

Organized Crime and Corruption in Ukraine: Impediments to the Development of a Free Market Economy

LOUISE I. SHELLEY

Organized crime and endemic corruption threaten the stability of Ukraine and undermine its transition to a market economy. The indigenous crime problem of Ukraine is significant, but the problems are exacerbated by the criminalization of the Russian state and most of the successor states of the former USSR. Criminal links operate across the former USSR, and the proximity of Ukraine to both Western Europe and the Caucasus makes those countries important transit points for diverse criminal activity. The concomitant problems of organized crime and corruption deter both foreign and domestic investment and exacerbate the problems of capital flight.

Ukraine's very independence is threatened by its inability to satisfy its citizens' financial needs, a problem severely exacerbated by the endemic corruption and the hijacking of the privatization process by former members of the nomenklatura (party elite). Nationalism, a potent force for state construction in Ukraine, cannot alone counteract the corrosive impacts of crony capitalism and organized crime.

At the end of the Soviet period, Ukraine was left without the institutional capacity to address organized crime. Most of the expertise and the institutions to deal with the problem remained in Russia, which inherited the centralized institutions of the Soviet state. Ukraine had to create its own legal norms and institutions while addressing this unfortunate legacy of the Soviet era. In the early years of newly independent Ukraine, organized crime and corruption grew unimpeded by laws or personnel capable of addressing them. At the end of the 1990s, with further privatization anticipated, Ukrainian development may flounder without appropriate legal safeguards and the adoption of legal norms. Resources may continue to flow to the elite as a result of high-level corruption, leaving the mass of the citizenry impoverished and without faith in the Ukrainian state.

Louise I. Shelley is director of the Center for the Study of Transnational Organized Crime and Corruption, American University.

The Costs of Organized Crime and Corruption

Organized crime is such a serious problem in Ukraine because the citizens perceive that they have been robbed of the assets that they were to have inherited from the Soviet state. Recent World Bank surveys of citizen perception of governmental integrity reveal that citizens have little faith in state institutions. Citizens surveyed in Ukraine reveal that their trust in governmental institutions is lower than in any other region of the world surveyed. Ukrainians believe that their country has a more severe problem with corruption than Russia and other successor states.¹ Recent research of the World Bank supports this view. The percentage of firms in Ukraine in 1998 reporting high bureaucratic corruption was the greatest of any country surveyed, greater even than in notoriously corrupt Indonesia. Furthermore, Ukraine's situation in regard to corruption had declined dramatically in the past five years, more significantly than in other countries surveyed in Asia and other parts of the world. Ukraine's level of corruption surpasses that of Russia.²

This widespread corruption contributes to weakness of the rule of law and undermines the predictability of the judicial process.³ The corruption undermines the certainty of business transactions making businesses vulnerable to exploitation by organized criminals. It also severely inhibits the foreign investment that Ukraine so greatly needs to repair its depleted infrastructure.

The hijacking of the privatization process by organized crime and corrupt officials has resulted in a highly polarized society. Instead of an emergent middle class, Ukraine now has a small, extremely rich, new elite and a large, impoverished population. This is particularly problematic in a former socialist society where citizens were educated in an ideology committed to social equality. Although economic inequality existed in the Soviet period, it was more hidden from view than that of the new elite who flaunt their wealth both domestically and overseas.

The political costs of organized crime for Ukraine are staggering. The pervasive corruption and the penetration of organized crime into the political process are inhibiting the development of new laws needed to develop a democratic free market economy. Citizens have lost faith in the integrity and capacity of the legal process, which has proved incapable of solving even the most blatant of contract killings. Only 7 percent of Ukrainians believe that the government is doing a good job in fighting organized crime, whereas 87 percent believe the contrary.⁴

The highly corrupted tax authority and the links of personnel to organized crime deprive the state of needed revenues. Lacking resources because of their failure to collect taxes and the heavy revenue losses through illicit and insider privatization, Ukraine is unable to deliver on its obligations to its citizens—payment of wages, benefits, and provision of health care.

Whither Crime and Corruption?

The endemic corruption and shadow economy of the Soviet period are being transformed into the contemporary problems of organized crime and corruption.⁵ Their metamorphosis is shaped by a multiplicity of political, economic, geographic, and cultural factors, the overarching legacy of the Soviet period, and the years of post-Soviet transition. The diversity of contemporary organized crime in Ukraine is also

explained by contacts with international crime groups and traditional factors contributing to the rise of organized crime, such as strategic ports, the presence of significant ethnic minorities, violent conflicts, and long-standing trade routes.⁶

The conventional wisdom is that organized crime in post-Soviet states such as Ukraine is a transitional phenomenon responding to the absence of legal norms in a period of profound property redistribution.⁷ Organized crime fills the void left by the collapse of Soviet power and the weakness of the successor states. According to this perspective, organized crime will become much less threatening when legal norms are adopted to accommodate the market economy.

In this article, I challenge that view, suggesting that the legacy of the Soviet period and the deliberate policy decisions of the Ukrainian government have been important determinants of their current crime problems. Ukraine has failed to adopt the needed legal infrastructure to combat organized crime and corruption. Only 8 percent of the citizens surveyed believe that Ukraine is making good progress toward achieving the rule of law.⁸ Recent survey research indicates that the absence of institutions that respect the rule of law is a key factor associated with corruption.⁹

Organized crime in Ukraine is a highly differentiated phenomenon. Significant regional variations are found within the Ukraine, explained by geography, political structure, and historical legacy. The port city of Odessa, known for its pre-revolutionary organized crime, remains a vibrant organized crime center with over 6,000 participants.¹⁰ The criminals' links to Brighton Beach in New York are well documented in investigative reports of American law enforcement.¹¹ Many of the crime groups also participate in transnational criminal activity. The porousness of Ukraine's borders has made it a transit point for drugs from "Southwest Asia (Iran and Afghanistan) and Central Asia (Kyrgyzstan and Tajikistan) and in the Caucasus (Chechnya, Georgia, and Azerbaijan) destined for Eastern Europe (mainly Hungary) and Western Europe: hashish, opium, poppy straw and heroin."¹²

Donetsk and Dnipropetrovsk, traditional seats of Communist Party power, have crime more linked to the old nomenklatura structures and the contract killings associated with the distribution of state resources.¹³ Crime in Kyiv is more closely tied to construction, real estate, banking, and crimes dependent on international air links.

The current diversification and flexibility of post-Soviet crime groups operating across all the successor states and the pervasiveness of corruption suggest that the phenomenon will not rapidly disappear when the initial transition period is over. Ukrainian criminals' active contacts with their international partners will contribute to a growth and increasing sophistication of their organized crime. This will be true both of more conventional organized crime activity such as trafficking in women and the more sophisticated financial activities connected to large-scale money laundering overseas. Contacts with international crime groups will contribute to further diversification of criminal activity in Ukraine as domestic crime groups learn from their foreign associates.

Ukraine cannot separate its crime problems from those of the Baltics, Russia, or nearby states. Many criminals and their organizations have adapted to their

countries and will develop in tandem with the successor states. Control of Ukraine's domestic crime problem is only partly within its control.

The Sources of the Problem: The Soviet Legacy

The Soviet legacy may be one of the most important factors explaining the present distribution of organized crime in Ukraine. The legacy is much more complex than an entrenched shadow economy or an authoritarian tradition without respect for the rule of law. Deliberate social policies to control internal immigration, the failure to integrate ethnic groups into national leadership, the development of a large social control apparatus and conscious governmental decisions of the final years of the Soviet period all contributed to present-day crime patterns.

The Shadow Economy

The largest element of the Soviet legacy is that of corruption and underground economy.¹⁴ The shadow economy has not diminished since 1991 but is now estimated at over 50 percent of the economy.¹⁵ During the Soviet period, members of the shadow economy who operated throughout the entire USSR routinely bribed government officials in order to sell produce, and law enforcement officials were paid to look the other way or to halt prosecutions.

There has not been lustration or the removal of former government officials in Ukraine. Therefore, the same government officials and the legacy of corruption endure. These government officials enjoy an even more economically privileged position today, because as property is redistributed without conflict of interest laws or laws to stem corruption, key officials in the national and regional bureaucracies benefit enormously.¹⁶

Many large Soviet cities had relatively low rates of street crime,¹⁷ but large cities were magnets for the generally unprosecuted shadow economy. Their citizens could afford expensive items, and their officials benefited from pay-offs. For this reason, the crime problems are particularly acute in Kyiv, Donetsk, and Dnipropetrovsk.

Criminals who were incarcerated for economic offenses during the Soviet period have reemerged as some of the key players in the corruption of the privatizing economy today. As will be discussed, the economic offenders of the Soviet era are the go-betweens in large scale transactions with foreign partners today.

The Security Apparatus

Past and present members of the security police play an important role in organized crime activities of many of the successor states, including Ukraine. With their international ties and knowledge of banking and of the capitalist world, they are better equipped than many former Soviet citizens to participate in complex illicit activities.¹⁸ The prevalence of former security personnel in many commercial ventures facilitates their activities.¹⁹

In Ukraine, the long-developed KGB skills of operating covertly and handling large illicit transactions have been exploited by the emergent banking sector. Former KGB personnel are visible in key positions in major banks in Ukraine.

The Final Soviet Period

Many analysts suggest that organized crime emerged almost spontaneously from the collapse of the former USSR. This fails to acknowledge the distinct contribution to the current organized crime problem of concrete measures taken in the final years of the Soviet period.

The anti-alcohol campaign, initiated the month Gorbachev assumed office, contributed to a rise in organized crime activity, particularly in Slavic regions with especially high levels of alcohol consumption. In Ukraine, prohibition facilitated the professionalization of bootlegging and the transfer of significant revenues to organized criminals.²⁰ Prohibition also diminished respect for the law in the region.

The violent suppression of ethnic conflict in regions around Ukraine contributed to organized crime activity before the collapse of the Soviet Union and was sustained after the countries became independent. The violent measures used in Azerbaijan and Georgia, the unresolved conflict in Nagorno-Karabagh and in Moldova fomented ethnic tensions and created a ready market for arms.

The large and demobilizing military, with access to the resources and weapons of the Soviet military, has contributed to the violence of organized crime. Demobilizing military personnel have been linked to organized crime activity in East Germany and Ukraine. Military personnel are implicated in high-level arms smuggling and the privatization of military equipment to themselves.

Organized Crime and Corruption: Beyond Mafia Rackets

The concept of “mafia,” widely used to describe rackets, the most pervasive element of low-level organized crime, is not the most disturbing element of the crime problem. The criminal-political nexus—the alliance of the former party elite, members of the law enforcement and security apparatuses, and the gangs of organized criminals who together penetrate the licit and illicit sectors—is the most pernicious element of the crime phenomenon in Ukraine.

Criminalization of the banking sector and the exploitation of the privatization process have been major impediments to the development of a free market and an equitable distribution of property. The extent of these problems distinguishes organized crime and corruption in the successor states from those of other countries with serious crime problems. Organized crime associated with banking and financial markets is more destabilizing than the more conventional elements of organized crime activity such as extortion, prostitution, and gambling rackets.

Corruption and organized crime cannot easily be differentiated. Much of the crime committed combines access to information or goods held by government officials backed up by the use or threat of force by crime groups. Privatization has not proceeded as far or as rapidly as in Russia, but the insider privatization and appropriation of state resources by former party officials and the criminal elite is commonplace in Ukraine.

Privatization

After the collapse of the USSR, a most notable process of spontaneous privatization occurred. Managers privatized firms to themselves, depriving workers of their

shares in the businesses. Often the managerial privatization was a prelude to the liquidation of the assets of the firm, depriving the workers of possibilities for future employment. Managers gutted their enterprises because they did not associate their personal interests with the long-term interests of their enterprise. Many did not have the managerial capacity to compete in a competitive environment. They sought immediate profits because they could not make their businesses prosper. Stripping of assets from banks and enterprises became standard practice.

Privatization has allowed the enrichment of the nomenklatura of the Soviet era, who have moved from being directors of enterprises to owners of enterprises they once controlled. In Ukraine, Pavlo Lazarenko reportedly makes tens of millions of dollars annually through his company's license to import natural gas and oil.²¹ Officials aid their long-term associates from the shadow economy with whom they are inextricably linked in complex financial relationships. Privatization does not simply mean that individuals acquire goods in an orderly distribution of state property. The criminal-political nexus is central to the manner in which property is redistributed.

Ukraine has faced this problem most acutely in former centers of party power in Donetsk and Dnipropetrovsk where conflicts over the redistribution of property have led to numerous contract killings.²² The impunity of the killers has contributed to a sense of frustration among the citizenry and made the new propertied class feel extremely vulnerable as numerous bankers and businessmen have been killed.

Official privatization of the economy of Ukraine has proceeded more slowly than in Russia. But government officials and crime groups have appropriated significant state resources. The illicit privatization has occurred in mineral rich regions of Ukraine, at military bases, at factories, and in cities with valuable real estate.²³ Trade union resources are thought to have been appropriated in Donetsk and the Black Sea Fleet has been the subject of tremendous scandals.²⁴ Much of this appropriation has occurred among individuals emanating from Dnipropetrovsk, a city that has contributed significantly to the present political leadership of Ukraine.²⁵ The enriched nomenklatura often export their ill-gotten gains overseas. Blatant legal violations by the Ukraine State Property Fund were detected. Symbolic sums were paid for valuable state property, and the funds gained from the sales were misused.²⁶ This unfortunate phenomenon is not unique to Ukraine; it has been observed in other Soviet successor states. In all of these countries, the impact is devastating.

In Ukraine, major conflicts have occurred over acquisition of shares in the gas and metallurgy monopolies. The late deputy Yevhen Shcherban's killing in November 1996 is tied to the conflict among Donetsk, Dnipropetrovsk, and Moscow groups for parts of these privatizing enterprises.²⁷ Shcherban, the parliamentary deputy and one of the richest men in Ukraine, in association with Donetsk Governor Volodymyr Shcherban, had made the region's industrial sector one of the most privatized in Ukraine.²⁸ It is these lucrative state resources and franchises that have been most abused in the privatization process.

Organized crime is particularly evident in the privatization of valuable commercial and residential real estate in desirable cities such as Kyiv. Real estate

agencies, notary offices, and passport registration services are implicated. Members of organized crime have forced individuals to change their names and sell apartments at below market prices. In other cases, organized crime members buy information from government offices on aged or handicapped apartment dwellers who can easily be intimidated and evicted from their apartments.

Banking and Financial Markets

The criminal-political nexus is strongest in the banking sector in both Russia and Ukraine. Despite Ukrainian independence, the dominance of Russian banking interests in the region means that the corruption in Russia cannot be isolated from the Ukrainian situation. Rather, it merely compounds existing problems.

State funds flow through banks enriching the bankers and the crime groups that control or extort money from the banks. The criminalized banking sector provides many opportunities for money laundering by both domestic organized crime groups and foreign groups that choose to move their money through banks in Ukraine. The large number of casinos and exchange bureaus facilitates large-scale money laundering by drug traffickers and both domestic and foreign crime groups.

The lack of regulations in the financial markets leaves them wide open to abuse by crime groups. Records of exchange booths in Ukraine are limited, and those exchanging money have to provide limited documentation or identification for the transaction. The lack of centralized processing of this information facilitates large-scale money laundering. Lack of access by law enforcement investigators to bank records means they cannot conduct appropriate investigations.²⁹ Even if granted this access, few Ukrainian law enforcers have the background to permit adequate investigations of complex financial crimes.

Inspection of the banking sector in major Ukrainian cities by the office of the attorney general disclosed numerous violations in the credit sphere and in the work of banking officials. Even more disturbing was the absence of the necessary response by the Ukraine National Bank.³⁰

Banks in Ukraine are an important source of information for criminal groups on the profitability and assets of certain businesses. Because of the porousness of information in the banking sector, individuals are afraid to keep large sums of money in financial institutions. Employees of banks will sell or provide information to organized crime groups, which then use the information to extort money from businesses. Information concerning clients' bank accounts can also be sold by criminals to the tax police, who then use the information to their advantage. Crime groups use their ties with tax authorities to extort money from businesses that find it more advantageous to pay the crime groups rather than the exorbitant tax rates. Tax officials, paid off by crime figures, also share information they have with crime groups, which then extort money from businesses.

The problems in the banking sector exacerbate the problems of capital flight. They not only facilitate the departure of illicit capital, but the lack of security of the banking industry means that major institutions and investors do not choose to keep their money in domestic financial institutions.

In Russia, capital flight, at least partially explained by the criminal-political nexus, is estimated at between \$50 billion and \$150 billion since 1991.³¹ In Ukraine, capital flight, attributable in part to the growth of corruption and organized crime, is estimated by one top Ukrainian specialist to be \$15 billion to \$20 billion since 1992.³² Although the Ukrainian figure is substantially below that for Russia, it represents a similar share of national exports on a proportional basis.³³ Much of the capital flight is attributable to the criminal-political nexus exploiting the licensing process for the export of raw materials.

Foreign Investment

Corruption and insider privatization have contributed to the departure of major multinational corporations from Ukraine. In spring 1997, American companies planning to invest nearly \$1 billion in Ukraine withdrew, asserting that they could not function in the corrupt environment. The situation is jeopardizing extensive American aid to Ukraine. Ukraine, presently the third-largest U.S. aid recipient, needs both financial investment and aid to be a viable country.

The criminal-political nexus is affecting foreign investment. Publicly traded companies in the United States have an obligation to disclose notable problems with their partners, particularly when they have a role in management. Western companies trying to enter the Ukrainian market are discovering that they must often turn to local partners with close ties to the government whose own histories are often sullied. A recent example is the alliance between Ronald Lauder, a former United States ambassador, and Vadim Rabinovitch, who was imprisoned for economic crime for nine years during the Soviet period. The deal concerns Ambassador Lauder's Central European Media Enterprises, which used Rabinovitch to establish ties with a Ukrainian studio. A license was issued for the deal despite the interest of other companies in bidding and an existing moratorium issued by parliament.³⁴

Motorola in 1997 announced its plans to withdraw from Ukraine, canceling a planned investment of \$500 million. The Motorola announcement followed the Ukrainian government decision to award a license for mobile phones to Kyiv Star, whose owners include an adviser to President Leonid Kuchma, a Cabinet minister, and a Ukrainian with links to organized crime.³⁵

Hearings before the American Congress in April 1997 revealed that these were not isolated incidents. As one foreign investor in telecommunications commented, "Some of us have reason to be very concerned about our safety in Ukraine. As a result of Ukraine's treatment of foreign investors, the nation's total foreign investment after nearly six years of independence is a paltry \$1.4 billion—in a country with 52 million citizens that is the largest country in Europe after Russia."³⁶

Tax Collection

The close ties between the crime groups and tax authorities impede tax collection. Crime groups use their ties with tax authorities to extort money from businesses, which find it more advantageous to pay the crime groups than the exorbitant tax rates.

The issuance of export and import licenses with favorable tax treatment to government officials and their favored associates is one of the mostly costly elements of political corruption. Money that should be collected as duty on oil and gas imports or other desired commodities is waived, permitting officials to amass fortunes.

Collection of customs duties is also not possible because crime groups have appropriated the functions of the state. Cargo is not submitted to customs officials for inspection but is instead diverted to warehouses and other facilities controlled by organized crime. Only one out of every three vans arriving from Turkey goes through customs in Ukrainian ports.³⁷ Through these tax avoidance schemes, Ukraine is deprived of the revenues needed to meet state responsibilities to the citizenry.

Impeding the collection of taxes is the enormous shadow economy that exists in Ukraine. The majority of economic activity remains unreported. President Kuchma in 1997 reported that the shadow economy had grown from 35 to 40 percent of the economy to 52 to 55 percent. A noted economist placed the figure as high as 60 percent of the total. Inconsistent and burdensome taxation is frequently cited as the cause for nonpayment.³⁸ Exacerbating the problem is that few citizens want to support what they perceive as a corrupt government.

The pervasiveness of the shadow economy is deleterious for the regulation of the economy and tax collection. Moreover, a large shadow economy promotes organized crime by facilitating money laundering and the commingling of legitimate and illegitimate businesses.

Organized Crime and Transportation Links

The geographic location of Ukraine explains much about the character of its crime. With its location on the Black Sea, Ukraine is a natural link to Asia. Its strategic location explains why it has become such an important transit country for the smuggling of drugs, arms, automobiles, and increasingly, human beings between Asia and Europe. Ukraine's ports are recipients of much illicit cargo.

The ports of the Black Sea, and in particular the Crimea, are areas especially prone to criminalization. The infamous "Godfather" Viktor Kulivar operated out of Odessa until he was killed in spring 1997. He was involved with numerous illegal activities connected with the Black Sea Fleet.³⁹ The increasingly prominent "shuttle" trade (individuals who travel abroad and bring back large quantities of low-cost goods) between Turkey and Ukraine is highly criminalized and compounds the problem of crime in Ukrainian ports.

The transport of nuclear materials across borders is of particular concern. Although no weapons-grade material has been detected in seizures, nuclear materials from civilian reactors such as Chernobyl have been detected by law enforcement personnel in Russia.

Illicit trafficking in human beings is increasingly commonplace and is a very severe problem. Ukrainian women are being trafficked for prostitution, and foreigners are being trafficked through Ukraine.⁴⁰ The feminization of poverty has contributed to the exploitation of Ukrainian women, who are sometimes recruit-

ed for positions in hotels abroad and find themselves instead forced into prostitution.⁴¹ Problems of corruption in the border guard and customs service are aggravating the Ukrainian problem of illegal migration.⁴² According to an International Organization of Migration (IOM) report, traffickers can be found in Kyiv and offer their services to Afghans, Indians, and Pakistanis. Traffickers from the CIS arrange for the movement by agents from the migrant's home country.

The Drug Trade

Air, rail, sea, and ground links within Ukraine are all exploited by both domestic and foreign drug traffickers to reach western European markets. The presence of significant licit trade among these countries makes it far easier to mask the illicit flows of drugs.

The weakness and corruption of law enforcement and the relatively low level of drug seizures ensure that Ukraine will continue to be an important transit country for other drug traffickers. Furthermore, domestic crime groups will assume a more active role in marketing domestically cultivated drugs from Ukraine and processing drugs from drug cultivating regions. The U.S. State Department's annual narcotics report predicts significant growth in drug trafficking because of the inability to police borders and the problems of corruption in law enforcement.⁴³

The existence of the drug trade exacerbates the problems of money laundering within the Ukrainian financial system. The links that exist with other organized crime groups operating in this area are important impediments to financial integrity.

The Political Impact of Organized Crime and Corruption

The criminal-political nexus in Ukraine has a major impact on the electoral and legislative process by sponsoring candidates for parliament and pressuring individuals in the legislatures to develop policies that serve their interests. The criminalization of legislatures is a problem at both the national and regional levels. There is also serious concern that the nexus permeates the highest reaches of power in the administrative branches of government. Industries, backed by their own private security forces, have close ties to the security apparatus, the police, and the military, and often to the criminal world. The largest are attached to the banking and oil and gas industries.⁴⁴ Officials in Ukraine aid their long-term associates from the shadow economy with whom they are inextricably linked in complex financial relationships. Sometimes this assistance is not financial but protects them from the application of the criminal law.

This link is common because, as a leading sociologist has explained, the criminal world established informal contacts with politicians. This is done through their traditional meeting places such as tennis courts, bath houses, sanatoria, and summer houses. Sports are often used as a way to cultivate common interests.⁴⁵

The link of crime and sports makes it hardly surprising that many crime bosses head sports clubs that are frequented by politicians and their associates. The associations developed there are often translated into support for election campaigns or for the pursuit of particular interests by the legislator.

In Ukraine, the legislative process is undermined by the political-criminal nexus. This is particularly detrimental in the present transitional period when the Rada and regional legislatures need to pass the legal framework to develop and regulate a market economy. Corruption within the legislatures has inhibited the adoption of necessary laws. Members of the legislature who are personally benefiting from the transfer of property from state to private hands are reluctant to pass the laws needed to regulate the economy or to limit money laundering; they are reluctant to pass laws that might eventually lead to their prosecution. The granting of immunity to parliamentary members has compounded the criminalization of the Ukrainian legislature. Members of the Ukrainian parliament are also resisting the establishment of conflict-of-interest laws.⁴⁶

The criminalization of legislatures is a serious problem. According to the Ukrainian security service, forty-four people in various degrees of criminal activity have already been elected to local political bodies.⁴⁷ Penetration also existed at the ministerial level and was reported as early as 1993.⁴⁸ Hryhory Omelchenko, a member of the Rada Committee on Fighting Organized Crime and Corruption, asserts that more than twenty members of the new parliament cannot be brought to trial.⁴⁹ Serious accusations of embezzlement of Western aid funds have been made against the newly elected speaker of the Rada, O. M. Tkachenko, elected in July 1998. Shcherban's killing is reflective of problems at the national level. At least three individuals with criminal records were elected to the Rada in the March 1998 elections.

In Ukraine, individuals pursue a parliamentary career because it gives them an immunity from prosecution. Politicians are very reluctant to lift their colleagues' immunity, even when confronted with overwhelming evidence of their criminality. The impunity of politicians raises questions among the citizens concerning the integrity of the legislative process.

Compounding their cynicism is that election to parliament often allows members to rapidly acquire wealth. A hole in the law permits members of parliament to obtain consultancies from foreign governments, foreign and Ukrainian institutions, and other organizations.⁵⁰ Despite the rapid turnover in these high offices, individuals use their short terms in office for rapid enrichment.

The Legal System, Organized Crime, and Corruption

The institutional capacity to address the political-criminal nexus in Ukraine is limited. Russia inherited the organized crime specialists and the specialized bodies to address the problem from the Soviet state. A literature exists to train practitioners, necessary legislation has been adopted, and more international contacts exist for those engaged in law enforcement in Russia. Ukraine, whose problems are nearly as severe, lacks the human and institutional resources to effectively address organized crime and corruption. The divisions between the parliament and the presidential administration create further obstacles to mobilization. But the greatest impediment is the absence of political will to address these problems.

Ukraine became an independent state with almost no expertise in the area of crime and corruption, and is only now slowly building a capacity to deal with it.

Among those singled out for particular blame by those interviewed are members of parliament.⁵¹

Ukraine lacks both adequate law enforcement and a judiciary sufficiently independent to block the influence of organized crime. Ukraine has limited institutional capacity to improve the qualifications of existing police and prosecutors. With more limited financial resources than Russia, it can do little to prepare its personnel for new requirements or to prevent the pervasive corruption that results from their being severely underpaid.

The deficiency appears in the lack not only of needed criminal laws and procedures, but also of civil law to regulate markets, the banking industry, and commercial transactions. A viable tax policy is absent, so that making payments to organized crime is more desirable than making them to the tax authorities.⁵²

A presidential edict in September 1996 endorsed a national anticrime program. The program encompassed criminal law, civic education, technical assistance, and financial reforms. The Ministry of Interior assumed leadership in enforcement and the Presidential Administration was assigned a key role in implementation.⁵³ Although visible arrests were made after enactment of the plan, most of those detained have been bandits rather than the high-level perpetrators who are so damaging to the economy.

The enforcement mechanisms needed to support the state functions are absent. In Ukraine, law enforcement personnel cannot use the undercover techniques that are necessary to penetrate criminal organizations. Even when enforcement mechanisms are present, the corrupt and badly equipped law enforcers are no match for the criminals. Lacking the vehicles, communications equipment, and financial resources to run investigations, the Ukrainian police have more limited capacities than the crime groups. Regional police in Ukraine have proved nearly powerless to combat vehicular theft, drug trafficking, and smuggling of goods.⁵⁴

An American who had invested nearly \$1 million in a joint venture lost all of his money when his partner assumed total control of the nightclub they had established together. Ukrainian law enforcement was unwilling to assist in a case with clear organized crime associations.⁵⁵

The division of functions among different branches of law enforcement impedes investigations. Compounding this is the problem of systemic corruption. To address this problem, American advisers have suggested the introduction of strike forces that would promote coordination and minimize leakage of information to crime groups.⁵⁶ Such reforms might help the police to conduct the kind of investigations needed to solve contract killings and all forms of illicit trade.

Diverse forms of international coordination and training have been initiated. Europe 2000 held a seminar to train Ukrainian prosecutors in combating organized crime. The United States government has sent Federal Bureau of Investigation personnel to train and work with counterparts in different countries. Department of Justice personnel are working with the police, prosecutors, and judiciary. The American Bar Association is sending legal specialists to help educate their colleagues in law schools and different branches of the legal system. American law enforcement groups have held joint training sessions in Ukraine

on strategies to combat organized crime. The American University will soon be opening organized crime study centers at legal institutions in Kharkyiv and Kyiv to conduct research and develop strategies to combat organized crime.

More international cooperation is needed to recover illicit funds that have found safe havens in banks in Europe, the Caribbean, and United States. Without laws that mirror those in the West, it is technically hard to ensure the return of assets.

Organized crime has filled the void left by a legal system that cannot ensure the enforceability of contracts within Ukraine or with their major trading partners, the other states of the former Soviet Union. Organized crime groups with their links across borders help ensure deliveries and repayment of debts.

Addressing the organized crime problem requires citizens to mobilize to pressure legislators and their government to develop solutions. Despite citizens' concern about the crime issue, nongovernmental organizations are notably absent in the organized crime area. The exception is the mobilization of groups such as *Syostri* to combat trafficking in women.⁵⁷ More is being done by NGOs and the media to monitor corruption and insider privatization. In Ukraine, the knowledge of how to combat organized crime and the financial resources to fund citizen initiatives are absent among those outside the state sector.

Conclusion

Endemic organized crime and corruption are major threats to the viability and stability of Ukraine. Ukraine will not implode from organized crime and corruption as Albania did. Rather, these dual problems are rapidly corroding the Ukrainian economy, depriving it of the resources needed to rebuild state institutions. With massive revenue losses and illicit capital flight, it cannot satisfy its obligations to its citizenry. Among twenty-five former Communist countries, Ukraine, despite its enormous human and natural resources, ranks at the end in terms of its economic indicators.⁵⁸

Citizens perceive that the leadership of Ukraine is intricately associated with the criminalization of their society, challenging the legitimacy of their government. The highly inequitable distribution of wealth, a consequence of the appropriation and privatization of property by and to the elites, means that the mass of the citizenry believe that they have been "robbed of their futures."

The newly established and highly visible economic inequality is particularly problematic for long-term stability where the mass of Ukraine's citizens were educated in the socialist ideology committed to economic equality. The abuse of privatization has, therefore, much more severe social consequences in the Soviet successor states than in Latin America, where economic inequality has existed for centuries and citizens were not educated in socialist ideals. Some domestic observers believe that Ukraine will soon resemble a highly polarized Latin American-style society where there will be neither consistent economic growth nor long-term democracy.⁵⁹

The economic assistance programs initiated by the World Bank, the International Monetary Fund, the European Union, and the United States are failing. Despite the investment of hundreds of millions of dollars of assistance, the

endemic criminalization and organized crime are subverting economic reform. Furthermore, major foreign investors are unable to realize their plans.

The failure of Russia to address organized crime has exacerbated the crime problem in Ukraine. Criminals move freely between the two societies to perpetrate their offenses and to find a safe haven from law enforcement authorities.

The crime threat from Russia and other successor states may exceed any other security threat. The indigenous organized crime and corruption problem of Ukraine is, however, sufficient to undermine the country. Ukrainian nationalism may not be strong enough to counteract the debilitating effects of a criminalized economy and widespread corruption among the elite.

With political will, Ukraine could address its domestic crime and corruption problem. Yet without sufficient independent media to educate citizens and without nongovernmental organizations, the society cannot mount an effective anti-corruption movement. Limitations on investigative journalism have circumscribed the press's ability to be an effective watchdog. Past revelations of corruption followed by state inaction contributed to a high level of cynicism among the citizenry.⁶⁰

The movement of criminals and criminal capital across borders means that the control of the problem is beyond the capacity of any single state. The viability of any domestic Ukrainian effort to combat organized crime is consistently undermined by the penetration of crime groups from Russia, the Baltics, and the Asian successor states.

The capacity for statehood is undermined by the crime problem in Ukraine. Its neighboring successor states have proved unable and unwilling to address the organized crime problem. Unless the situation is reversed, there will be unimpeded growth in crime in coming decades. Just as the Soviet citizens in the past helped perpetuate the controls of the Soviet state, the present passivity toward the growing power and entrenchment of organized crime and corruption may usher in a new form of authoritarianism as a reaction to these abuses. Ukraine's ability to remain a functioning sovereign state may in the future be jeopardized by the serious consequences of organized crime and corruption.

NOTES

1. Ukraine National Integrity Survey, *Citizens' Experiences of Public Service Quality, Integrity, and Corruption* (Kyiv: Ministry of Justice, Ukraine, and World Bank, 1997), 13.

2. Daniel Kaufmann, "Governance and Corruption in Transition New Empirical Frontiers for Program Design," presented at OECD/OSCE Conference, Paris, 15–16 July 1998.

3. *Ibid.*, 2.

4. USIA Opinion Analysis, "Lack of Confidence in Political Leaders Deepens in Ukraine, Continues in Russia," 9 February 1998.

5. For a discussion of this by V. M. Episov see A. I. Dologova and S.V. D'iakov, eds., *Organizovannaia Prestupnost' Vol. 2* (Moscow 1993), 56–63.

6. P. Williams, "Transnational Criminal Organisations and International Security," *Survival* 36 (spring 1994): 96–113.

7. See for example, J. A. Leitzel, "Corruption in the Russian Transition," *Eurasia Economic Outlook* (May 1996): 1.7–1.8.

8. "Lack of Confidence in Political Leaders Deepens in Ukraine, Continues in Russia."
9. Kaufmann, "Governance and Corruption," 24.
10. Declassified FBI information on Odessan organized crime.
11. Statement of George J. Weise, commissioner, United States Customs Service, at the Senate Permanent Subcommittee on Investigations, Committee on Government Affairs hearings on Russian Organized Crime in the United States, 15 May 1996.
12. Observatoire Geopolitique des Drogues, *The World Geopolitics of Drugs 1995/1996 Annual Report*, published on website www.ogd.org/rapport.gb.
13. "Ukraine:Interior Minister on Crime Situation," *FBIS-Sov-95- 235 Daily Report*, 7 December 1995; presentations at Organized Crime Conference sponsored by Rule of Law program, Kyiv, Ukraine, 17–18 March 1996.
14. M. Los, *Communist Ideology, Law and Crime: A Comparative View of the USSR and Poland* (London: Macmillan, 1988); K.M.Simis, *USSR: The Corrupt Society* (New York: Simon and Schuster, 1982).
15. Kaufmann, "Governance and Corruption," 14.
16. "Kravchuk Interviewed on Combating Crime," *FBIS-SOV-93-014*, 25 January 1993, 47–48.
17. L. Shelley, "The Geography of Soviet Criminality," *American Sociological Review* 45 (1980): 111–22.
18. V. Ovchinskii, *Mafii:Ne Obiavelennyi vizit* (Moscow: Infra-M, 1993), 114–15; J. M. Waller and V. J. Yasman, "Russia's Great Criminal Revolution: The Role of the Security Services," *Journal of Contemporary Criminal Justice* 11 (December 1995), 276–97.
19. For example see "Russia: FSB Colonel Linked to Odessa Crime," *FBIS-SOV-214-S*, 13 October 1996.
20. L. I. Shelley, *Policing Soviet Society The Evolution of State Control* (London and New York: Routledge, 1996), 148–49.
21. Raymond Bonner, "Ukraine Staggers on Path to the Free Market," *New York Times*, 9 April 1997, A3.
22. "Ukraine: Interior Minister on Crime Situation," *FBIS-Sov-95- 235 Daily Report*, 7 December 1995; presentations at Organized Crime Conference sponsored by Rule of Law program, Kyiv, Ukraine, 17–18 March 1996.
23. L. I. Shelley, "Privatization and Crime," *Journal of Contemporary Criminal Justice* 11 (December 1995): 244–56.
24. Elena Rykovtseva, "Iavlenie Karabasa," *Moscow News*, 22–29 June 1997, 23.
25. Ukrainian Center for Independent Political Research, *The Dnipropetrovsk Family* (Kyiv: Democracy Fund, 1996).
26. "Ukraine: Prosecutor Views 'Tense' Crime Situation, Activities," *FBIS-SOV-96-225*, 13 November 1996.
27. Oleg Varfolomeyev, "Businessman's Murder Impacts Ukrainian Politics," *Open Media Research Institute Analytical Briefs*, 14 November 1996.
28. Ibid.
29. V. I. Popov, *Ob''ektno-strukturnyi analiz organizovanoi prestupnoi deiatel'nosti v sfere chastnykh investitsii* (Moscow: Moscow Institut MVD Rossii, 1997).
30. "Ukraine: Prosecutor Views 'Tense' Crime Situation, Activities."
31. See Louise I. Shelley, "The Price Tag of Russia's Organized Crime," *Transition* 8 (February 1997): 7–8.
32. Taras Kuzio, "Crime Still Ukraine's Greatest Enemy," *Jane's Intelligence Review* 9 (January 1997): 10–13.
33. Central Intelligence Agency, *The Handbook of International Economic Statistics 1996*, cd-rom, also on website: www.odci.gov/cia/publications.
34. Douglas Frantz and Raymond Bonner, "A Cosmetics Heir's Joint Venture is Tainted by Ukrainian's Past," *New York Times*, 5 April 1997, A4.
35. Bonner, "Ukraine Staggers on Path to the Free Market."

36. Joseph Lemire, Statement before the U.S. House Committee on Appropriations, Subcommittee on Foreign Operations, Exporting Financing and Related Programs, Washington, D.C., 24 April 1997, reprinted in *Trends in Organized Crime* 3 (Fall 1997): 19–20.
37. “Russia: FSB Colonel Appears Linked to Odessa Crime.”
38. Irene Marushko, Kiev Newsroom wire report, 26 March 1997.
39. Elena Rykovtseva, “Iavlenie Karabasa,” *Moskovskie Novosti*, 22–29 June 1997, 23.
40. Amy O’Neill, “International Trafficking in Women from Central Europe and the NIS,” Viewpoint, Office of Analysis for Terrorism, Narcotics and Crime, Bureau of Intelligence and Research, U.S. Department of State, Washington, D.C., 16 December 1997.
41. Michael Specter, “Traffickers’ New Cargo: Naive Slavic Women,” *New York Times*, 11 January 1998, 1, 6; Gillian Caldwell, Steven Galster and Nadia Steinzor, “Crime and Servitude: An Expose of the Traffic in Women for Prostitution from the Newly Independent States,” presented at an international conference on The Trafficking of NIS Women Abroad, Moscow, Russia, 3–5 November 1997, reprinted in *Trends in Organized Crime* (summer 1998): 10–18.
42. “Ukraine: Growing Problem of Illegal Migration Discussed,” *FBIS-SOV-96-213 Daily Report*, 29 October 1996.
43. Bureau for International Narcotics and Law Enforcement Affairs, *International Narcotics Control Strategy Report 1997* (Washington, DC: U.S. Department of State, 1998).
44. “Mafia’s Growing Power Detailed by Sociologist,” *Current Digest of the Soviet Press*, 18 October 1995, 1, reports on Olga Kryshchanovskaya’s research.
45. Ibid.
46. Vyacheslav Pikhovshek, “Fighting Corruption, ‘Conflict of Interests’ and the Ukrainian Law,” *Research Update*, 3 March 1997.
47. “Ukraine: Security Chief Warns of Local Mafia’s Political Ambitions,” *FBIS -SOV-96-219 Daily Report*, 8 November 1996.
48. Graham Turbiville, “Organized Crime and the Russian Armed Forces,” *Transnational Organized Crime* 4 (winter 1995): 60, 94.
49. “Corruption Watch,” Ukrainian Center for Independent Political Research, No.10, 22 July 1998.
50. Pikhovshek, “Fighting Corruption.”
51. Ukrainian Center for Independent Political Research, “On Manual Hygiene,” Vol. 3, No. 66, 21 April 1997.
52. Phil Williams, “Drug Trafficking and Organized Crime: Threat and Response,” *Global Organized Crime*, Hearing before the Subcommittee on International Relations, House of Representatives, 31 January 1996, 121–23.
53. Vasyl Durdynets, “The Struggle against Official Corruption and Organized Crime in Ukraine,” presentation at the Embassy of Ukraine, Washington, D.C., 6 June 1997.
54. Observatoire Geopolitique des drogues, *Geopolitique des drogues 1995* (Paris: Editions La Decouverte, 1995), 52.
55. Conversation and documents provided to me by the investor.
56. Training sessions were held in Uzhgorod, an area with a significant transnational crime problem. See Martin Edwin Andersen, “OPDAT Strike Force Development in the Ex-Soviet Union Breaching the Barriers to Effective Law Enforcement,” *United States Attorneys’ Bulletin*, April 1997, 68–69.
57. Specter, “Traffickers’ New Cargo,” 6. In addition, a meeting was held in July 1998 in New York with various American and Ukrainian NGOs to discuss trafficking of women from Ukraine.
58. Kaufmann, “Governance and Corruption.”
59. See for example, Maggie Mahar, “Russia’s New Face,” *Barron’s*, 10 June 1996, 34.
60. Pikhovshek, “Fighting Corruption.”