition paradigm" has been seriously questioned. Though the term "hybrid" has been around for almost a decade¹, it was only after the T. Carothers claim² that hybrid regimes emerged as a distinct regime type and then a field in comparative politics³. It was observed that such regimes exist in virtually every part of the world. A growing number of studies suggest that these hybrid regimes are not transitional but instead display remarkable stability. Thus, although the end of the Cold War and collapse of the Soviet Union triggered a wave of democratization, it also triggered a wave of hybridization. The fourth wave was as much hybrid as it was democratic⁴.

In this section, I present the theoretical and empirical literature on hybrid regimes. This is not to say, however, that these are two separate areas of research. For the purpose of this review, I discuss these two areas separately in order to emphasize the major issues with each.

On the theoretical level, the primary question is how to develop the concept, extract its attributes and, consequently, build a typology that would clearly separate hybrid regimes from consolidated autocracy and democracy⁵. The problem is complicated by the fact that there is no universal concept of democracy that would serve as a starting point for both theoretical and empirical studies. On the one hand, there is the minimalist definition, which presupposes that democracy encompasses a range of civil liberties such as freedom of organization, freedom of speech, and freedom of information in addition to free, fair, and inclusive elections. On the other hand, there is the maximalist definition that, in addition to the characteristics just listed, includes the absence of veto players not legitimized by democratic procedures, horizontal accountability, and the rule of law. Though the two definitions are conceptually different, they have two commonalities that prevent scholars from separating democracy from autocracy, and both of these concepts from the concept of

¹ On initial research hybrid regimes, see Karl (1995), Collier and Levitsky (1997), Diamond (2002)

² Carothers (2002) observed that most of the post-soviet regimes do not democratize.

³ On more recent discussion on hybrid regimes see, Schedler (2002, 2006), Ottaway (2003), Howard and Roessler (2006)

⁴ The term "fourth wave" was introduced by McFaul (2002)

⁵ See M.Wigell (2008), M.Bogaards (2009) J.Ekman (2009) and critics in L.Morlino (2009)

hybrid regime. As Christian Göbel observed, “first, they are made up of several criteria, and all of the criteria are necessary elements of a democracy; and second, more problematically, most of these indicators relate to phenomena that are not either/or conditions but matters of degree”⁶. In attempting to solve this conceptual problem scholars split into three groups: those who viewed hybrid regimes as a diminished form of democracy⁷, those who see them as incomplete authoritarianism⁸ and those who consider them a distinct regime type⁹. Each of these groups has made some progress in conceptualizing regimes situating in between autocracy and democracy or the “grey zone” phenomenon.

Thus the meaning of hybridity has undergone at least two transformations. First, it has been established that hybrid regimes are not moving only in a democratic direction but follow diverse trajectories in the post Cold-war era¹⁰. Second, there has been an attempt to narrow the concept from a broad, mixed notion of a regime that combines some democratic and some autocratic elements to a distinct type of regime that holds competitive elections but possesses some autocratic elements. The precise definition however, is still not agreed upon.

Which autocratic elements constitute a hybrid regime? Some scholars contend that it is just one element: clientelism¹¹. Others claim that there more elements, ranging from five (civil rule, polyarchy, rule of law, civilizedness, and political exclusion/inclusion)¹² to six (significant levels of corruption, lack of democratic quality, a problematic press freedom situation, a poor civil liberties situation, and lack of the rule of law)¹³ to seven (rule of law, electoral process, functioning of government, political pluralism and participation, freedom of expression and beliefs, freedom of association and organization, and personal autonomy and individual freedom)¹⁴. Still others do not identify the elements of hybridity, but conceive it as “alternative system” of governance.¹⁵ While still others hold that it is “...incumbent abuse of the state (that) violates at least one of three defining attributes of democracy: 1) free elections, 2) broad protection of civil liberties, and 3) reasonably level playing field”¹⁶. These last three elements are attributed to only one specific type of hybrid regime, called *competitive authoritarianism*. Alongside with the idea of *electoral authoritarianism*¹⁷, the former has been the most developed concept in recent scholarship on hybrid regimes. As the above discussion shows, the problem of attributes and typology is yet to be resolved.

The second group of scholars frame hybrid regimes as incomplete authoritarianism. These studies are less concerned with the conceptual issues, focusing instead on the dynamics of hybrid regimes. The major theoretical question, shared by virtually all scholars in this group, is why some regimes democratize, while others do not. A related empirical question is which hybrid regimes democratize, which fail to democratize and which remain

⁶ Göbel, Ch.(2010)

⁷ See, for example W. Merkel (2004)

⁸ See, for example, works by Schedler (2002, 2006) and Levitsky and Way (2010)

⁹ See discussion on hybrid regimes in L. Morlino (2009)

¹⁰ Mc Faul (2002), Carothers(2002), Levitsky and Way (2010)

¹¹ See Hale (forthcoming)

¹² Zinecker (2009)

¹³ Ekman (2009)

¹⁴ Morlino (2009)

¹⁵ Ottaway (2003)

¹⁶ Levistky and Way (2010, p.7)

¹⁷ Schedler (2006)

stable hybrid. Among dozens of studies written in this field, three works deserve special attention: Schedler's (2006) edited volume on electoral authoritarianism, Levitsky and Way's (2010) study on competitive authoritarianism, and Hale's forthcoming research on the dynamics of the hybrid regimes in post-communist Eurasia¹⁸.

All three studies share a similar normative view of hybrid regimes, placing them closer to the authoritarian end of the spectrum than to democratic one, and all are interested in the dynamics of regimes. However, each study approaches regime dynamics from a different theoretical perspective. While Schedler and colleagues look at the agents of authoritarian elections, Levitsky and Way are more interested in structural factors, namely linkages to the West, incumbents' organizational power and states' vulnerability to democratizing pressure. Hale's analysis starts with an ambitious claim to "replace the theory of ideal with the theory of real"¹⁹. By focusing on the "real" he means to develop a tool capable of explaining the empirical reality of Eurasian polities. This tool is his concept of *patronal presidentialism*, which Hale uses to analyze 39 countries. Instead of taking a linear "to and from democracy" approach, Hale suggests a cyclical vision for explaining the internal dynamics of these regimes. From this perspective, what we observed in the so-called "Color Revolutions," for example, was not a regime change, but normal dynamics of patronal presidentialism. By analyzing the real empirical cases, Hale tries to unpack the informal politics that function through patronal networks. Yet, Hale's ambition falls short of providing a real reconstruction. The task is by all means commendable, but it can hardly be completed by a single Western scholar. Having no access to the data on regional and local "power verticals" Hale was only able to reconstruct networks on the central levels, which makes the study of patronal networks incomplete. While post-Soviet intellectuals often lack theoretical and methodological clarity in analyzing their societies, Western academics suffer from misunderstanding of local cultures.

Still, taken together, these works represent a new attempt to explain the real dynamics of hybrid regimes instead of focusing on purely conceptual issues. Understanding that hybridity is not just a mixture of competitive elections with autocratic practices, these studies attempt to take into consideration informal institutions that dominate the political process.

Informal Institutions

As Hale suggests, one key feature of hybrid regimes is the prevalence of informal institutions²⁰ over formal institutions. The initial question of the interplay between formal and informal institutions in façade democracies²¹ has been gradually reformulated into one, which asks why informal institutions often subvert formal institutions in hybrid regimes²². In other words why elites do not "play by the rules" but play "with the rules."

The range of informal institutions is as broad as their functions. Among adaptive, accommodative, substitutive and conflictive informal institutions, most attention, however, have been given to "subversive" institutions, or those unwritten rules of conduct which

¹⁸ Hale, H. (forthcoming)

¹⁹ Hale (forthcoming, -P.8)

²⁰ Informal institutions, as defined by G.Helmke and S.Levitsky (2004) are socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels.

²¹ See Mayer G. (2008) Merkel W. Croissant A. (2000)

²² Гельман В. (2010)

circumscribe the actors' (elites and business interests) behavior in pursuing private gains. These include the president's extra-constitutional nomination to public and administrative positions, clientalism and patronage, unofficial deals between political actors ranging from electoral strategies to constitutional agreements, and state capture.

In recent years, there have been several major contributions to these questions. One notable example is Gerd Mayer's (2008) edited volume on informal politics in Central and Eastern Europe²³. Focusing on two processes – personalization of politics and the building of democratic legitimacy – the authors examine four cases: Hungary, Poland, Russia and Ukraine. Ukraine is categorized as neo-patrimonial state. In a discussion of the interplay between formal and informal rules in Ukraine, Kerstin Zimmer asserts that formal rules are purposefully designed in such a way that informal, clientelistic practices must be used in order to make the system functional²⁴. This thesis is exemplified in the relationship between central state and the regional and local administrations. Other scholars have also expressed an interest in Ukraine's meso-level politics in comparison with other countries²⁵.

Clientelism is the most studied example of informal subversive practices²⁶. In the Ukrainian context, however, it has not been studied systematically. Instead research focuses on clientelistic relations in such spheres as elections²⁷, regional politics²⁸ or corruption²⁹.

Putting Ukraine in Context

My project seeks to contribute to the question of endurance of hybrid regimes by focusing on informal institutions (primarily clientelistic networks and informal deals among elites) as they operate in the Ukrainian context. Ukraine is a spectacular example of a hybrid regime, where formal institutions (state and constitution) are weak, and informal ones are quite strong. The dominance of informal over formal institutions in Ukraine makes it an excellent case for analyzing the country's transition in a comparative context.

Ukraine's case is quite interesting in at least two other respects. First, the context of political change in Ukraine considerably differs not only from the countries of East-Central Europe, but also from most of the post-Soviet states³⁰. The legacy of Soviet rule, and the problems of market economy formation and state and nation building, are much deeper here than in the countries of East-Central Europe. Secondly, while the transition period in Baltic and most Eastern European countries has finished, the major theoretical question is whether Ukraine will eventually become a liberal democracy, remain a "hybrid regime," or backslide to full authoritarianism.

Beginning with T. Carothers's "The Gray Zone"³¹ metaphor, there have been several

²³ Mayer G. (2008)

²⁴ Zimmer K. (2008)

²⁵ Matsuzato (2005)

²⁶ On recent research on clientelism see, Kitchelt H., Wilkinson S. (2007); Helmke and Levitsky (2006)

²⁷ Birch, S. (1997)

²⁸ Matsuzato (2001, 2002)

²⁹ Darden K. (2002)

³⁰ See the works of B. Harasymiw (2002), P. D'Anieri (2006), T. Kuzio (2008).

³¹ Carothers T. (2002)

concepts ranging from “Competitive Authoritarianism”³² and “Patronal Presidentialism”³³ to “The Institutional Trap”³⁴ and “Immobile State”³⁵ to describe the dynamics of hybrid regimes. While the former models are insightful accounts of the mechanism of reproduction and functional deficiency of hybrid regimes, they do not explain the dominance of informal over formal institutions in Ukraine. Or in other words, the endurance of a hybrid regime for almost twenty years. The concept of the institutional trap as applied to Russia seems to better address the question of why Ukraine is an immobile state and its transition is so muddled.

As I am focusing on the interplay of formal and informal institutions in Ukraine and trying to assess the role of clientelism in shaping actors behavior, I would like to incorporate the contribution of neo-institutionalism into the study of Ukraine’s transition. I am trying to reconstruct the clientelistic networks under Kuchma, Yushchenko and Yanukovich at the central, regional and, possibly, local levels and explain why Kuchma was not able to consolidate his power, why Ukraine has not succeeded in democratization under Yushchenko, and why the regime has become quasi-authoritarian under Yanukovich.

Instances of political actions that go beyond the officially sanctioned channels are assumed to be circumscribed by informal rules. These rules are part of the empirical base of my research. However, uncovering them is not an easy thing, which creates a methodological problem I hope to address. In practical terms, this type of research involves description and interpretation of any political decision intended to obtain something other than public gains. The most visible instances are the excessive use of authority by major political players, or “Rule by Law,” building and sustaining clientelistic and patronal networks, the use of “administrative resource,” nepotism, blackmail and political corruption.

Objectives:

My primary intent in participating in this workshop was to develop a syllabus on Ukraine’s transition in a comparative perspective. Now I would like to offer a new course in which I integrate my own research on the dynamics of Ukraine’s regime since independence with the latest theoretical and empirical studies of post-communist transformation. Intensive communication with a team of local scholars put me in a better position with regard to teaching, methodology, and content, which I have already shared with colleagues and students at my home university.

The secondary objective was more research oriented. By discussing my initial model of Ukraine’s regime transformation with local scholars at Berkeley and Stanford, I had a chance to broaden my theoretical foundations and refine basic concepts and variables.

Not less important to me was to meet local faculty who are doing research and/or teaching at Berkeley and Stanford. This gave me an opportunity to broaden my professional contacts on a personal and institutional level. After presenting a course to the Ukrainian students I would like to apply for a teaching and research fellowship at one of the overseas universities with a good school of Ukrainian or Eastern European Studies, where I could complete my habilitation research, while teaching a course on Ukraine’s transition.

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³³ Hale H. (2005)

³⁴ Gelman V., (2011)

³⁵ Kuzio T., (2011)

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