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COUNTERING AUTHORITARIAN STATES THROUGH PUBLIC
CAMPAIGNS: A POST-SOVIET PERSPECTIVE

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*Countering Authoritarian States through Public Campaigns:
a post-Soviet Perspective*

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Abstract

This paper contributes to growing research about the emergence of the rule of law, or horizontal accountability, still the key difference between Western institutionalized democracies and the new democracies in both Latin America and post-communist Eurasia. Researchers in Latin America have recently theorized a possible mechanism explaining the strengthening of horizontal accountability through public campaigning by civic associations aimed at activating institutions of horizontal accountability. By reviewing the recent public campaigns of various associations in a post-Soviet country, Ukraine, this paper “turns the lens” of such research by focusing less on the characteristics of the civil society actors mobilizing to bring about accountability, and more on the state itself. It argues that the prospects for horizontal accountability have to be judged against a wide range of containment measures that states attempt in order to de-mobilize public opposition to their policies.

Keywords

Authoritarian states, rule of law, horizontal accountability, public campaigns, Ukraine.

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The contours of accountability problems

In February 2012 a teacher employed by a foreign language school in Kyiv received a letter inviting him to ‘give explanations’ (*nadannya poyasnen*) at the offices of Ukraine’s Security Service (SBU). A Ukrainian newspaper (UP) called the number indicated on the invitation and recorded the following conversation:

UP: Hello! I received an invitation from the SBU. I would like to know on what grounds. I’m from the [foreign languages school]. I would like to know why I am invited to the SBU.

SBU officer: You are invited on the grounds of your involvement with the [language school].

UP: The invitation says that I am invited to give explanations, “Explanations” concerning what?

SBU officer: I cannot tell you this at this time. Come [to our offices], I will explain everything to you.

UP: The invitation cites article 25 of the Security Service law, but in that law the SBU has no right to invite someone to give explanations.

SBU officer: It’s up to you it is your right. I have invited you, and you can come or not, as you wish.

UP: So [the invitation] is not mandatory?

SBU officer: As you wish. It is mandatory. But you do as you wish. But afterwards, you will be invited by other organs.

UP: What other organs? Please explain, so that I understand what I can do.

SBU officer: As I said, do come, and I will explain everything to you.

Following the invitation, the teacher found that the SBU’s inquiry regarded the courses offered by the school to public employees in the framework of a European Union-sponsored Twinning-TAIX program. The program took place under the previous administration (when Yuliya Tymoshenko held the job of Prime-Minister), and the SBU asked the teacher to identify participants and inform on ‘course contents’. Source: <http://www.pravda.com.ua/articles/2012/03/12/6960439/> (retrieved 15.03.2012)

The excerpt from a journalistic investigation reproduced above is indicative of the type of problem that besets many of the world’s new democracies: A democratic, self-restraining state, often captured under formulas such as rule of law or extended accountability, is widely seen as a key difference between the institutionalized democracies in Western Europe and North America and the states that began democratization in the second half of the 20th century, mainly in Latin America and in the post-communist countries of Eurasia, and partially also in Southern Europe. Most of these late democratizing countries made important gains in the 1980s and 1990s in terms of democracy, such as, most importantly, allowing citizens political rights of previously unseen scope. Yet, as noted by Guillermo O’Donnell, most of these countries have problems setting up a “democratic state”, that is a system consisting of “a legal system that guarantees the effectiveness and guarantees that individuals and groups can uphold against the rulers, the state apparatus, and others at the top of the existing social or political hierarchy” (O’Donnell, 1993). The polity might have democratized, in the sense that elections are largely and formally free, but states remain marked by authoritarianism. State authorities, particularly those falling under the label of the ‘executive’, arbitrarily engage citizens in their operations the same way as the secret service officer above, without any state authorities restraining their capacity to do so.

In many Western European societies the democratic state – the *Rechtsstaatlichkeit* – emerged long before the expansion of political rights to the population’s majority and the enactment of contemporary democracy, or poliarchy. Horizontal accountability, or rule of law, the system of separated state powers keeping each other in check, preceded vertical accountability, the responsibility of rulers to citizens ensured through regular elections. This is problematic, since vertical accountability, if understood narrowly as elections only, functions badly in the absence of horizontal accountability: elections might be the tool-of-excellence for ensuring the democratic appointment of leaders, but they are highly unsuited as a mechanism of control (Przeworski et al., 1999).

The problem for the rest of the world (so other than what O'Donnell refers to as the 'institutionalized democracies of the North-West') is that we know very little about how to bring about rule of law. The intention behind this paper is to contribute to growing research about the emergence of rule of law, by building on research on "social accountability" (Peruzzotti and Smulovicz, 2006). This is an ambitious concept aiming to identify a mechanism linking the concepts of horizontal and vertical accountability by showing how citizens can influence the state in the sense of making it more accountable.

Social accountability refers to a mechanism that "can oversee the procedures followed by politicians and public officials while making policy", and "relies on interested, organized sectors of civil society and media institutions that are able to exert influence on the political system and public bureaucracies" (Peruzzotti and Smulovicz, 2006:10). Similarly, David Stark and Laszlo Bruszt formulated the concept of "extended accountability", including in the "networks of accountability" not only the intrastate organizations involved in horizontal accountability but also "other organized societal actors" (Stark and Bruszt, 1998:189). Generally, accountability refers to "the ability to ensure that public officials are answerable for their behavior – forced to justify and inform the citizenry about their decisions and possibly eventually be sanctioned for them", either electorally or by an active system of checks and balances (Peruzzotti and Smulovicz, 2006:5).

In this paper I "turn the lens" of research on social accountability by focusing less on the characteristics of the civil society actors mobilizing to bring about accountability, and more on the state itself. The paper argues that the prospects for "social accountability" have to be judged against a wide range of containment measures that states attempt in order to de-mobilize public opposition to its policies. I will focus on the case of the Ukrainian state, following independence in 1991. This represents an important case for building a theory about the rule of law and social accountability, since it is in many ways more comparable than other post-communist countries with the cases that social accountability initially envisaged (Latin American democracies): unlike other Eastern European countries, the post-communist state in Ukraine developed outside of processes of European Union integration. Equally important, unlike other post-communist countries that stayed out of the EU, Ukraine avoided a return to authoritarianism. At the same time, Ukraine differs from Latin American cases in important and obvious ways, the most important being that it is a post-totalitarian society, one to which Antonio Gramsci's famous phrase about Russia – "in Russia, the state is everything" – equally applied. Thus, it can represent a critical case for developing a theory, since if something works in such a case and under such conditions in terms of social accountability, than it represents important evidence for the respective theory. At the same time, in comparison to Latin American cases, it is an extreme case of state power, and in this sense it is suited to the development of theoretical propositions.

Post-communist Europe's "lonely reformers"

Arguably the most important process to shape states after the fall of communism in Eastern Europe has been the type of capitalist project the respective societies embarked upon. The group of countries geographically closest to the West followed a project dedicated to building functioning free markets, under the guidance of, and with the prospect of joining, the European Union. Partly, this was a choice of the elites that brought about the fall communism (in Poland, Hungary, or the Czech Republic; Eyal et al., 1998). The functioning market project insisted on creating impartial institutions for the enforcement of contracts and property rights, and extensively monitored the creation and the strengthening of these institutions. These countries seem to be closer to the "democratic state" than the countries of the former Soviet Union. At the same time, the market-building project took place in a fairly top-down manner, highly suspicious of influence from below, leading an observer to depict the project as characterized by a "syndrome of the lonely economic reformer" (Greskovits, 1998), and another one to call it a project of "building capitalism with communist tools" (Poznanski, 2001). This is deeply problematic for these countries' potential to foster horizontal accountability. One important theoretical argument about how horizontal accountability works in Western democracies is that it functions through the active participation of citizens and citizen groups in exposing and denouncing the wrongdoing of states, which then allow institutions of horizontal accountability to prosecute the

respective offences (McCubbins and Schwartz, 1984). Thus, weak civil society means weak or fragile horizontal accountability; nevertheless, the functioning market project functions like an anchor for the *Rechtsstaat* and offers citizens and civil groups additional institutional levels at which they can direct their complaints and campaigns.

This latter point about weak civil society and low horizontal accountability is equally true for the many post-communist countries that have stayed outside of the EU and are less committed to a project of building functioning market economies. Weak civil society meant an additional difficulty to ensure horizontal accountability; furthermore, since these countries are not bound to the European market project, the impetus among political elites to ensure any measure of horizontal accountability was far less important, particularly in the 1990s. These countries – most notably, Russia and Ukraine – followed a different capitalist path, one in which political leaders prioritized privatization over market competition. This is an important difference, because what it means for social accountability is that in these more Eastern countries the sources of accountability are even fewer than in the Central-Eastern European cases.

Table 1 shows in summary form how various countries fare in terms of the different dimensions of accountability, and also whether they successfully engaged in a project of state-led market building. Most of the country groups in Table 1 have vertical accountability, in the sense that their political regime is democratic (citizens possess the most important political rights), but all fail to fully ensure horizontal accountability, the “legal system” described by O’Donnell. There are of course important differences between the country groups in rows 2-4, but the point is that there is a lag in relation to Western institutionalized democracies, and the post-communist countries have failed to catch up. Using data from the World Bank’s governance indicators, Figure 1 depicts the same difference as Table 1 but with more fine-grained data, allowing differentiating among post-communist countries. This data shows that although CEE states do better than other post-communist countries in terms of horizontal accountability, they still have not closed the gap with Western Europe.

Table 1: Accountability dimensions and state-building projects East and West

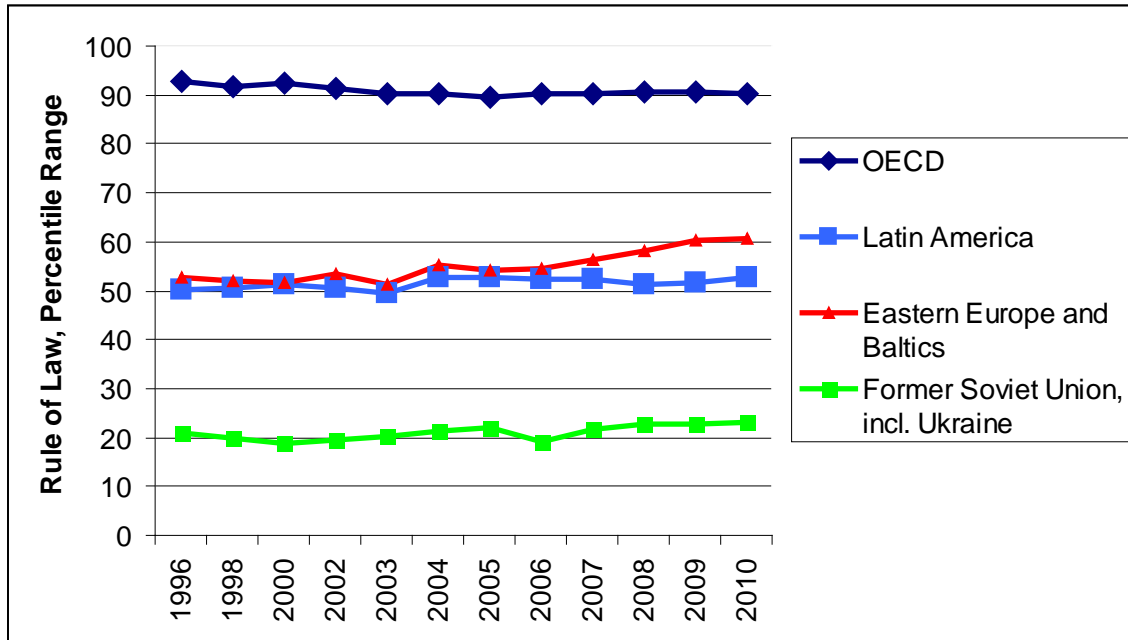
	Horizontal accountability	Vertical accountability	Social accountability	Functioning market state-building project
Western institutionalized democracies	+	+	+	+
CEE	-	+	-	+
Balkans	-	+	-	+
Ru, Ukr, Md	-	+	-	-
Asian and Caucasus post-communist states	-	-	-	-

The difference can also be expressed with the help of the World Bank’s indicators of governance. I selected from this indicator the variable “rule of law”, “[capturing] perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence” (<http://info.worldbank.org/governance/wgi/pdf/rl.pdf>; retrieved March 17, 2012).

Social science offers very few answers about how countries in the lower rows could reach the level of horizontal accountability in the top row; nevertheless, the answers it offers point in the direction of ‘civil society’ as the actor expected to ensure that state institutions of control provide the appropriate checks and balances on political power (see again McCubbins and Schwartz, 1984, and the literature their argument has generated). The problem for post-communist Europe is that its civil society hardly has the capacity to successfully support the establishment of horizontal accountability. In this paper I show how hard this is, using the example of Ukraine, a country in which throughout the last ten years important mobilizations took place that did run along the lines of the social accountability argument. So far only little has been achieved (although far more than in other countries

east of the EU), partly because the state controls important mechanisms through which it can prevent people from initiating or joining protests and also with which it can prevent protests from spreading once they take place. It is on these mechanisms that we need to focus if we want to understand why horizontal accountability is so difficult to achieve.

Table 2: Rule of law, percentile range, 1996-2010, various country groups



Source: compiled by author on the basis of regional averages of World Governance Indicators (<http://info.worldbank.org/governance/wgi/index.asp>).

The prospects for ensuring horizontal accountability by taking the road of social accountability involving civil society is that post-communist Europe’s civil society has very weak capacities. The literature focusing on non-governmental organizations (NGOs, as a segment of civil society) has stressed these associations’ weakness and their irrelevance for the state, despite their growth in numbers. It mainly links their weakness to their dependent relationship on the promotion funds of Western democracy, something that often replaces the deepening and strengthening of links to society (Ishkanian, 2007). States also face the problem of running into conflict with other, more embedded civil society groups, such as nation- and faith-based groups. These latter groups and organizations tend to fare far better than NGOs, as their increasing street presence in a number of large Eastern European cities shows. The literature on far-right formations writes of the persistent growth in numbers and influence of nationalist groups, particularly in Russia (Varga 2008), but also Poland (Pankowski 2007), Hungary (Marsovszki 2010), and more recently Ukraine (Shekhovtsov 2011). This development is hardly surprising, some observers issuing warnings about its imminence as early as 1993 (Jowitt 1993; Offe 1991 in respect to Russia).

What did come as a surprise was the weakness of the most numerous part of civil society (in terms of formal membership numbers), the labor unions. Many expected trade unions to play a significant part during transition, given their large membership; as market reform was expected to hurt the organized working class the most, it was expected to protest. It is to this issue that I turn, in the remainder of this section, given that politicians and social scientists expected economic issues to trigger most of the public protest throughout transition, and trade unions to be civil society’s most vocal, if not also most influential, actors. Furthermore, in the literature on social accountability, many groups that brought about advances in accountability started from economic grievances (exclusion from the provision of economic resources). Thus, it would appear that protest over economic issues holds the promise of fostering accountability, to the extent that it materializes and can gain momentum so to be granted a place at the negotiating table by the state.

The dependency argument

The expectation of widespread economic protests with significant impact on state decision making – and of high state responsiveness to it – never truly materialized.¹ Protests did emerge, particularly when various economic measures were enacted, but these protests rarely spurred the emergence of effective organizations, for instance trade unions. Few countries actually experienced a vocal trade union scene, and only one country – Slovenia – is also credited with having trade unions that are influential in defending their members' interests. The main explanation for this lack of influence can be summarized as the “dependency” argument about the weakness of working-class organizations, a phrase used by Stephen Crowley (1997) to summarize a larger body of works. In brief, this theory posits that workers do not protest – and therefore their organizations are not influential since there is no power to back such influence – because states have set up various economic incentives that “divide and pacify” (Vanhuysse 2006) the workers, and in the former Soviet Union even cultivate a relationship of economic dependency on the state.²

In Central Eastern Europe, the collapse of living standards throughout the 1990s made the early retirement and unemployment benefit schemes set up by the government very attractive to workers, who preferred these to taking collective action against the government. The consequence was a weakening of trade unions across most post-communist countries that joined the European Union. The situation was different in the largest countries of the former Soviet Union, Russia and Ukraine, mostly because many welfare functions ran at the enterprise level rather than through more centralized state organizations. Here, the argument goes, workers depended on the welfare schemes administered at the enterprise-level by management and trade unions (as in Soviet times). The key element of this scheme was that unions and management distributed *as they saw fit* the various welfare elements such as access to housing, land plots, health and recreational facilities. The effect was as in Soviet times; it gave management and unions tremendous power over workers, making them capable of controlling the workers' protest potential. Furthermore, it also gave management power over trade unions. By offering them the possibility to co-distribute the welfare elements, it gave trade unions the alternative of managing social benefits instead of representing workers in the employment relationship before employers. The trade union's role of ‘managers of social benefits’ also had a very important underpinning at the national level: the state gave the former Soviet trade unions property rights over hundreds of sanatoria and hotels. The post-Soviet trade unions allowed only those workers and their families to access these sanatoria and hotels who kept union membership, thus creating a huge incentive for workers to stay in the unions. Quitting the post-Soviet unions and joining a ‘real’ union means today losing the rights to benefit from such resorts (plus whatever social benefits factories still distribute), a crucial right for an impoverished workforce. Many authors stress that state authorities were very explicit about the role they envisaged for trade unions – that of institutions of social control, containing worker militancy and ensuring worker discipline. Thus trade unions specialize in the role of providers of social benefits instead of representing workers, at the same time containing the spread of other trade unions.

A large part of the material basis for supporting the existence of social benefits has survived the dissolution of the Soviet Union and also supports unions in their role of providers of social benefits today. In Ukraine, the post-Soviet trade union confederation FPU lost its monopoly over social insurance funds, but it nevertheless has a monopoly over the entire range of recreational facilities inherited from Soviet times (with the exception of the facilities it has sold in the meantime; for data see Varga 2011a). As before, the condition for receiving access to these facilities is FPU membership. This sets Ukraine (and Russia, to which the description also applies) apart from CEE post-communist countries, where trade unions could nowhere maintain similar limitations. Where trade unions still

¹ This expectation can be found in Przeworski (1991), Friedman (1990), Lipton and Sachs (CITE), Offe, Elster etc.

² I use the term ‘dependency argument’ for authors who would probably hardly agree that their positions are similar; however, what I intend to capture here is the idea that all these authors somehow stress how the state deploys a set of economic incentives that prevents workers from protesting. The disagreement concerns the nature of these incentives and the question of who exactly it is within the state that organizes them.

have a say in CEE countries about where workers spend their holidays, the condition for access to such facilities is formal employment rather than union membership. Unions are interested in running such facilities, in particular where states still cover part of the costs or workers pay them directly as part of the service cost, but in this way they cannot prevent the spread of other unions. At the plant level in Ukraine, many more social benefits have survived, or have even been expanded by the employers in collaboration with the trade unions; the extent of such benefits is usually a function of how economically sound a plant is in Ukraine, and of what it has inherited from the times of state ownership in terms of housing or medical facilities. To mention a study of the metal sector in Ukraine (Varga 2011b), the steel and car-building industries have seen a far greater survival of the social benefits model and of the corresponding role of trade unions as administrators of such benefits, than the rapidly declining farm-machine industry.

An important question is whether dependency theory is still useful for explaining how post-Soviet states counter economic protest, or, since the landscape has diversified to include many more groups than just industrial workers (to whom the dependency argument mostly applies), whether states develop new ways in which to respond to protests from below, instead of becoming more accountable for their policies. One way of answering the question about the actuality of the dependency argument is to look at the context to which it mostly applied, identify what state actions shaped that context, and how those actions have changed since. In the remainder of the paper, I look at what state policies triggered which sorts of protest, study what actions the state took against unfolding protests particularly in the context of the world economic crisis, and discuss what the potential is for these protests to make the state more accountable.

Contours of economic protest against the retreat of the state

The course of transition in Ukraine (and Russia) differed from that of the post-communist countries to its West as the capitalist project that Ukraine pursued was one very different from the ‘functioning market economy’ that other countries built under EU monitoring. In Ukraine, as in Russia, political groupings around the President used economic policies as a means to strengthen their grip on power. These agendas of these groups did not feature any ‘institutional agenda’, such as the European Union’s agenda to build institutions fostering competition and free markets (Wolczuk, 2004). In Ukraine, several business groups emerged around President Leonid Kuchma, all of them with their main operations in the production and export of steel; their agendas featured a strong interest in privatization in order to expand their holdings (Sarna 2002), but also in price liberalization, since this made bank credits available at virtually negative rates (Mykhnenko, 2004). These policies represent areas to which the dependency argument applies best. Together with two other actions, I refer to these policies as the state’s three retreats and one offensive (to paraphrase Susan Strange, 1996). The three refer to a) the state’s retreat from production through privatizations, b) the retreat from the market in the form of subsidizing consumer prices, and c) the retreat from welfare provision. The offensive refers to the state’s 2010 drive to re-regulate the economy in important areas: taxation and employment legislation. First, the state intended to raise more taxes, particularly from small businesses (through a new Tax Code). Second, through a new Labor Code it intended to re-organize employment relationships so as to make it far more difficult for business to hire black work or pay ‘envelope’ wages (i.e. wages for which the employer does not pay any social insurance).

The first two retreats took place predominantly in the 1990s, although the state remained in the production of energy, raw materials, steel, and machinery until the beginning of the 2000s. The retreat from the market in the form of price liberalization took place in 1992-1993 and President Kuchma pursued it again in combination with a set of other macroeconomic stabilization policies in 1995-1996. The retreat from welfare partly took place in the 1990s, and intensified only in the second half of the 2000s – and in Ukraine only during the world economic crisis and the coming to power of the Party of Regions in 2010. But the Party of Regions did not simply continue its predecessors’ politics of retreat; it also launched an offensive to cancel the most important tax concessions granted to small businesses in the 1990s and reorganize the employment relationship so as to restrict black work. All these state actions are important for grasping the contours and effectiveness of the state’s

dependency tool in containing worker protests and organizations. Table 2 intends to capture these contours. Dependency worked best for containing worker protests in the context of the state's retreat from production, i.e. in the context of restructuring and privatization. Yet its effectiveness decreases with each state action.

Table 2: The Effectiveness of dependency in containing worker protests

	<i>Effectiveness of dependency in containing worker protests</i>	
	Effectiveness containing collective action	Effectiveness containing union autonomy
<i>Retreat from production</i>	High	High
<i>Retreat from market</i>	Moderate	High
<i>Retreat from welfare</i>	Low	Low
<i>Regulation Offensive</i>	Low	Low

The first state action consisted of transferring property rights over factories to private owners. Various social scientists and politicians expected precisely this action to cause significant resistance from among the massively unionized workers, since it would entail lay-offs and closures of these factories' inefficient subunits.³ However, this expectation did not materialize, for several reasons. First, in Russia and Ukraine, privatizations of the largest companies did not result in massive layoffs, or these layoffs took place separately and over a long period of time, often before privatization. In the case of the steel industry, Mykhnenko (2004) notes the size of the workforce remained unchanged. Second, the state often offered workers an incentive to support privatization, by choosing voucher-type methods of privatizations. In effect, voucher-privatization eventually landed all shares under managerial control, but it was an important tool for making clear that trade unions backed it in the hope that their members would profit from it (by 'members' in Russia and Ukraine is meant both the workforce and the managers, lumped together within the same industrial unions, Davis, 2001). Finally, dependence theory helps explain that even if privatization brought a deterioration in the terms of employment, few workers could afford to oppose it since they risked losing access to key social benefits. The few protests that followed privatizations only took place if workers lost access to these social benefits (Gimpelson 2003).

The second retreat, the state's retreat from the market, entailed price liberalization through a reduction in the size and scope of state subsidies to various consumer goods. It was in response to this retreat that most post-communist countries saw massive street protests and waves of strikes in the 1990s. Price liberalization hurt many people simultaneously, thus facilitating the spread of protests across workplaces and regions. 50- 60% drops in purchasing power in Russia and Ukraine (as compared to 1991) sparked the biggest protests in these countries: in Ukraine most impressively in 1993, when a miner-initiated strike brought down the government and forced elections. This was not a situation in which worker protests could have been contained by the threat of losing social benefits, since worker access to such benefits largely depended on employers. Many employers, in particular the managers of still state-owned enterprises, had a stake in supporting the protests, in the hope that the government could be prevented from eliminating subsidies (Clarke et al, 1993). But the striking feature of these protests is that trade unions largely avoided any involvement, since trade unions too

³ As stated by Milton Friedman in his 1990 'Free to Choose' documentary: 'In these countries, the hardest problem is to transform their heavy industries. This is Novahoota [sic!], a vast collection of steel mills in Poland and a disaster in every sense. It is inefficient, costly, and above all, a major polluter. The best thing to do with places like this would be to bulldoze them, but that is almost impossible. They are too well shielded by special interests: the unions, the bureaucrats, and all the other political interests on the fringes.' (official transcript available at http://www.freetochoosemedia.org/freetochoose/detail_ftc1990_transcript.php?page=3). Similar points were raised in a much less polemical fashion by Lipton and Sachs (1990), and for a wider review of the relevant economic literature see Stark and Bruszt, 1998. Other observers did not perceive union-backed resistance as undesirable, but nevertheless expected it to be considerable: Offe, 1991; Elster, 1993; Przeworski, 1991.

depend on the state for guaranteeing their place in administering social benefits. Their absence from the protests left workers without coordination.

The waves of protests in the 1990s soon ebbed away, and nothing similar has taken place since.⁴ Only in the late 2000s did economic protests re-surface on a nation-wide scale in Ukraine (incidentally also in Russia, when in 2006 a wave of protests against welfare reductions of retirees spread across all major cities). These protests resulted in the creation of new civil society organizations – most importantly of small businesses – or in the activation of organizations that had previously been silent, such as the teachers' union, the student unions, or the organizations of military retirees. The context of these protests in Ukraine consists of two state actions: a retreat from welfare and an offensive to re-regulate taxation and employment relations. These were qualitatively different from previous actions and therefore the dependency argument – centered on the workplace and trade unions – no longer covers them.

The protests that took place in Ukraine in 2010-2011 mainly consisted of self-employed market vendors and employees of small businesses, and various organizations of retirees. They took place in opposition to the government's efforts to fight the informal economy through new Tax and Labor Codes, and to cut welfare spending, in particular on pensions. Thus, these groups of protesters differ from the targets of the previous two state 'retreats' as their participation in collective action cannot be conditioned by their employer through the continued provision of social benefits. They also differ as they can participate in or create organizations that are in theory more autonomous than the trade unions, since they do not participate in providing social benefits as trade unions do. The effect of their protests was that, for the first time since 1993, civil society organizations achieved a substantial revision of the government position and of the law.

In the following section I discuss briefly the three following protests: market vendors against the Tax Code and the protests against pension cuts by organizations of retirees of former military personnel, of Afghanistan War veterans and of those involved in cleaning up Chernobyl. The goal of the discussion is to show how these groups pushed back the state in several areas, in a very short-lived moment of social accountability; nevertheless, short-lived as it was, it created an important precedent (redefining the boundaries of what is achievable in a polity, as Sidney Tarrow, 2009, would have noted). Second, I discuss the broader set of state reactions to these protests, uncovering just how many more options states have other than just giving in to demands of social accountability.

The anti-austerity protests

The largest protests occurred in November 2010 against the introduction of a new Tax Code, organized by the self-employed 'entrepreneurs', in fact largely market-place vendors for the first time organizing in large associations and participating in country-wide collective action. The involvement of two organizations was particularly strong. The first is the Assembly of Civil Organizations of Small and Medium Business of Ukraine (to be further referred to as the Assembly), in fact a loose network of several hundred of regional-territorial and professional organizations of mostly self-employed citizens, established in 2008. The second organization is far older, established in 1990, the Federation of Trade Unions of Workers of Small and Medium Enterprises of Ukraine (further referred to as the Federation). Although it is difficult to find out what kind of grievance actually played the biggest part in mobilizing the protesters, the flyers circulated among them and banners they carried expressed anger about the 'real' intention behind the government's Tax Code, the intention – as alleged in the leaflets – to shield off the consumer goods market for large corporate importers and producers, while punishing market vendors living on selling food, electronics, second-hand clothing, cars etc. Officially, the main demand of the organizers was to force the government to take back its New Tax Code, or significantly revise it, and with this in mind they had prepared around 5,000 amendments to the initial text. In particular, they protested against a provision nullifying the special tax category that had granted small business a low, simplified and unified tax. But the list of demands quickly

⁴ Although one of the participants in the "Ukraine without Kuchma" protests campaign of 2001-2002, sparked by the state-organized murder of journalist Georgiy Gongadze, highlights the large dissatisfaction of the population with president's Kuchma management of the consequences of the Asian 1998 financial crisis (Chekmenov, 2011).

developed into demands to reform public life, and, most radically, the demand for the dissolution of Parliament and new elections.

Protests took the form of an occupation of Kyiv's main square, the *Maidan Nezalezhnosti* (Independence Square, to be further referred to as the Maidan), similarly to the actions of anti-government protesters in 2001 and 2004. Protests also took place in many other large cities in the country, most dramatically in Zhytomir, where protesters occupied a government building by force. Participation in the Kyiv occupation reached 10,000-25,000 before the Government agreed to negotiate and undertook an important revision of the Code. Around 1,000 protesters continued the occupation, and were evicted forcefully by police troops. Opposition leader Y. Tymoshenko, who had joined the protests, was arrested, charged (on charges that had nothing to do with the protests), and imprisoned one year later.

The market vendors were not alone in their protests. Other groups that protested against austerity were students in October 2010 – about 20,000 protested for a day in several cities, in L'viv even violently, but there were no significant results, such as government concessions or the creation of organizations to support the continuity of protests – school teachers in March 2011, and veterans of Chernobyl cleaning operations and of the Afghan War in autumn-winter 2011. All these protests were country-wide; they were organized by groups covering a large part of the country, their protests usually occurred in several cities or they brought people from many provincial cities to demonstrations in Kyiv. The protests of veterans, teachers, and students fall within the logic of the dependency argument, according to which a group dependent on certain welfare items will be more inclined to protest if the state or the employer interrupts the provision of the respective item. Furthermore, neither veterans nor teachers were organized by associations dependent on the provision of social benefits. The trade unions of teachers and also the employers of teachers – the schools – are marginal in terms of property that could serve as a source of social benefits, such as sanatoria and other medical facilities and housing.

Less disruptive, even though with a very high degree of participation (unprecedented among trade unions since 1993), the teachers' protests did not achieve any of their main demands. In contrast, the protests of the veterans turned violent (4 attempts to break into the Parliament building by force), dramatic (many wounded, one dead), and obtained concessions from the government, in the form that their groups were temporarily excluded from pension cuts. The largest protests took place in September 2011, when veterans of the war in Afghanistan and of the Chernobyl cleaning operations gathered in central Kyiv and attempted to storm the Parliament building. In an attempt to negotiate with these groups, parliamentarians promised to cancel the respective pension cuts. As the streets cleared, police fenced off the square in front of the Parliament building, and the government passed the law in the form of a trimmed-down budget for 2012. Deeming this action illegal and in violation of the country's pension laws, Chernobyl veterans staged one more protest in November (with similar tactics, attempting to break into the Parliament building), and in Donetsk a group of several tens of Chernobyl veterans occupied the central square and organized a hunger-strike. The state reacted with force, and cleared the square leaving one hunger-striker dead and many injured; it did however make substantial concessions in the form of paying back due pensions for the last months to the participants in the hunger-strike. Veteran representatives saw this as a tactical move on the part of the government, seeking to isolate protests and "strangle them in isolation", as several of them stated. Indeed, after the initial concessions veteran protests lost impetus. In response, leaders launched various initiatives to reach out to other groups, and formulate demands and establish organizations that are representative of a wider set of grievances. Only at this moment did protesters formulate demands that would fit as instances of 'social accountability', explicitly demanding the increased 'legality' of state legislative actions in the sense that the government respects its law on pensions. In the same way as the 'entrepreneurs', the veterans also demanded that Parliament resign.

The impact of these protests in terms of social accountability can be assessed in the following terms. As I list in detail in the following section, many government actions took the form of *tactical* concessions, that is concessions made only in order to buy time and that were retrieved as soon as the policing of protests cleared the streets and markets. This was, for instance, the case of the 'gains' made by the veterans, the exclusion of only their professional groups from budget cuts (which represented

two out of 17 groups scheduled for pension cuts), an exclusion which was cancelled when drafting the new budget for January 2012. In a judgment released in January 2012, the Constitutional Court confirmed the government's right to pay fewer pensions even at the cost of violating the law, if the budget does not allow the payment of legal pension levels. The case of the 'small entrepreneurs' is similar to the veterans, as Parliament reenacted parts of the criticized Tax Code, initially withdrawn following the protests.

The protest of the self-employed, partly in combination with the veterans, achieved a far more important thing. If accountability means that the government responds to citizens for its actions, then the protests actually achieved accountability in its vertical form as government, fearing the social tensions it might cause, indefinitely postponed the introduction of a new Labor Code (the Labor Code was another bone of contention, equally feared by small entrepreneur organizations for increasing red-tape and sanctions for Labor Code violations). Furthermore, the state set up a Committee of Entrepreneurs, to be consulted about the Tax Code, even though later on Parliament passed significant parts of the Tax Code under a different law, specifically nullifying the special tax category that had granted small business a low, simplified and unified tax. These gains are however hardly cases that can be easily classified as instances of accountability; state authorities still seem to have found their way to pass the parts of the Tax Code that probably interested them most, while at the same time keeping busy the small entrepreneur organizations in the Committee.

Nevertheless, the government has not faced similar opposition to its actions since 1993; nor has it had to make such concessions since the large miner strikes that year, and possibly since the threat of strikes in 1997. In order to understand the prospects for social accountability, it is important to establish what the state does to contain protests and whether protester organizations can find ways to overcome state containment. The protests of the self-employed are important because they are the country's first large protests made by a group that is not part of the traditional manufacturing working class. Like a few other new movements in the region, such as Russia's "Tigr" movement of car drivers, Ukraine's market vendors are protesters whose actions cannot be covered by the dependency argument, nor was this argument intended to cover the protest potential of non-industrial groups, since these hardly existed in the time that the argument was formulated. Participation in these actions cannot be explained by an employer's or the state's discretionary decision to suspend the provision of social benefits. Nor can the organizations coordinating such actions be kept in check by allowing them to distribute such social benefits. We need new theories to understand how authoritarian states react to these protests. In the same way as in the case of the dependency argument, I focus on the state and distill from its reactions to anti-austerity protests the following pattern of actions: state authorities do not return to the amount of repression of economic protests witnessed during the Soviet Union. Instead, they operate through what I call 'twisted legality', a set of measures policing protests through means that are largely legal but specifically target protesters in ways that could not function were state powers indeed separated (for instance if the police apparatus were to operate on the basis of legal mandates issued by *independent* courts). Furthermore, the goal of policing actions is to push protesters 'out of legality', in ways that I describe below.

State reactions

State authorities did not simply allow the protests of small entrepreneurs and veterans to unfold. They actively tried to prevent protests and, once they occurred, to stop them from spreading and continuing, the latter with significant success. It is on these actions that I want to focus, since they explain to a large extent the limits of what various protesting groups can achieve. It also shows that states have many ways in which to respond to demands from below, and actually taking actions that encourage accountability seems to feature very low among them.

I present in the table below a list of the main state actions in reaction to the protests of 'small entrepreneurs' and veterans. There are more or less four actions that recur in all three country-wide protests included below, starting with repression in the form of the forceful ending of a demonstration through police intervention. Selective law enforcement (Ledeneva 2006) mainly took the form of tax inspections of associations organizing the small entrepreneurs, and the Afghanistan War veterans,

even though in the latter case the veterans blocked access to their association's offices. Third, state organs attempted to discredit protest organizers; for instance they arrested marginal protesters with extremist views (anti-Semitism), describing them as key instigators of the small entrepreneurs' protest. Finally, the most extreme and effective containment action that I discuss below is the attempt to take over the protesters' organizations in order to prevent them from registering notifications of public protests and thus facilitate policing them. I dedicate most space below to discussing the latter two type of actions, since selective law enforcement is somewhat better known in the literature on post-Soviet states.

Table 2: State reactions to austerity protests

	Concessions	Repression
<i>To vendors</i>	<ul style="list-style-type: none"> - presidential veto of the Tax Code, revision of the Tax Code along lines demanded by protesters (organized in a Committee of Entrepreneurs advising Parliament) - indefinite postponement of the Labor Code 	<ul style="list-style-type: none"> - forceful interruption of the Maidan occupation (03.12.2010) - arrest and trial of: opposition leader Yu. Tymoshenko, 7 other several protest organizers (12.2010-2012) - attempt to discredit the organizers* - take-over attempt of vendor organization*
<i>To veterans</i>	<ul style="list-style-type: none"> - exclusion of Chernobyl and Afghan veteran groups from the groups of retirees to see their pensions cut (21.11.2011) - in the case of a hunger strike of Chernobyl veterans in Donets'k: the state paid to 100 hunger-strikers their pensions retroactively (the equivalent of 3 months), a tactical concession intended to make strikers to leave the main square. (11.12.2011) 	<ul style="list-style-type: none"> - police attempt to lead a major investigation into the bookkeeping records of one main veteran organization, the day after the protest (blocked by veterans) - forceful interruption of the occupation of the center of Donets'k, one dead (27.11.2011); discreditation attempt of victim (28.11.2011)* - take-over attempt of veteran organization (22.11.2011). including the use of police to stop 300 veterans to vote in their association's elections*

Note: Maidan refers to the central square in Kyiv, the place of choice for organizing public rallies by civil organizations ever since the country's independence. Sources: takeover of the association of Chernobyl veterans: <http://www.unian.net/rus/news/475019-provlastnyie-chernobyiltsyi-govoryat-vsyo-horosho.html> (retrieved 27.02.2012); takeover of organization that initiated the small entrepreneurs' protests: <http://www.pravda.com.ua/rus/news/2011/11/16/6760480/>

* explained below

What is evident from the table above is that most of the time the authorities did not do anything illegal in reaction to the protests. Their actions were always more or less within the boundaries of what the state allows. Even in the case of the most offensive action – arresting organizers of the entrepreneurial protests and leaving them far outside Kyiv – the state's actions were not illegal. But it is a twisted legality, one that twists the law to transform it into an instrument that can be *discretionarily* deployed for political goals. This type of twisted legality rests not so much on bad laws, but on a strong vertical control of the entire state apparatus, a state in which the executive controls the legislative and the judiciary: a state that lacks horizontal accountability. The goal of twisting legality appears in this case first of all to physically prevent various civil organizations from organizing protests; for example, city councils issue decisions to start public works in central squares, sealing off for works the entire area where protesters would have organized their actions. Or there are the instances of what Ledeneva (2006) in the Russian context called “selective law enforcement”. In Ukraine too, in order to prevent further mobilization following the entrepreneurs' and veterans' protests, police selectively stopped busses with protest participants and checked the busses' licenses for public transportation, delaying or even stopping protesters from attending protests; invited protest organizers for talks, keeping them

busy so that they could not attend protests; or, in response to protests, visited organizational headquarters the day after to requisition the organizations' books for fiscal controls. These 'selective law enforcement' actions per se are not specific to authoritarian states; they are mentioned also in accounts of how the democratic United Kingdom countered the miners' strikes in the 1980s (Kelly 1998). The actions in the following subsection appear however more specific to authoritarian states, since they do not simply try to stop participation in protests or discourage it, but try to destroy or take over the associations organizing the protests.

Attempts to take over protester organizations

Another, more profound goal of the discretionary actions of twisted legality, is to deny legality to protesters and their actions. This is the goal behind the actions listed below as 'takeover of protester organization'. In its most extreme version, things proceed as in the following description. Following anti-austerity protests, state authorities or politicians of the ruling party make a tactical concession to the protesters, such as exempting their group – and only theirs – from budget cuts. Within the protesters' organization, a rift appears between moderates inclined to take the offer and the 'extremists' inclined to continue struggling on together with other groups; state authorities or politicians close to them approach the moderates and promise them support to take over the organization and safeguard it against 'irresponsible extremists'. The moderates call for elections within the organization, and when these are organized, the police physically prevent enough members of the 'extremist' faction from joining elections so as to allow the moderates to win, who then take the organization on a more pro-state course. In this way, there is no more organization to file a request for the authorization of public protests, and therefore also no more legally organized public protest. The entire sequence described here took place successfully against the Chernobyl Union of Ukraine (SChU), the main organization of retired personnel involved in the cleaning operations following the 1986 nuclear disaster in Chernobyl. The same action took place without success against one of the organizers of the vendor protests, the Federation of Trade Unions of Workers of Small and Medium Enterprises. The federation's leader was able to organize his supporters so as to prevent alternative elections from taking place.

The same type of action could be observed on a far larger scale against the organizations of entrepreneurs that launched the 2010 occupation of the Maidan (the Assembly). This action was less extreme; it did not involve selective law enforcement and it did not attempt to facilitate the formal take over of an organization. Instead, it consisted of a diversion, an action consisting of setting up an umbrella organization reuniting the myriad of territorial and professional associations of small entrepreneurs under the banner of fighting together against the state; but in fact, the umbrella organization did nothing but sign a memoranda with the government and postponed any street actions. The success of this action explains why the entrepreneurs did not stage similar protests as in November-December 2010 against the government's 'trick' of passing crucial Tax Code provisions as a separate law. It bought the government valuable time, allowing the state to present the small entrepreneurs with a *fait accompli*, a done deal, and allowing the reform to 'sink in', to take place without much noise and facilitate entrepreneurs to start acting along with the new tax regulations, without protesting against them first. I explain below what happened.

During the initial protests of November 2010, a member of the Parliament, MP Natalia Korolevskaya, joined the protesters and helped them gain access to negotiations with government. In their name, she signed a memorandum with prime-minister Nikolay Azarov, one that promised protesters an extensive revision of the Tax Code, and convinced most protesters to return to their homes. The rest were removed from the square forcefully by the police. Protest organizers, the leaders of the Assembly and the Federation of Trade Unions, were initially enthusiastic about the MP's participation and the gains she obtained for them; her credentials were convincing, being a member of the opposition 'Yulia Tymoshenko Block' (BYUT), and a colleague of soon-to-be-imprisoned Tymoshenko. In the spring, small entrepreneurs launched another massive protest action against the government's 'trick': a 'March on Kyiv' consisting of small entrepreneurs approaching the capital in their cars in two massive processions, one from the East and one from West. MP Korolevskaya showed up again and united the multiple organizing associations under one umbrella – the Civic

Movement *Vpered* (“Forward”) – and signed another deal in their name with the government. As with the 2010 Maidan protest, the government pursued its own agenda without paying attention to the memorandum, and without Korolevskaya undertaking any actions to demand that the government accounts for its actions. Instead, together with her staff, she toured the country and expanded *Vpered* to reunite some 250 different organizations, including many territorial organizations of the Assembly.

Around fall, Assembly leaders developed the conviction that *Vpered* had been a successful diversion and withdrew from the umbrella organization; they are currently setting up their own, together with veterans and other groups of protesters. They had two sources of evidence that *Vpered* has been a state project meant to buy the government time. First, from among their own ranks, trade unions of miners from the Korolevskaya’s hometown Luhansk revealed her involvement in various business deals of the same business clan, tightly connected to the economic interest group protecting President Yanukovich (the group around Ukraine’s richest businessman, Rinat Akhmetov). Second, although a late addition to BYUT, Korolevskaya made it to a top position in Parliament when Tymoshenko was still in power; yet, while the entire BYUT-party has undergone significant pressures and its politicians have been removed from all posts, Korolevskaya is the only member of BYUT to have kept her position, Head of the Council of Entrepreneurs in Parliament. The *Vpered* diversion was enough to give the state the opportunity to pass key reforms without the public protests of November 2010; it bought it valuable time, allowing it to present the small entrepreneurs with a *fait accompli*, a done deal. It allowed the reform to ‘sink in’, facilitating that rather than opposing reform, small entrepreneurs begin to act by, and comply with, the new rules, fragmenting any initial drive to protest into a myriad of everyday decisions and actions to live by the new tax regulations.

Attempts to discredit protesters

Discretionary action also underlies the attempts to discredit protesters. This is the final type of state action in response to protests discussed here, and also the least effective in containing protests. I identified two instances, one in the case of the small entrepreneurs’ protests, one in the context of the Chernobyl veterans’ hunger-strike and city center occupation in Donetsk. In the first case, police arrested, under the charge of organizing the protests, a participant from Kharkiv, the leader of a minuscule far-right party, embracing Russian nationalist and anti-Semitic positions. Leaders of the associations organizing the protests quickly issued statements that the arrested individual was in no way involved at any stage of organizing the demonstrations, but meanwhile television stations were broadly disseminating images and news about the arrested far-right protester. One can only speculate about the authorities’ motivations behind this arrest, but organizers believed that the authorities’ actions’ goal of arresting a marginal but extremist participant and presenting him as a key organizer was to undermine the unity of the participants. Indeed, as many observers noted, the uniqueness of the November 2010 protests consisted in being the first protests in Ukraine’s history that united the ethnolinguistically divided western and eastern parts of the country. Allegations of pro-Russian far-right involvement could have limited the motivation of western-Ukrainians to join the protests. The effectiveness of the arrest was limited, sparking little or no outrage among Western Ukrainian protesters about their alleged leaders’ pro-Russian links.

Another attempt to discredit protests had the role of limiting participation in the Chernobyl veterans’ protests in Ukraine’s Eastern city of Donetsk, after police intervention to stop hunger-strikers from occupying the city’s center left one veteran dead. The autopsy, carried out by doctors of the Ministry of Emergency Control revealed heart failure during the protests as the cause of death. One state authority – the state administration of the Donetsk region – immediately issued a statement citing the Ministry that the hunger-striker had a serious medical condition, and had contacted medical services to attend to his heart problems only one day before the forceful eviction. This was to give the impression that the hunger-striker should not have been there anyway. Furthermore, the authorities published information that the autopsy had revealed the remains of food in the protester’s stomach, so as to discredit the hunger-striker, casting doubt over the other protesters. The Ministry responded that the administration had cited a nonexistent document, that it had never made public the more detailed results of the autopsy and accused it of misinforming the public. Protest organizers saw the Ministry’s statement as a proof of the state’s attempt to discredit hunger-strikers, and circulated it widely

(according to the press agency *Unian*, 28.11.2012, <http://www.unian.net/rus/news/471014-Donets'kaya-oga-podstavila-mchs.html>, retrieved 27.02.2012).

Conclusions

The stories of protest campaigns and the state response to them reveal that social accountability does not simply ensure horizontal accountability, but the former requires some minimal level of horizontal accountability, some minimal autonomy of law enforcement organs from the executive. When, as in the case of Ukraine, such a minimum is missing, civil associations face the immense task of pressuring the state to abide by the law; but the state can decide by which laws to abide and can use the law against the protesters selectively and at their discretion. Thus it is important to understand the full range of options available to the state in order to understand the prospects for accountability, and why accountability (whether “social” or “horizontal”) is so difficult to actually bring about.

The aim of this paper was to move closer to understanding the options at the state’s disposal. It started by mapping the protests against austerity in Ukraine and why it was that certain groups of self-employed, military retirees, teachers’ unions protested while others did not, such as the industrial labor unions. The argument is that the post-communist state is far better equipped to prevent protests by the industrial workers; protests of industrial workers are still largely prevented by the existence of social benefits that management and unions distribute to workers on a discretionary basis. But such descriptions of the post-communist political economy are less valid, since post-communist societies have changed over the last twenty years, making room for new occupational groups shaped by new types of state actions. I briefly introduced two such broad state actions, the state’s retreat from welfare provision and the state’s offensive to re-regulate the informal economy; these actions either do not take place in the context of dependency, as shown in the case of the market vendors, or in fact actually break such dependency, as in the case of the organizations of veterans.

Still, once protests took place, the state has thus far used a set of tools capable of effectively containing them, or at least of implementing its policies without threatening opposition. These tools are more or less effective: some, such as attempts to discredit protest organizers and selective law enforcement, did not stop protests but do tell us about the issue of the lack of horizontal accountability being both the main goal protesters want to address, and the main obstacle in their way. One method is, however, far more effective: by gaining formal hold of the protesters’ organizations, the state can restrict their actions and gain time to pursue its policies. By evading protests, the state achieves the unfolding of its policies, giving citizens the possibility of getting used to changes without protesting. It thus fragments what initially could have been a unitary opposition to its policies into a myriad of individual decisions and actions about how to deal with the practical consequences of the policies, and undermines the prospects for future protests. The implications for accountability are that civil groups and associations need to become more informed about the state’s containment of protests (in itself, a very difficult task, given their short life spans) and identify and circulate best practices about how to overcome containment before it actually takes place.

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