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TRANSITIONAL JUSTICE: LUSTRATION AND VETTING IN UKRAINE AND GEORGIA

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Abstract: *Many of the world's conflicts today are self-sustaining and ongoing, making the application of transitional justice measures difficult. Particularly in Central and Eastern Europe, namely Georgia and Ukraine, both of which have experienced regime changes in the twenty-first century and implemented lustration and vetting measures - the question of whether or not transitional justice will be successfully utilized is very much still under debate. My research explores the relationship between lustration and vetting policies and corruption in Ukraine and Georgia. Past studies of corruption in these countries have focused the extent of state exploitation of the forms through which corruption is expressed such as political appointments, and protection from prosecution. This research, by contrast, aims to study the relationship that corruption has with the particular transitional justice measure of lustration and vetting.*

Keywords: *Ukraine; Georgia; Transitional Justice; Corruption*



INTRODUCTION

Throughout the world, but particularly in Central and Eastern Europe, transitional justice has been challenging for many governments to implement. How does one preserve the integrity of historical memory alongside acknowledging the wrongs of the past? What is the best way to hold former leaders accountable? In former Communist countries, these questions became even more relevant as countries began their democratization process. Unfortunately, however, due to protracted conflict, many of these processes were stalled or did not take place at all. In Georgia, for example, lustration and vetting policies were postponed until after the 2008 Russo-Georgia War (Panfilov et al. 2008, Allison 2014, Rozic and Nisnevich 2016, ICTJ 2017). In another example, Ukraine's lustration policies were just recently implemented in the wake of the Euromaidan protests in 2014 (Shveda 2016, Nuzov 2016, Zabyelina 2017). What does this say about the insincerity of such transitional justice? How does the prevalence of corruption across Ukraine and Georgia relate to these late and questionably effective transitional justice measures?

One of the hallmarks of successful transitional justice policies is the effective implementation of judicial and non-judicial measures to redress legacies of human rights abuse (ICTJ 2017). To achieve this, countries must address not only existing problems but also determine the circumstances through which these problems were exacerbated. For example, while truth commissions are helpful and have been used in many countries, without policies and legislation that breaks down the existing system of power – it is less likely that the transitional justice measures will be effective in the long run.

As many conflicts in the world continue to become protracted and 'frozen', it has become even more important to determine how transitional justice measures interact with other present phenomena. Lustration and vetting policies are particularly controversial. Critics point to potential miscarriages of justice as one negative possibility as well as the possibility of an insincere reckoning with the past. However, within Central and Eastern Europe, they have been widely used. Each country has its own history and particular relationship with the policy – and therefore it is difficult to broadly assert the relationship that transitional justice as a whole has had with corruption. However, by looking at individual cases, particularly where these transitional justice measures were implemented very late, we can better understand that relationship.

Through this study, I hope to present Ukraine and Georgia as case studies into exploring the relationship between corruption and lustration policies. The paper will begin with a brief description of the theoretical framework, followed by the methodology. This will be followed by each case study analysis into each historical context, the social norms of lustration in each country, its lustration measures and the aftermath, and concluded with a reflections chapter.

LITERATURE REVIEW

Corruption

Corruption is a concept that simultaneously wears many hats. It can refer to patron-client networks, nepotism and cronyism, market corruption, crisis corruption and a variety of other names that seem to encompass a broad range of activities (Johnston 1986). Conceptually, there has been much debate on the question of corruption (Alatas 1990, Heywood 1997, Friedrich 2002, Gardiner 2002, Philip 2002).

While some like Johnston distinguish between the terms mentioned above – others use different frameworks. Basu draws a distinction between ‘harassment’ and ‘harassment bribes’ while Johnston (2005) in later works describes corruption as being under four categories – ‘Influence Markets’, ‘Elite Cartels’, ‘Oligarchs and Clans’ and ‘Official Moguls.’ Others still like Rose-Ackerman draw the line between ‘petty’ and ‘grand’ corruption. In other words, the typology of corruption is wide and varied. However, practically, it is usually defined as the misuse of public office for private gain (Rose-Ackerman 1975, Jain 2001, Bardhan 2006, Olken 2007).

The debate over corruption tends to give way to a moralistic and judgmental approach, immediately marking any form of corruption as negative and ‘bad’ and any anti-corruption strategy as ‘good’. However, due to the lack of comparative data and differing cultures and norms towards corruption – it is difficult to adopt this approach without seeing its problems. Some argue that there are different forms of corruption and that while some are stabilizing; others are not (Szeftel 2000, Chabal and Daloz 1999, Johnston 1986, Cohen et al 1981). Normally, corruption is seen as a barrier towards successful state-building in the wake of conflict. However, the reality is that corruption may be an inadvertent cost of building a successful transition to peace. Historical examples abound, from Gallant’s study of how piracy played an integral role in fueling the rise of capitalism, Goodhand’s study of the drug trade in Afghanistan, and Synder’s study of Sierra Leone and Burma focusing on the role that the opium industry played in forcibly establishing order. In each of these cases, the relationship between corruption and peacebuilding heavily depended on context and the important role that informal networks took in the construction of a new government.

The legacy of communism often came with a “centrally planned economy, closely-knit elitism and even hypocrisy” (Holmes 2006, 282-3). In essence, post-communist countries perpetuate various forms of corruption due to the ingrained legacy that communism leaves behind including informal networks. In an environment following communistic rule and a previous lack of transitional justice measures, these tendencies are magnified even more so because of the oftentimes lax attitude towards corruption. That is what makes the relationship between lustration and corruption so interesting.

In essence, lustration has the potential, if used as it is meant to be, to break down the social networks and crony behavior that is perceived as widely negative in a Western context (Horne 2014). In countries such as Ukraine and Georgia, which have a different history and set of social norms as it relates to corruption – how then, will corruption and lustration interact?

Lustration and Vetting

When scholars examine how countries make the shift from a totalitarian regime to more democratic institutions, one of the most important aspects is the centrality of transitional justice measures in that shift (Guillermo O'Donnell and Philippe Schmitter 1986).

In looking at Central and Eastern Europe, however, the complexity of choosing exactly the right policy is complicated further. How are communities meant to deal with the communist past? In essence, the necessity of re-establishing public trust must be balanced with the need to create strong and sustainable democratic norms (Killingsworth 2010). Furthermore, this new system of transitional justice must serve two purposes: (1) to function as a framework for transformation and (2) to serve as an instrumental means of achieving it (Czarnota 2009). In other words, the problem of transitional justice and particularly lustration is constitutional in nature. The new system must create new accountable social-political norms as well as revive trust in society. This imbalance has, in turn, influenced many CEE countries to turn to lustration, a controversial and yet often used transitional justice measure.

Due to its vague nature, it is almost impossible to establish one definition of the term. This is because each country has a different understanding of what it means to reckon with its respective communist past. Susanne Karstedt, for example, defines lustration as “(1) criminal proceedings against members of the elites and authorities over the lower ranks of the state bureaucracy and (2) mass screening procedures, which are conducted against collaborators, party members or employees of state organizations (e.g. the police; security agencies) mainly from the middle and lower ranks of the hierarchy” (Karstedt 1998). For the purposes of this paper, we will rely upon this definition as well as the one put together by Czarnota, which distinguishes between vetting, lustration, and decommunization. Czarnota defines vetting as “the procedure conducting by authorized institutions of checking candidates for some positions in the state, from the point of view of their security conditional broadly conceived” (Czarnota 2009). He further defines lustration as “the process of making public the names of people who consciously and secretly collaborated with the organs of the secret service” (Czarnota 2009). Lastly, he defines decommunization as “the procedure making it possible to eliminate groups of people, who in the past occupied some position in the state and/or communist party apparatus, for some time from public life” (Czarnota 2009). According to Thoms, Ron, and Paris, however, differences in terminology are not as important, as “lustration [is] a cousin of vetting” (2008).

When we examine the cases of Georgia and Ukraine, however, some of the parts of these two definitions do not apply. Karstedt's definition, for example, implies some form of punishment, which was not the case in the chosen case studies. Therefore, for this research, it is more useful to take elements of both definitions. We will focus on the second half of Karstedt's definition which outlines mass screenings and a broader view of Czarnota's definition of vetting and lustration which can be applied to more cases than purely those that took place directly after communistic governance.

Despite lustration being widely used across the Former Soviet Union, however, it remains quite controversial. Opponents claim that lustration poses a particular risk for miscarriages of justice. In other words, lustration and vetting act by assigning collective guilt without determining whether any single individual is responsible (Boed 1999). In other cases, lustration is perceived as a witch hunt, and as a device for those disenfranchised from power to enact some small retributive measure against those who wronged them. In Romania, for example, Romanian legislators argued the lustration was wrong and went entirely against the political right to be elected to political office. They also pointed to lustration as a powerful tool for authoritarian governments to find opposition parties and unearth all information, categorizing them as pariah groups. Other legislators acknowledged that there were more important problems than the ones that lustration would address, namely the fight against corruption and the improvement of living standards. In short, they named this kind of policy as impractical, immoral, and vindictive (Stan 2012).

Proponents, however, claim that lustration is necessary. Without respecting the rule of law that is inherent within the democratic rule, they argue, the legitimacy of the new legal system is already at risk. For better or worse, lustration and vetting policies have been used actively within the Former Soviet Union and these policies, while meant to deal with the past, play a huge role in handling the future.

METHODOLOGY

This research aims to explore the relationship between corruption and lustration and vetting policies within the case studies of Ukraine and Georgia. This method was chosen because this case study will explore the contemporary phenomenon of corruption within the real-life context of Ukraine and Georgia. Both Ukraine and Georgia were chosen as case studies due to their late-onset of lustration measures as well as their particular experience of mass revolution and regime change. It is important to acknowledge that corruption is a notoriously difficult concept to measure as it has a variety of different typologies, frameworks, and definitions. Moreover, as discussed in the literature review – corruption tends to be studied from a moralistic and judgmental approach.

It is for this reason that for the purposes of this research, I have used two measures of corruption, one being the Corruption Perceptions Index (CPI) of Transparency International, which defines corruption as the misuse of trusted power for private benefit. The second measure will be the Control of Corruption Indicator (CCI), which is measured by the World Bank. The CCI is defined as the measure “of the extent to which public power is exercised for private gain, including state capture, the elites’ private interests, and the strength of a country’s institutional framework to combat corruption” (Rozic and Nisnevich 2016). It is firstly measured through the estimate of governance, which ranges from -2.5 (weak) to 2.5 (high), followed by a rank amongst all countries.

To try and measure shifts in corruption over time, I will measure Georgia’s CPI and CCI from the year 2007 to 2012. For Ukraine, I will measure from 2013 to 2017. Apart from the CPI and CCI indicator, I will also be analyzing the social norms of corruption within each country and explore how that relationship has evolved with the onset of lustration measures.

GEORGIA

Georgia represents an interesting case for the purposes of this study because lustration and vetting measures not only took place in the aftermath of the Russo-Georgia War of 2008 but additionally after the Rose Revolution. The Rose Revolution is namely thusly as it represented the democratization of Georgia in 2003 and subsequent administrative reform. However, Georgia’s history of corruption and transitional justice are complicated. Rather than having the simpler pathway from communism to a democratic state, Georgia instead had a much tougher journey. After the collapse of the Soviet Union, Georgia’s first president Zviad Gamsakhurdia took the reins of power. However, rather than leading in a democratic style – he quickly turned to authoritarianism in both handling the Georgian populace but also the separatist territories of South Ossetia and Abkhazia. A military coup brought former Soviet Foreign Minister Eduard Shevardnadze to lead the country. Even under Shevardnadze’s more stable reign, however, the country was still plagued by widespread corruption and organized crime. According to the International Center for Transitional Justice (p. 3), “systemic corruption and nepotism penetrated almost every sphere of public life. State institutions were weak and fragile and there was no political will to reform them”.

In 2004, in the wake of the Rose Revolution, then-President Saakashvili downsized both the number of ministries in Georgia, reformed law agencies and the Ministry of Internal Affairs (Panfilov et al. 2008), as well as stripped executive power from many officials (Rozic and Nisnevich 2016). Moreover, he dissolved the Ministry of State Security and the Traffic Police and created new departments. In an attempt to combat the systemic corruption, however, aggressive anti-corruption measures also began to give oversized power to the

executive. In 2004, amendments were passed to the Georgian Constitution that gave the president the authority to chair the High Council of Justice – giving Saakashvili the power to appoint and dismiss judges at will (International Center for Transitional Justice, 3).

These measures, while aggressive, appeared to be effective. In 2010, Georgia was noted by the World Bank to be a leader in the fight against corruption. This was due, in no small part, to the zero-tolerance policy on organized crime. In 2006, Georgia announced this policy – which outlawed the existence of thieves, prohibited any relationships with crime and introduced prison sentences. This changed the social norms of corruption within Georgia drastically. While in the era of the Soviet Union and the more chaotic decade of the 1990s, corruption was seen widely as normal and culturally traditional in Georgia, this policy alongside the other Saakashvili changes to the Constitution and government had an intense impact on how corruption was perceived. Because of these harsher zero-tolerance policies, there was a noticeable increase in prisoners, police abuses and arrests. Hence, while the criminal corruption so previously common in Georgia was changing, it was being replaced instead, by a system that did not respect human rights law and brought back more authoritarian practices into Georgia (Slade et al. 2014). More protests followed this turn to authoritarianism in government. However, any chance that Saakashvili wanted to make towards his approach to corruption and transitional justice was disturbed.

This road to lustration, however, was interrupted by a short-lived conflict with Russia in July and August 2008. Georgian settlements in the disputed territory of South Ossetia were targeted by separatist militias, who were immediately buffeted by ‘volunteers’ who arrived to assist their brothers in arms. The small confrontation immediately escalated when both Georgian and Russian troops arrived to support their respective citizens. While the descriptions of events are highly politicized and differ depending which country you ask, what is sure is that Georgian artillery and ground forces attacked Tskhinvali on August 8 allegedly to halt Russian troops advancement into the region. Three days of combat later, Georgian troops withdrew fully from the region. Russia has argued that its actions originated from a need to protect Russian peacekeeping forces as well as to buffer back Georgian aggression (Allison 2014).

In the months following the August 2008 conflict, thousands of new internally displaced persons (IDPs) arrived within Georgia. This, alongside complaints and criticisms about Saakashvili’s democratization record, led to protests and demands for transparency. However, despite these protests, Saakashvili remained in office until 2013 (ICTJ 2017). Part of his strategy to reign in corruption was the passing of the “Charter of Freedom” on May 31, 2011. This law not only eradicates symbols of communism but also bans totalitarian or fascist or communist ideology and propaganda. Moreover, all former employees of special services and former Communist party members are unable to serve in legislative or executive authority positions. In order to do so, this lustration law creates a commission which will

openly list those who have collaborated with or had relations with intelligence agencies of the USSR who continue to hold high positions in the government. However, while this is a lofty agenda, the commission is not actually functioning, and its members have only met once to create a registrar for members of the aforementioned commission (IDFI 2016).

Within Georgia, corruption and organized crime have since the Soviet times been rooted in its culture and tradition. Particularly Georgian organized crimes, the so-called ‘thieves-in-law’ *kanonieri qurdebi* were more than just normal criminals, they were high-ranking criminal professionals that acted with the direct understanding of the government and police. While many of these criminals were eliminated in the early 1990s, it led to human rights abuses within the police. In essence, as they rid the country of the thieves in law, the police themselves became politicized. Thinking back to the different typologies of corruption, it would seem that while Georgia has been tackling the criminal and institutional corruption, ‘elite corruption’ still exists. Accusations of corruption aimed towards high-ranking government officials are rarely if ever, investigated (Kukhianidze 2009). Lustration measures in Georgia, then, present an interesting relationship with corruption. Because lustration in Georgia was primarily aimed at former Communist and Secret Service members, it is not aimed at the same group of people that it would seem, corruption is the most prevalent.

Table 1: Georgia’s CPI and CCI Scores and Rankings from 2007 to 2012
(Source: Transparency International and World Bank, 2007-2012)

Georgia	2007	2008	2009	2010	2011	2012
CPI	3.4/10	3.9/10	4.1/10	3.8/10	4.1/10	52/100
CPI Rank	79/179	67/180	66/180	68/176	64/176	51/176
CCI	-0.13	-0.11	-0.12	0.01	0.12	0.40
CCI Rank	54.37	54.37	55.50	57.14	61.61	68.72

While there is still certainly corruption present in Georgia, its evolution from 2007 to 2012 shows a country that is clearly improving its rank internationally as is shown in Table 1. As lustration measures officially were passed in 2011, it is interesting to note that that year is the most draft shift within Georgia’s corruption scores. Another interesting point is that between 2007 and 2010, there appears to be a significant but still relatively small movement amongst the numbers. This, notably, is before the lustration measures took place. The relationship, then, that we can see is that lustration measures appear to change how people feel about the prevalence of corruption within the country at writ large. Critically, while these numbers might immediately suggest at the success of lustration policies in Georgia – it is important to note that beyond lustration policies, there has also been a wide range of anti-corruption action by the government. This includes amnesty policies, the rehabilitation of torture victims, the creation of land restitution commissions, criminal proceedings against senior officials and

a commission for miscarriages of justice (ICTJ 2017). Moreover, oftentimes these measures led to extensive human rights violations. In short, corruption in Georgia has a tradition and a past that authorities attempted to handle using aggressive anti-corruption legislation alongside a zero-tolerance policy towards organized crime. On the other hand, lustration in Georgia happened late. Many of the crimes that former Communist and Secret Service employees were being punished for occurred back in the 1990s – which took over a decade for the Georgian government to address. For some, this may ring the bells of an insincere dealing with the past (ICTJ 2017). Why did that policy take place so late? What influenced the Georgian government to do such a thing? Other problems with the lustration law were that there was no understanding of what constitutes Soviet or Fascist ideological propaganda and that civil society organizations and law specialists had no role in the process. All of these issues suggest that lustration legislation was passed more as a symbolic role rather than one aiming to deal with the issues of the past. Due to the timing of the law, we can propose that it was part of a symbolic move to address corruption in the country and assuage protestors who wanted more action to be taken against corruption within the government. Importantly, however, this law does not take ‘elite’ corruption into account – leaving many individuals in power untouched. So, is there a relationship between corruption and lustration? In the case of Georgia, the answer is likely no. Given the particular kind of corruption, namely amongst police, criminals and new elites – and the past-driven approach of lustration – they do not intersect in any meaningful way.

UKRAINE

During 2013 and 2014, Ukraine’s incumbent government led by then-President Viktor Yanukovich and the ruling Party of Regions experienced a series of nationwide uprisings. These uprisings originated from Yanukovich’s decision to abandon the anticipated association agreement with the European Union (EU) in November 2013. When former Ukrainian President Viktor Yanukovich stated that he would not sign the previously agreed upon European Union Association Agreement, hundreds of student activists took to the streets and Kiev’s Independence Square to protest with “political demands for changing (or rather returning) to European integration as the nation’s foreign policy” (Shveda 2016, 87). At the beginning of Euromaidan or as it is known in Ukraine “The Revolution of Dignity,” the protesters were mostly students, however, this dynamic changed throughout the evolution of Euromaidan. After the violent breakup of the student’s protest at the end of November 2013, more radical activists took their place, this time demanding not only European integration policies but also the resignation of Yanukovich and less corruption in the Ukrainian government. This turn to radical and anti-government slogans was met with a higher intensity of military action against these protestors, resulting in the deaths of 88 protestors

from February 18 to 21, 2014. Yanukovich fled the country on February 21, 2014, after Euromaidan protesters stormed the Parliament. For this unconstitutional act of abandoning his post, he was removed as president by the Parliament (Shveda 2016). In late February 2014, Petro Poroshenko was elected to office as President alongside Arseniy Yatsenyuk as Prime Minister.

In turn, Yatsenyuk appointed Yehor Soboliev, an investigative journalist to chair the newly created Civic Lustration Committee. This committee's mandate was to draft a lustration policy that would cleanse Ukraine's government with the aim of screening one million civil servants (BBC 2014). However, even with the help of NGOs such as the Kharkiv Human Rights Group, it was difficult to come to an agreement on what exactly such a lustration policy would involve (Nuzov 2016).

In April 2014, four different drafts were submitted to the Ukrainian parliament. One came from Svoboda (Draft Law No. 4570/26 March 2014), while another came from Batkivshchyna (Draft Law No. 4570-1/8 April 2014). Two more drafts came from UDAR (Draft Law No. 4570-2/8 April 2014 and Draft Law No. 4570-3/8 April 2014). Both drafts by Svoboda and Batkivshchyna proposed the dismissal of not only all judges but also all prosecutors that were active during the Yanukovich regime as well as any senior public officials involved in corruption or any policies having to do with Euromaidan protestors (Piasecka 2014). By contrast, drafts proposed by the UDAR argued for vetting only higher-level officials such as ministers, members of the Central Electoral Commission, and judges of the supreme central court.

After much debate, Poroshenko signed the Law of Ukraine No. 1682-VII "On Government Cleansing" on October 9, 2014. This law called for an extensive list of officials to be vetted, including:

the Prime Minister and Vice Prime Minister, the Head of the National Bank, the Chairman of the State Committee for Television and Radio (Article 2§1); the Prosecutor General; and the Heads of the Foreign Intelligence Service, the Administration of State Guard, and taxation and customs agencies (Article 2§2); military officers (Article 2§3), heads of state-owned enterprises related to the military-industrial complex (Article 2§9) and of the Ministry of Interior (Article 2§6). Judicial positions are included in the Law 'On Government Cleansing' as well, including 'members of the High Council of Justice, members of the High Qualification Commission of Judges of Ukraine, professional judges, the Head of the State Judicial Administration of Ukraine' (Article 2§4). Individuals falling under one of the lustration categories are banned from occupying the public office for five or ten years (Zabyelina 2017, 64).

Alongside this extensive list of officials to be vetted, this lustration law also passed a 10-year public employment ban for individuals who served for a year in the Yanukovych government in high positions between February 25, 2010 through February 22, 2014. Furthermore, the law extended the 10-year ban towards any members of the Communist Party in Ukraine or past agents of the KGB. Other officials were also banned for five years, including judicial employees involved in anti-Yanukovych activities, officials involved in preventing the constitutional right to peaceful assembly, and past informants. However, while this law is extensive, it critically does not apply to elected positions – a point that the Ukrainian Opposition Bloc notes may be purposefully placed to allow Poroshenko to accumulate power.

Ukrainian expert Thomas de Waal describes the situation in Ukraine concerning corruption best, claiming that “the problem is not that a well-functioning state has been corrupted by certain illegal practices; rather, those corrupt practices have constituted the rules by which the state has been run” (de Waal, 1). Scholarship has shown that corruption was particularly high in Ukraine in the post-communist era (Herron, Boyko and Thunberg 2017, Hellman, Jones and Kaufmann 2003, Grødeland, and Koshechkina 2000). In 2011, former President Yanukovych acknowledged that corruption cost the Ukrainian state \$2.5 billion in revenues alongside improper government spending, which amounts to 10-15 percent of the state budget (Rachkevych 2011). Two years later, *The Ukrainian Week* reported that 74 percent of respondents to a nationwide survey would not report an incident of corruption, as 24 percent were frightened of the consequences and 63 percent claimed it would not make any difference. In short, corruption in Ukraine was endemic.

Ukraine, unlike many other European states, has more in common with Africa and Latin America as it has to do with its corruption culture. Almost all transactions such as visiting the doctor or running any kind of political actions require rents and informal taxes. In fact, most Ukrainians see the state as a predator rather than as a system meant to protect them (De Waal 2016). In the wake of the Euromaidan Revolution as well as lustration policies, there has been an interesting change in how corruption is perceived. While there is a new and radical amount of transparency in Ukraine, it has also increased the Ukrainian’s knowledge of how prevalent corruption is. Hence, this has led to most citizens believing that while corruption is getting worse but normal citizens were also less willing to give bribes (de Waal 2016). Furthermore, while transparency is surely getting better, there has still been a lack of accountability for former members of the Yanukovych government. However, there are some small steps that have been successful such as police reform, an open public procurement system and the creation of a business ombudsman.

Table 2: Ukraine’s CPI and CCI Scores and Rankings from 2013 to 2017

(Source: Transparency International and World Bank, 2013-2017)


Ukraine	2013	2014	2015	2016	2017
CPI	25/100	26/100	27/100	29/100	32/100
CPI Rank	144/175	142/175	130/168	131/176	120/176
CCI	-1.13	-0.99	-0.58	-0.81	-0.78
CCI Rank	11.37	14.90	14.90	20.67	22.12

Interestingly, looking at how corruption has shifted in the period 2013-2017 as illustrated in Table 2, it has been steadily rising in the ratings. For example, according to Transparency International, Ukraine has improved both in terms of its score and ranking amongst other countries each year without any steps backward. The Control of Corruption Indicator by the World Bank tells a slightly different story, showing a step backward in 2016. This, however, can likely be attributed to the Panama Paper leaks – which showed former Ukrainian President Petro Poroshenko to have passed his ownership of his chocolate business to an illegal offshore company. When thinking about what kind of corruption is prevalent in Ukraine, de Waal would describe it as state capture, namely that corruption was involved in every level of the state. With anti-corruption measures, this has evidently been changing. What role does lustration then play? Due to Ukraine’s extremely comprehensive lustration policy, it actually does do much to address Ukraine’s particular form of corruption. Because Ukraine’s corruption is institutional, taking out a large swath of former actors does work in tandem with anti-corruption measures. Moreover, because the Euromaidan protests were largely spurred on by endemic corruption, Ukraine simultaneously implemented harsh anti-corruption laws with their lustration policies which have contributed to their decrease in overall corruption. It is perhaps a more unique and interesting relationship between corruption and lustration because the very protests that called for lustration measures were inherently interrelated with calls for less corruption.

In the framework of transitional justice, Ukrainian lustration has been an interesting phenomenon not only because in a fashion similar to Georgia it happened too late, but because it is occurring while the country in question is still involved in ongoing conflict. Mainly, this policy was implemented to explicitly increase accountability and trust in the government while building democratic norms. Moreover, the lustration policy was certainly notable for placing such high restrictions on anyone in the office who had anything to do with the Communist regime, the Yanukovich regime and any officials involved in preventing the right to assemble. While this policy notably does not include elected officials, it is exceedingly comprehensive and addresses not only questions of accounting with its Communist and authoritarian past, but also existing corruption. Hence, the case of Ukraine, corruption, and lustration are closely connected.

CONCLUSION

According to Czarnota (2009), transitional justice policies must not only provide a framework for dealing with the past but also suggest an instrumental method in order to do so. Transitional justice must also re-establish public trust and create democratic and sustainable norms of governance. As previously discussed, lustration is both extremely controversial due to its nature of assigning collective guilt and potential to be used problematically in an authoritarian context. Despite this, it was used widely throughout Central and Eastern Europe. Both within Georgia and Ukraine, lustration measures attempted to reestablish public trust by taking individuals out of government that was previously seen to be associated with a Communist or specific past ruling elite. While Ukraine has a much more comprehensive and effective policy of doing so than Georgia, it is no question that both attempt to symbolically reestablish public trust. However, their relationship with corruption is extremely different in nature.

The reason for their differing relationship with corruption is due to the different typologies of corruption present in Ukraine and Georgia. As Johnston, Basu, and Rose-Ackermann acknowledge, there are many different ways of specifying different forms and types of corruption. Johnston might call Ukraine's corruption Oligarchic and Georgia's corruption Elite Cartels and Rose-Ackermann might call Ukraine's corruption grand and Georgia's corruption petty; however, they would likely agree that the corruption experienced in these two countries is not the stabilizing force that it can be in fragile state contexts. Ukraine's norms around corruption were namely that it was a part of living and governance. It was a strategy of survival for the everyday citizen and a way of life for the businessman. Georgia's norms surrounding corruption instead came two-fold, both in the police and the criminal world. This difference meant that the relationship that lustration had with both was inherently very different. While Ukraine's focus on elites meant that lustration had a much deeper connection with addressing corruption, Georgia's police corruption did not really leave any space for lustration to effectively interact with corruption. Hence, for these two case studies – theoretically, we can conclude that there is no one casual or easily explainable relationship between lustration and corruption. While in some cases, lustration can be connected with addressing or lessening corruption – the breadth of corruption means that it is not a given that the two phenomena will interact. 

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