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**The Attitudes and Adaptation Strategies of Oligarchs to Ukraine's
Democratization**

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Work in progress; comments are welcome

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Introduction

The era of transition from socialist to market economy in the majority of the former Soviet republics witnessed the rise of the so-called “oligarchs” – new economic elites who acquired their assets largely through exploitation of advantageous access to the state and its resources. Ukraine was among the countries where the oligarchs became an important economic and political actor during the transition period and where they had been a force working to prevent the country’s democratization during the presidency of Leonid Kuchma (1994-2004). Since the Orange revolution - massive protests of population against electoral fraud that prevented Kuchma’s designated successor Victor Yanukovich from becoming president and brought opposition leader Victor Yushchenko to power instead - Ukraine has been considered a democracy and its economic elites have embraced the new political order with none of them openly challenging it. The change of the regime has been followed by efforts of some oligarchs to transform themselves into respected businessmen in the perception of the public. Exactly what is driving the Ukrainian oligarchs in their search for social legitimization and what their interests are with regards to the country’s democratization are the central questions of this paper. I use the term “oligarchs” in spite of its negative connotation in the post-Soviet context not to make my own statement about the origin of these elites’ wealth but to convey the views the population holds of them, which lie at the essence of oligarchs’ attempts at legitimization. This paper is interested in legitimization efforts of those economic elites who were among the beneficiaries of Kuchma’s regime and who at the time of the Orange revolution supported the ex-president and his chosen successor. The oligarchs who defected to Yushchenko’s side before 2004 face their own problems of improving their public image and are not discussed here.

The first section of this paper describes the era of initial asset accumulation by the Ukrainian oligarchs. The second section analyzes the consequences of Orange revolution and the re-privatization campaign that was launched by the new leadership in its aftermath. The third section explores the particular strategy of social legitimization that some Ukrainian oligarchs have pursued in order to adapt to the new regime.

Contextualizing the Argument

The support of business elites is crucial for democracy’s survival in the long run. On the basis of analysis of rich historical data, Barrington Moore made his famous statement about the importance of a bourgeois class for the establishment of democracy.¹ However, as Eva Bellin notes, in the late developing countries even if capitalists exist they cannot be assumed to automatically support democracy. Bellin considers economic elites in such countries to be “contingent democrats” who support democracy only when they expect it to cater to their interests better than the authoritarian regime.² In contrast to early developers, in late developing countries capitalists are usually more dependent on

¹ Moore, Barrington. 1966. *Social Origins of Dictatorship and Democracy. Lord and Peasant in the Making of the Modern World*. Beacon Press: Boston, p.418.

² Bellin, Eva. 2000. “Contingent Democrats. Industrialists, Labor, and Democratization in Late-Developing Countries.” *World Politics* Vol.52, pp.175-205.

the state for various kinds of protection and tend to support the authoritarian state as long as they benefit from it.³ Besides, the more modern understanding of democracy as mass inclusion makes the capitalists concerned about the consequences of the empowerment of the masses for their interests. Therefore, capital's dependence on state sponsorship (subsidized inputs, protected markets, or cronyistic relations with state elites) and fear of the masses (measured in terms of the pervasiveness of poverty, organizational strength of the poor, and past incidences of popular violence) are the two variables that Bellin believes can explain capital's pre-disposition towards democratization.⁴

An interest-based approach explains well the behavior of business elites should there be a possibility of democratic opening in an authoritarian regime. It is, however, ill-fit to predict the final outcome of realization of these interests since it does not consider how realization of these interests by the elites will play itself out. In order to predict the outcome, attention has to be paid to contestations for power taking place within a political system as well as institutions that constrain or promote realization of the diverse interests of players. Interests thus have to be carefully contextualized. Also, Bellin admits the possibility that interests of capitalists could change over time: at some point business may wish for institutionalized accountability and transparency that democracy is expected to bring along.⁵ Yet, at the same time one cannot always assume that Bellin's explanatory variables of capitalists' attitude towards democratization – low state dependence and low fear of the masses by capital owners - will lead them to become “champions of democracy.”⁶ The inability of an authoritarian regime to serve the interests of capitalists may lead them to support a *different type* of authoritarian regime rather than a *more democratic* regime. They may also accept democracy without embracing it enthusiastically. The contingency of support for democracy by business elites also raises a question of just how far they will allow democracy to advance.

This paper builds on Bellin's theory and applies it to Ukraine in order to explain the role the oligarchs played in the country's political development throughout the independence era. The story of Ukraine's recent democratization confirms Bellin's assumption that business elites are “contingent democrats”: some of Ukraine's most powerful oligarchs had acted upon their interests when they defended the preservation of the authoritarian regime after Leonid Kuchma's departure from power in 2004. Having lost their battle for continuation of the regime on the terms determined by the outgoing president, the oligarchs redefined their interests and have been adapting to the new political order. Throughout the independence era, Ukraine's economic elites have had to fight for preservation of their positions in the power hierarchy. Not all of them succeeded – some had to flee the country (for e.g., Petro Lazarenko), others got killed (for e.g., Ahat Bragin). Therefore, the oligarchs are by definition the “survivors,” who adapt to the changed conditions and possess flexibility and inventiveness needed to carry on.⁷ Adaptation, however, does not necessarily mean that the oligarchs transform themselves into democrats.

³ Bellin, Eva. 2000. “Contingent Democrats. Industrialists, Labor, and Democratization in Late-Developing Countries.” *World Politics* Vol.52, p.182.

⁴ *Ibid*, p.180-185.

⁵ *Ibid*, p.184.

⁶ *Ibid*, p. 205.

⁷ I am grateful to Lucan Way for suggesting this point to me.

The Orange revolution failed to fulfill many of the societal expectations about the country's political and economic development. Yet, Yushchenko's Ukraine is undoubtedly much more democratic than Kuchma's Ukraine even if this democracy is still characterized by many shortcomings. Since 2005, Freedom House has moved Ukraine from the category of "partially free" to the category of "free" countries. Ukraine has witnessed improvement in a number of categories (electoral process, civil society, and independent media).⁸

Democratization presents the oligarchs with both challenges and opportunities. Among the positive aspects, the structural power the oligarchs possess as owners of capital safeguards their positions in a democracy. During the Kuchma's era itself, the interests of oligarchs underwent significant changes. Over the years, the oligarchs have accumulated significant assets. Their ability to make decisions to invest or to abstain from investment in the Ukrainian economy presents them with a powerful lever of influence over the country's political leadership, which they can exercise even without direct participation in politics.⁹ In a democracy structural power could be an even more valuable resource than in an authoritarian regime since it endows the population with effective mechanisms of holding its leaders accountable for management of the economy.

Another opportunity for securing the oligarchs' future under the new regime was presented by the way the standoff between the authorities and the opposition was resolved in December 2004. The constitutional changes adopted during the round table negotiations significantly reduced the powers of the president and increased those of the prime minister and thus ensured that no institution would be able to concentrate all power at the expense of all others. The constitutional changes thus created another influential position of power – that of a prime minister – that is worth fighting for. Embracing the regime formally, the Ukrainian oligarchs gained a chance of molding it from inside to make it correspond more closely to their interests.

Democratization presents the oligarchs with challenges as well. A major challenge stems from the political empowerment of the masses. In a more democratic Ukraine the society at large may step on the interests of the oligarchs by supporting property redistribution. As the re-privatization campaign launched in the aftermath of the Orange revolution demonstrated, property rights in Ukraine remain insecure and the oligarchs are still vulnerable to losing their assets due to the past violations of law. Because of illegitimacy of the oligarchs and their wealth in the eyes of the population, engaging in redistribution is likely to bring significant political dividends to politicians. Another challenge is that there exist actors who were left out of state property distribution by the Kuchma regime but who hold positions of power now and who would like to benefit from redistribution at this point.

⁸ Freedom House website (www.freedomhouse.org).

⁹ For more on the concept of structural power, see: Smith, Mark. 1999. "Public Opinion, Elections, and Representation within a Market Economy: Does the Structural Power of Business Undermine Popular Sovereignty?" *American Journal of Political Science* Vol.43, No.3, pp.842-863; Przeworski, Adam and Michael Wallerstein. 1988. "Structural Dependence of the State on Capital." *APSR*, Vol.82, No.1, pp.11-29; Bernhagen, Patrick. 2005. "Structural Power and Public Policy: A Signaling Model of Business Lobbying in Democratic Capitalism." *Political Studies* Vol.53, pp.43-64; Swank, Duane. 1992. "Politics and the Structural Dependence of the State in Democratic Capitalist Nations." *APSR* Vol.86, No. 1, pp. 38-54.

Given that the population was given more influence over the state through mechanisms of democracy, society at large has to be brought into the picture as the views it holds have greater consequences for those trying to maintain or obtain power. Democratization therefore has brought about the need to study the relationship between business and the state in a broader context of state-society relations, where business is only one part of the society. Building of alliances with the population can strengthen business's position vis-à-vis the state while the lack of legitimacy makes it vulnerable to property confiscation and further redistribution. A new social contract is necessary for securing the economic and political position these elites have achieved so far. At the same time, democracy has also given the oligarchs means of protection against the empowered masses. The oligarchs have used the rhetoric of democracy under the new regime by appealing to the rule of law in order to protect their assets.

The Oligarchs' Murky Past: the Era of Initial Asset Accumulation

The current perceptions of the economic elites as semi-criminals and social parasites by the Ukrainian population were formed in the era of initial asset accumulation, during which these newly empowered elites worked to subvert market reforms and democratization, which at the time went against their interests.

It was during the 1990s and in particular during the presidency of Leonid Kuchma (1994-2004) that the oligarchs emerged as powerful economic but also political actors in Ukraine. During Kuchma's second presidential term Ukraine was characterized as a competitive authoritarian regime defined as a regime in which formal democratic institutions serve as the means of obtaining and exercising political authority yet incumbents violate these rules so often and to such an extent that the regime does not meet the conventional minimum standards for democracy.¹⁰ Ukraine's democratization was stalled as the president gradually increased his formal and informal powers and maintained his position through distribution of resources among competing political-economic groups (PEGs). Business-state relations in Ukraine under Kuchma were based on interdependence between the economic elites and the executive – what Bellin calls “collaborative profitability” – ruled by patrimonial rather than developmental logic and led capital owners to maintain the political status quo.¹¹ Economic actors gained from rent-seeking opportunities and preferential treatment during privatization provided by the executive.¹² The executive in his turn required the support of economic groups in dealing

¹⁰ See: Way, Lucan. 2004. “The Sources and Dynamics of Competitive Authoritarianism in Ukraine.” *The Journal of Communist Studies and Transition Politics* Vol. 20, No.1, pp. 143-161. On competitive authoritarianism more broadly, see: Levitsky, Steven and Lucan Way. 2002. “The Rise of Competitive Authoritarianism.” *Journal of Democracy* Vol.13, No.2, pp.51-65.

¹¹ Bellin, Eva. 2000. “Contingent Democrats. Industrialists, Labor, and Democratization in Late-Developing Countries.” *World Politics* Vol.52, p.181. On Ukraine as a neo-patrimonial state during Kuchma's presidency, see: Van Zon, Hans. 2001. “Neo-Patrimonialism as an Impediment to Economic Development: The Case of Ukraine.” *Journal of Communist Studies and Transition Politics* Vol.17, pp.71-95.

¹² The executive, for example, controlled the State Property Fund, who “integrated privatization into his political strategy.” For more on the struggles of control over the Fund, see: Kuznir, Julia and Heiko Pleines. 2006. “Informal Networks in Ukraine's Privatization Auctions.” In: Kuznir, Julia (ed.) *Informal*

with the “disobedient” parliament and non-cooperative society and was thus forced to “pull business forces originally exogenous to the political system, into the state institutions.”¹³ Due to the influence the PEGs exercised over the Ukrainian state, the latter was characterized as a “captured state.”¹⁴ However, since the regime dispersed the resources among a number of groups in order to sustain itself, the executive did not possess the same degree of control over power as could be expected in purely authoritarian states leading to what Levitsky and Way call “pluralism by default”: “pluralism and democratic contestation persisted less because elites wanted them than because elites simply could not get rid of them.”¹⁵

Since the late 1990s and until 2004, three major PEGs dominated the Ukrainian politics: the Kyiv-based group of Hryhoriy Surkis and Victor Medvedchuk; the Dnipropetrovsk-based group of Kuchma’s son-in-law Victor Pinchuk “Interpipe”; and the Donetsk-based group which consisted of Serhiy Taruta’s Industrial Union of Donbas (IUD) and Rynat Akhmetov’s System Capital Management (SCM).¹⁶ The PEGs created their own parties in order to pursue their interests in the parliament. In such a way, for e.g., the Workers’ Party of Ukraine came into existence through the efforts of “Interpipe” consortium along with the Social Democratic Party of Ukraine (united) (SDPU(o)), which was created through the efforts of the Kyiv PEG. However, the PEGs themselves remained the main actors of the political process. Their interests served as the basis for activities of the political players they created. The PEG-based parties, which became known as the “parties of power,” hardly fulfilled the conventional functions of parties, such as aggregation and representation of societal interests. The parties were not used for establishing permanent relations with the population since they existed as long as they served the interests of a particular PEG or an individual politician. Most of them took the amorphous centrist ideological position with the exception of the SDPU(o), which adopted the popular ideology of the working class. These parties thus did not represent the values considered to be traditional for business (more market, less state intervention).

At this point, the PEGs wanted as little exposure of their activities as possible before the public since much of their asset accumulation was taking place outside the legal sphere and depended on the sponsorship of an authoritarian state. In order to protect the interests of a number of regime-friendly PEGs and sustain itself in such a way, Kuchma’s regime therefore curtailed freedom of speech and persecuted or even murdered journalists for exposing its inner workings. Joel Hellman’s partial reform equilibrium model, in which the early winners of transition prevent market reforms from taking place,¹⁷ explains the long-term lack of progress in conducting reforms in Ukraine in economic and political spheres. In line with the interest-based argument, the Ukrainian

Networks and Corruption in Post-Socialist Countries, KICES Working Paper #6, p.40. Available at http://www.kices.org/downloads/KICES_WP_06.pdf (last accessed May 17, 2008).

¹³ Puglisi, Rosaria. 2001. *Economic Elites and Russia-Ukraine Relations*, University of Leeds, PhD dissertation, p.268.

¹⁴ Hellman, Joel, Geraint Jones and Daniel Kaufmann. 2003. “Seize the State, Seize the Day: State Capture and Influence in Transition Economies.” *Journal of Comparative Economics* Vol.31, No.4, pp.751-773.

¹⁵ Levitsky, Steven and Lucan Way. 2002. “The Rise of Competitive Authoritarianism.” *Journal of Democracy* Vol.13, No.2, p.63.

¹⁶ Aslund, Anders. 2003. “Left Behind. Ukraine’s Uncertain Transformation.” *The National Interest* p.109.

¹⁷ Hellman, Joel. 1998. “Winners Take All: The Politics of Partial Reform in Post-Communist Transitions.” *World Politics* Vol. 50, No. 2, pp. 203-234.

oligarchs wished to maintain the status quo of which they were beneficiaries as long as it was possible. Poor governance and lack of rule of law initially led to the rise of oligarchs when it enabled certain individuals to penetrate weak state institutions. Later the oligarchs tried to sustain poor governance and keep these institutions weak.

Although the PEG tried to constrain the exposure of their illegal methods of asset accumulation, the competitive authoritarian nature of Ukraine's political regime provided for the existence of several "arenas of contestation," such as the islands of free media and the legislative arena where the opposition could voice their views, as a result of which the population obtained an idea about what was going on in the country.¹⁸ No other process arguably exposed the corrupt nature of the regime more than privatization. Privatization did play a positive role in fostering the recovery of the Ukrainian economy after 2000 and gave actors a stake in supporting capitalism but it failed "as a social process."¹⁹ Privatization was carried out in several stages. Part of state property was distributed through vouchers, which were handed out to each citizen and which soon lost their value. The majority of the population was thus largely bypassed by privatization, which left few citizens as owners of industrial property. It was during 2000-2004, when privatization of enterprises in strategic industries took place, that the PEGs gained the most (see Table 1). The PEGs were able to shape the privatization program through their parties which were present in the parliament at that time.²⁰ President Kuchma also tried to preserve the system of power he created by giving as many PEGs a stake in supporting it as possible. Since only a few major groups benefited from what one witty journalist called "Kuchma's garage sale,"²¹ privatization of individual enterprises became even more scandalous than its preceding rounds. The society's loss from privatization of strategic enterprises was apparent. For example, the steel mill Kryvorizhstal was sold to a consortium owned by the SCM and *Interpipe* for USD 800 million while other buyers were prepared to pay more than USD 1 million. The conditions of the privatization auction were so restrictive that any competition among potential buyers was eliminated well in advance. In the case of Kryvorizhstal the buyers were required to have produced at least one million tons of coke and two million tons of rolled steel for the last three years in Ukraine. Extremely short spans between the time the auctions were announced and when they were held were also designed to prevent the purchase of lucrative assets by foreign investors and domestic non-insiders.²² As a result, as Dubrovsky et al point out, "even though privatization has never been the only source of accumulation of the new private capital, it provided the society with the clear evidence of obvious deceit and

¹⁸ Levitsky, Steven and Lucan Way. 2002. "The Rise of Competitive Authoritarianism." *Journal of Democracy* Vol. 13, No. 2, pp. 51-65.

¹⁹ Paskhaver, Aleksandr and Lidiia Verkhovodova. 2007. "Privatization Before and After the Orange Revolution." *Problems of Economic Transition* Vol.50, No.3, p.6.

²⁰ Kuznir, Julia and Heiko Pleines. 2006. "Informal Networks in Ukraine's Privatization Auctions." In: Kuznir, Julia (ed.) *Informal Networks and Corruption in Post-Socialist Countries*, KICES Working Paper #6, p.42. Available at http://www.kices.org/downloads/KICES_WP_06.pdf (last accessed May 17, 2008).

²¹ Kuropas, Myron. 2001. "Faces and Places." *The Ukrainian Weekly* March 4, Vol. LXIX, No. 9. Available at <http://www.ukrweekly.com/old/archive/2001/090117.shtml> (last accessed May 14, 2008).

²² Kuznir, Julia and Heiko Pleines. 2006. "Informal Networks in Ukraine's Privatization Auctions." In: Kuznir, Julia (ed.) *Informal Networks and Corruption in Post-Socialist Countries*, KICES Working Paper #6, p.43. Available at http://www.kices.org/downloads/KICES_WP_06.pdf (last accessed May 17, 2008). http://www.kices.org/downloads/KICES_WP_06.pdf.

inequality in redistribution of state assets, which became owned by the oligarchs.”²³ As the society witnessed how the new economic elites were grabbing the assets it had once owned, it obtained durable views about the illegal and illegitimate origin of the new elites’ assets.

Table 1. **Additions to the Principal Business Groups in the Process of Privatization in 2003–2004**²⁴

Facility	Buyer or company that controls it now
2003	
OAo Krasnodonugol	System Capital management (SCM)
OAo Komsomolets Donbassa	SCM
OAo Alchevsk Metallurgical Plant	Donbass Industrial Union (ISD)
OAo Petrovskii Dnepropetrovsk Metallurgical Plant	ISD, subsequently resold to the Privat group
OAo Kominmet	Privat
OAo Nikopol Ferroalloys Plant	Interpipe
OAo Zaporozhye Aluminum Plant	Interpipe and SUAL Holding Company (Russia)
2004	
OAo Krivorozhstal	SCM, Interpipe
GKhk Pavlogradstal	SCM
Enterprises of GAK Ukrudprom OAo Central GOK	SCM
OAo Northern GOK	SCM
OAo Ingulets GOK	Smart Group
GOK Sukhaia Balka	Privat
OAo Southern GOK	Privat

²³ Dubrovsky, Vodymyr, Oleksandr Paskhaver, Lidiya Verkhovodova and Barbara Blashchyk. 2007. The Conditions of Completion of Privatization in Ukraine. Analytical Report and Recommendations for the State Program of Privatization [Umovy zavershennya pryvatyzatsii v Ukraini]. Center for Social and Economic research, p.15. Available at <http://www.case-ukraine.com.ua/u/publications/f0ab7ba5d8a81a533668e0762dfcc073.pdf> (last accessed May 10, 2008).

²⁴ Paskhaver, Aleksandr and Lidiia Verkhovodova. 2007. “Privatization Before and After the Orange Revolution.” *Problems of Economic Transition* Vol.50, No.3, p.15.

OA0 Krivorozhye Iron Ore Plant	Privat
OA0 Dokuchaevka Dolomite Flux Plant	SCM
OA0 Krivbasvzryvprom Industrial Production Enterprise	SCM
OA0 Dzerzhinskii Dneprovskoe Metallurgical Plant	ISD

Source: www.kontrakty.com.ua/show/rus/print_article/30/0320054662.html.

Key to abbreviations: OA0—open joint-stock company; GKKh—state holding company; GAK—state joint-stock company; GOK—mining and processing integrated works.

The Orange Revolution and Its Aftermath

A complex phenomenon such as the Orange revolution can be understood from a number of perspectives.²⁵ Two major perspectives are society-based and elite-based. A society-based perspective explains the mobilization of millions of Ukrainians and peaceful demonstrations in support of opposition candidate Victor Yushchenko by tracing the development of Ukraine's civil society and political culture over time.²⁶ The elite-based perspective, on the other hand, studies the evolvment of elites' interests leading some elite groups to defect from the regime and join the opposition.²⁷ While civil society indeed played an important role in bringing the opposition to power, Kudelia argues that societal actors only "cleared space" for a democratic opposition. Ultimately it was the elite who decided how the outcome of the struggle would look like.²⁸

Ukraine's Orange revolution was largely a product of the power system that President Kuchma had created and the changes within this system that had been taking place over time. During Kuchma's presidency, not all elites had an equal access to the state sinecure. Some suffered from weak rule of law, in particular from poor protection of property rights, arbitrariness of state institutions, excessive bureaucratic regulations, and

²⁵ Some works that have produced interesting insights on the topic are: See, for e.g.: D'Anieri, Paul. 2006. "Explaining the Success and Failure of Post-Communist Revolutions." *Communist and Post-Communist Studies* Vol. 39, No. 3, pp. 331-350; D'Anieri, Paul. 2005. "The Last Hurrah: The 2004 Ukrainian Presidential Elections and the Limits of Machine Politics." *Communist and Post-Communist Studies* Vol. 38, No. 2, pp. 231-249. See, for e.g.: Way, Lucan. 2005. "Ukraine's Orange Revolution: Kuchma's Failed Authoritarianism." *Journal of Democracy*, Vol.16, No. 2, pp.131-145; Kudelia, Serhiy. 2007. "Revolutionary Bargain: The Unmaking of Ukraine's Autocracy through Pacting." *Journal of Communist Studies and Transition Politics* Vol.23, No.1, pp.77-100.

²⁶ See, for e.g.: Diuk, Nadia. 2006. "The Triumph of Civil Society." In: Aslund, Anders and Michael McFaul (eds.). *Revolution in Orange. The Origins of Ukraine's Democratic Breakthrough*. Carnegie Endowment for International Peace, pp. 69-83.

²⁷ See, for e.g.: Kudelia, Serhiy. 2007. "Revolutionary Bargain: The Unmaking of Ukraine's Autocracy through Pacting." *Journal of Communist Studies and Transition Politics* Vol.23, No.1, pp.77-100.

²⁸ Kudelia, Serhiy. 2007. "Revolutionary Bargain: The Unmaking of Ukraine's Autocracy through Pacting." *Journal of Communist Studies and Transition Politics* Vol.23, No.1, p. 97.

vulnerability to blackmail.²⁹ Although “captured” by some economic groups, the Ukrainian state was predatory towards others. The elites who supported Yushchenko in their majority were defectors – they turned against the regime that had provided some of them with opportunities for enrichment but after a certain point ceased to deliver. Bellin’s interest-based framework thus is able to explain the defection of part the oligarchs to the opposition along with the loyalty of other oligarchs to Kuchma’s regime until its collapse.

Even those elites who supported Kuchma’s regime had undergone significant changes of interests over time. Not all of them were equally prepared to defend the collapsing regime. Over time, acquisition of fortunes by the oligarchs became less dependent on the state directly. In the early to mid-1990s, assets were mainly acquired through trade with commodities, cheap state credits, steel exports, coal subsidies, agricultural and chemical exports - “anything but production”³⁰ – and the emerging elites were heavily dependent on preferential treatment by the executive. The “big” privatization that was launched in 2000 transformed the interests of the oligarchs. As owners of enterprises, they obtained a long-term perspective about the development of their businesses. With time, they had less interest in grabbing the assets and more in keeping what they already had. Weak property rights over time could become a problem for those who had benefited from this weakness in the past. Also, quite a few among the pro-presidential elites doubted that Yanukovych, if he became president, would replace Kuchma in the role of an “impartial arbiter” and would share the spoils of access to the state with other oligarchic groups. The opportunity for changes presented by the elections in which the incumbent was not running led some elites to engage in “fence-sitting.”³¹ Quite notably, even Rynat Akhmetov reportedly contributed to Yushchenko’s campaign in 2003.³² Akhmetov took a number of steps to secure himself against Kuchma’s regime ending without installation of a successor in power: he had meetings with Victor Yushchenko during the presidential campaign and made it clear that he would cooperate with any regime.³³ The behavior of the pro-Kuchma oligarchs during the Orange revolution suggests that oligarchs do not only shape their environment but also adapt to it should changes occur contrary to their will. Those who do not adapt disappear or get marginalized. In this sense, the oligarchs are rational actors who act within a specific institutional setting.

During the 2004 presidential elections, the shady nature of many privatizations of strategic enterprises with numerous violations of the law became one of opposition’s major points of criticism of the incumbent regime and a successful factor in mobilization of masses against the electoral fraud. The opposition promised “restoration of justice”

²⁹ Keith Darden’s concept of Ukraine as a blackmail state is revealing in this context. See: Darden, Keith A. 2001. “Blackmail as a Tool of State Domination: Ukraine Under Kuchma.” *East European Constitutional Review* Vol.10, No.2/3.

³⁰ Aslund, Anders. 2005. “Comparative Oligarchy: Russia, Ukraine and the United States.” Centre for Social and Economic Research, Studies and Analyses, p.10.

³¹ Way, Lucan. 2005. “Rapacious Individualism and Political Competition in Ukraine, 1992-2004.” *Communist and Post-Communist Studies* Vol.38, p.194.

³² Way, Lucan. 2005. “Incumbent Organization, National Identity and the Failure of Authoritarianism in Ukraine, 1992-2004,” Paper prepared for presentation at the American Association for the Advancement of Slavic Studies, Salt Lake City, November 4-6, p.59.

³³ Pukish-Yunko, Inna, “Playing on the Same Side: What Unites President Yushchenko and Yanukovych’s Main Financier Rinat Akhmetov?” *Vysokyy Zamok* May 24, 2005.

upon its coming to power. Yulia Tymoshenko, the appointed prime minister and a former oligarch herself who had lost her assets to the Kuchma regime and underwent short-term imprisonment, treated this commitment most seriously. Tymoshenko's support among the public largely rests on her history of being "tough" on the oligarchs. Her government launched a re-privatization campaign that envisioned a review of the illegally conducted privatizations and return of these enterprises into state hands with their subsequent resale to private owners. Tymoshenko declared that privatization of as many as 3000 enterprises would be contested. During the first six months of the new regime the Ministry of the Interior registered more than 1700 investigations by the prosecution related to privatizations which were submitted to courts.³⁴ In addition to raising popularity of the government, re-privatization promised to quickly fill in the state budgetary coffers.

Re-privatization was enthusiastically endorsed by the public. Heated by electoral slogans and subsequent government rhetoric, 71.4 percent of citizens in February 2005 supported government intentions to return to state ownership the assets that had been privatized with violations of the law. Only 4.5 percent viewed such plans negatively. Considering that the number of supporters of re-privatization is very high, it is likely that a share of those who had voted for Yanukovych in 2004 also supported the campaign. In February 2006, after re-privatization campaign was over, still 52 per cent of the population was in favor of returning large enterprises into the state ownership.

Table 2. The Share of Population with a Negative Attitude Towards Privatization (as percentage to the total number of respondents at the beginning of the year)³⁵

Enterprises	Years											
	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Small	18.3	19.0	19.3	22.0	20.9	22.9	18.7	18.7	21.4	22.7	25.2	23.3
Big	38.4	45.8	45.5	49.0	54.0	52.4	51.4	51.8	55.1	51.8	56.1	60.9

Source: Panina N. *Ukrayinske Suspil'stvo: Sotsiologichnyy Monitoring 1994-2005*. Kyiv, 2005, p. 21.

The carrying out of re-privatization turned out to be much more difficult than expected. Re-privatization was problematic from the legal point of view. The absence of a law on re-privatization and the inefficiency of Ukrainian courts promised lengthy delays with each review of privatization and disruptions in the work of enterprises.³⁶ Due to disagreement within the government itself on how to proceed with re-privatization, the exact number of enterprises that would be considered for re-privatization, the criteria for their selection, and the timelines of the campaign were not clear. Lack of clarity increased the possibility that re-privatization would breed its own corruption. There also existed a danger that the process would be politically motivated and turn into redistribution of assets among the supporters of the new regime. For example, during the attempts to re-

³⁴ Kuszniur, Julia and Heiko Pleines. 2006. "Informal Networks in Ukraine's Privatization Auctions." In: Kuszniur, Julia (ed.) *Informal Networks and Corruption in Post-Socialist Countries*, KICES Working Paper #6, p.46. Available at http://www.kices.org/downloads/KICES_WP_06.pdf (last accessed May 17, 2008).

³⁵ Paskhaver, Aleksandr and Lidiia Verkhovodova. 2007. "Privatization Before and After the Orange Revolution." *Problems of Economic Transition* Vol.50, No.3, p.8.

³⁶ "Ukraine Economy: Reprivatisation Stuck In The Mud Process Mired In Political And Legal Controversies Which Are Damaging The Economy And Deterring Investment," EIU Economy - News Analysis, *The Economist Intelligence Unit*, June 20, 2005.

privatize the Nikopol Ferroalloy Plant PM Tymoshenko herself was accused of promoting the interests of the group Pryvat, a rival to Pinchuk's Interpipe which owned the plant at the moment.³⁷

The oligarchs under the threat of losing their assets obviously forcefully resisted re-privatization. Paradoxically, democracy endowed them with mechanisms to do so. The oligarchs counteracted the government's plans of re-privatization by appealing to the principles they themselves had defied in the past. For example, the Investment-Metallurgical Union (IMU), at that time the owner of the steel mill Kryvorizhstal, which became the top candidate for re-privatization, filed a complaint to the European Court of Human Rights against Ukraine on the case of *Kryvorizhstal* claiming that the Ukrainian government had violated the law by taking back control over *Kryvorizhstal* and that the consortium had been denied a fair hearing in Ukrainian courts. The IMU claimed that the Ukrainian state had breached its rights to property, free expression and free association.³⁸

Another factor that contributed to the end of re-privatization was the considerable decline of domestic and foreign investments in Ukraine during the time the campaign was unfolding. The outflows of foreign capital constituted USD 35.6 million while during the analogous period the year before they were USD 2.2 million. The overall investments into the main capital during January-June 2005 were only 8.5 per cent higher than during the analogous period in 2004 (in 2004 during the same period the increase was 52.1 per cent compared to 2003).³⁹ The domestic business did not want to invest into enterprises it risked losing soon. Re-privatization campaign affected Interpipe's investment activities to the greatest extent. According to the company's data, its turnover decreased by 25 per cent in 2005 and its personnel was cut down from 800 to 160 people. Having witnessed impressive economic growth in 2000-2004, Ukraine's economy started to slow down: in 2005 real GDP growth was 2.7 per cent while in 2004 it was 12.1 per cent.⁴⁰ According to Haggard et al, "capital votes twice: once through the organized pressure it can bring to bear on the political process, again through its investment decisions."⁴¹ The ability to make these decisions and their importance for a country's economic performance give business veto power over state policies.⁴² Due to the negative effects of re-privatization campaign, the government briefly played with an idea of concluding "amicable agreements" with the owners of questionably privatized enterprises through which the latter would compensate the state for the discounted price they received for these

³⁷ Kuzio, Taras. 2005. "Yekhanurov Refers To Oligarchs As Ukraine's 'National Bourgeoisie'." *Eurasia Daily Monitor* Vol.2, No. 201, October 28.

³⁸ Ames, Paul. 2005. "Two Of Ukraine's Powerful Businessmen File Complaint At European Court Over Taking Back Of Steel Mill." *AP Worldstream* June 21.

³⁹ Dubrovsky, Voodymyr, Oleksandr Paskhaver, Lidiya Verkhovodova and Barbara Blashchyk. 2007. The Conditions of Completion of Privatization in Ukraine. Analytical Report and Recommendations for the State Program of Privatization [Umovy zavershennya pryvatyzatsii v Ukrayini]. Center for Social and Economic research, p.32-33. Available at <http://www.case-ukraine.com.ua/u/publications/f0ab7ba5d8a81a533668e0762dfcc073.pdf> (last accessed May 10, 2008).

⁴⁰ See: <http://www.ebrd.com/country/sector/econo/stats/mptgrows.xls> (last accessed May 27, 2008).

⁴¹ Haggard, Stephan, Sylvia Maxfield and Ben Ross Schneider. 1997. "Theories of Business and Business-State Relations." In: Maxfield, Sylvia and Ben Ross Schneider (eds.). *Business and the State in Developing Countries*. Cornell University Press: Ithaca and London, p.38.

⁴² Rueschemeyer, Dietrich and Peter Evans. 1985. "The State and Economic Transformation: Toward an Analysis of the Conditions Underlying Effective Intervention." In: Evans, Peter, Dietrich Rueschemeyer and Theda Skocpol. *Bringing the State Back In*. Cambridge University Press, p.62.

enterprises. However, no bills regulating such settlements ever became laws and not a single amicable agreement was ever concluded.⁴³ By the fall, re-privatization campaign was largely over. Kryvorizhstal became the lonely and remarkable success story of re-privatization. The enterprise was returned into the state property and resold to an international steel consortium Mittal Steel for USD 4.8 billion, 6 times more than what it had been initially sold for.⁴⁴ However, the controversies that have arisen in the course of reprivatization, have not disappeared. The inability of the current leadership to do something about past violations deprives the current leadership itself of legitimacy in the eyes of the population. Closing the chapter of questioning the past through any kind of settlements on the other hand requires that the state possess credibility in the eyes of business community. The oligarchs have to be persuaded that if they compensate the state now the murky past will indeed be forgotten once and for all. Given the constant political instability in Ukraine now, the oligarchs are likely to meet such commitments by any player with skepticism.

In addition to the structural power of the oligarchs, they have maintained important levers of influence over how far democratization will advance. The results of the constitutional reform, which originates in the compromise reached between the pro-regime elites and the opposition in December 2004, were twofold.⁴⁵ On the one hand, the constitutional reform of 2004 enabled the return of Victor Yanukovich as a prime minister in August 2006 – December 2007 and thus provided the oligarchs with a possibility to recapture the state. On the other hand, since the reform distributed power among institutions more equally, the Kuchma-era oligarchs have not succeeded in restoring control over the state to the same extent as they used to have under Kuchma. The new system works less clearly in favor of specific political and economic actors yet preserves a possibility of influence for all of them. In the post-Orange Ukraine, business elites no longer enjoy cozy relations with the executive as they used to but have to compete with a greater number of actors for economic and political power. The fact that Yanukovich's government did not stay in power too long is a manifestation of this fact.

Little has been done by the country's new leadership in terms of reorganization of relations between business and the state in the aftermath of Orange revolution. Yushchenko's actual policies revealed the hollowness of his public promises to separate business and the state. Due to the need the new President faced to reward those who had

⁴³ Dubrovsky, Volodymyr, Oleksandr Paskhaver, Lidiya Verkhovodova and Barbara Blashchuk. 2007. The Conditions of Completion of Privatization in Ukraine. Analytical Report and Recommendations for the State Program of Privatization [Umovy zavershennya pryvatyzatsii v Ukraini]. Center for Social and Economic research, p.34. Available at <http://www.case-ukraine.com.ua/u/publications/f0ab7ba5d8a81a533668e0762dfcc073.pdf> (last accessed May 10, 2008).

⁴⁴ Ibid, p.32. Some cases are still being decided, such as that of Dniproenergo, part of which belongs to System Capital Management. Returning Dniproenergo into the state property became one of electoral promises of Yulia Tymoshenko. SCM has claimed that Tymoshenko has been acting in the interests of the rival group "Pryvat." See BBC Ukrainian Service, April 8, 2008. The re-privatization of Nikopol Ferroalloys Plant, whose major package of shares was obtained by Pinchuk's Interpipe in 2003, was stopped by the government of Victor Yanukovich in 2007. Interpipe secured its ownership over the plant by an additional emission of shares, as a result of which the government share in the plant was significantly reduced. See <http://newsru.ua/arch/finance/14sep2007/penchug.html> (last accessed May 24, 2008).

⁴⁵ The essence of the compromise reached by the Yanukovich and Yushchenko's sides was that the former agreed to rerun the second round of presidential elections while the latter agreed to a new electoral law and to transform Ukraine from a presidential-parliamentary to parliamentary-presidential republic.

brought him to power, Yushchenko has led his close associates with business interests into influential positions.⁴⁶ Such cadre politics created an impression that Kuchma-era oligarchs were kicked out only for the pro-Yushchenko oligarchs to take their place leading to a popular definition of the essence of the Orange revolution as a revolution of “millionaires against billionaires.”⁴⁷ For example, Petro Poroshenko, one of the major sponsors behind Yushchenko’s 2004 presidential campaign, was appointed as head of the Security and Defense Council. The parties’ electoral lists during the 2006 parliamentary elections also contained a considerable number of candidates with ties to business. Among the major oligarchs, individually only Victor Pinchuk officially left politics and the SDPU(o) left as a party having failed to cross the 3 per cent threshold required to get into the parliament. In 2006, Akhmetov ran on the Party of Regions list even though he had not run for parliament in 2002. Participation in politics in Ukraine still offers a lot of benefits, such as protection against various kinds of charges, in particular through deputy’s immunity status. As Dubrovskiy notes, the Orange revolution “destroyed the hierarchical vertical of arbiters and clients but not the principle of “limited access” itself and rent-seeking.”⁴⁸ Unfortunately, no “revolutionary” improvements have taken place and the country has instead reverted back to what Harasymiw calls “old-style politics” – the bribery of deputies to cross the floor, harassment of the opponents of those in power and personal interests prevailing over considerations of public good. As Harasymiw notes, “[i]nstitutions outside the executive-legislative arena were untouched by change” leading to the public’s disenchantment with politics.⁴⁹ Because of the stark elite continuity before and after the Orange revolution, Kudelia suggests that the 2004 protests themselves cannot adequately explain the country’s development afterwards but “represent just one element in the jigsaw puzzle, which could acquire its full meaning only in the context of the country’s preceding struggles.”⁵⁰ The main change the Orange revolution thus brought about is the multiplication of access points to power and multiplication of actors competing for power. Unfortunately, neither the elites who brought about democratization nor the elites who reluctantly accepted seem to have internalized the values of democracy. Both groups, thus, remain contingent democrats who allow democratization to proceed only thus far.

⁴⁶ Petro Poroshenko was appointed Secretary of the National Security and Defense Council, Davyd Zhvania became minister for emergency situations, Volodymyr Shandra became minister for industrial policy, Yevhen Chervonenko headed the transport ministry.

⁴⁷ Copsey, Nathaniel. 2005. “Popular Politics and the Ukrainian Presidential Elections of 2004.” *Politics* Vol.25, No.2, p.102.

⁴⁸ Dubrovskiy, Volodymyr. 2007. “The Oligarchs Will Help to Come Out of A Crisis Which They Themselves Helped to Create?” [“Oligarkhi pomogut vytyti iz krizisa, k kotoromu sami prilozhili ruku?”]. CASE Ukraine. Available at <http://www.case-ukraine.com.ua/u/publications/59470fd063ec0270f9d4e920f450e9e4.pdf> (last accessed May 12, 2008).

⁴⁹ Harasymiw, Bohdan. 2007. “Ukraine’s Orange Revolution and Why It Fizzled.” Paper prepared for the annual meeting of the Canadian Political Science Association, University of Saskatchewan, Saskatoon, June 1, p. 20. Available at <http://www.cpsa-acsp.ca/papers-2007/Harasymiw.pdf> (last accessed May 20, 2008).

⁵⁰ Kudelia, Serhiy. 2007. “Revolutionary Bargain: The Unmaking of Ukraine’s Autocracy through Pacting.” *Journal of Communist Studies and Transition Politics* Vol.23, No.1, p.97.

From Oligarchs into Businessmen

In spite of the ability of Kuchma-era oligarchs to retain their positions of power under the new regime, the re-privatization campaign revealed their vulnerability and the dangers of insecure property rights. Legitimization in the eyes of the population could offer some protection against the encroachments upon their interests by the regime, which they so fiercely tried to prevent from coming to power. In spite of the limited character of re-privatization, the campaign revealed the vulnerability of oligarchs. A story of Yukos is well-known among the elite circles in Ukraine, where the state forced the company to go bankrupt due to illegitimacy of assets acquired through murky privatization in the eyes of the Russian population.⁵¹ Since in Ukraine justice was never restored in the perception of the population, re-privatization could theoretically be re-launched at any time. Given the mass appeal of populist ideology in Ukraine and popularity of politicians who promise to be “tough” towards oligarchs (for e.g., Yulia Tymoshenko), the safeguards that legitimization offers to the oligarchs are by no means unnecessary.

As Table 2 demonstrates, over the years negative opinion about privatization of big enterprises among the Ukrainian population has been growing. At the same time, the opinion poll conducted by the Centre “Sotsis” for the International Centre for Perspective Studies (ICPS) on May 20-30, 2007 revealed that the Ukrainian population holds conflicting beliefs about business and private entrepreneurship. The poll’s results suggest that Ukrainian citizens accept market economy values and connect their future and the future of their country with the development of entrepreneurship but also maintain the Soviet stereotypes about property, entrepreneurship and social justice. While close to 70 per cent of population supported re-privatization of large enterprises, 74 per cent thought that the state should protect private property and encourage development of national business. 50.4 per cent of respondents considered the accumulation of capital in the hands of business made to have made the state and its citizens poor. At the same time, 73.3 per cent were convinced that civilized and transparent business contributed to an increase of society’s well-being. 38 per cent of the respondents thought that big business owed its success to dishonesty; 65 per cent connected big business with corruption and preservation of nontransparent rules of the game while 56 per cent thought that business desired to earn as much as possible and flee abroad.⁵² The results of this opinion poll suggest that the way the society views big business presents the latter with both challenges of the low legitimacy but also opportunities to undergo legitimization in the future if business accepts the role the society sees it as being able to fulfill. In particular, the respondents overwhelmingly considered business to possess more resources for conducting reforms than the state and NGOs: 81 per cent of respondents considered business to possess the necessary financial means for conducting reforms along with intellectual potential (61 per cent), strategies and plans (51 per cent).⁵³

⁵¹ Tompson, William. 2005. “Putting Yukos in Perspective.” *Post-Soviet Affairs* Vol. 21, No. 2, pp. 159-181.

⁵² “The Left King Is Naked” [“Livyy korol’ golyy”]. Available at http://www.icps.com.ua/doc/BusinessAndReforms_U.pdf (last accessed May 3, 2008).

⁵³ *Ibid.*

The results of the opinion poll also challenge some of the assertions Anders Aslund makes. He considers Ukrainian and Russian oligarchs to be actors who “responded rationally to a peculiar set of economic, legal and political conditions that were in place in all three countries in the relevant period.”⁵⁴ Aslund is puzzled by why after the oligarchs became less rent-seeking and more productive they also became more unpopular with the population.⁵⁵ His response is the following:

The issue is really transparency. People do not react against billions of dollars spirited out of the state treasury, because they do not see them. The oligarchs are becoming subject to much greater public criticism, when they no longer steal but produce, because the public do see factories, and then they draw their own conclusions about personal wealth.⁵⁶

Aslund considers the unpopularity of the oligarchs today to be a “purely ideological issue,” the outcome of the fact that the population dislikes the successful capitalists and cannot accept the large fortunes the latter have accumulated.⁵⁷ The oligarchs appear to be driven by rational interests while the population is driven by “wrong” ideology. The results of the ICPS opinion poll, however, suggest that the Ukrainian population does not accept *the way* the oligarchs accumulated these assets at the time when the majority of Ukrainians were struggling to make a living (who can blame them for this?), but not capitalist ideology per se.

In the immediate aftermath of the Orange revolution, Ukraine’s richest oligarchs significantly increased their public visibility and attempted to gain positive coverage by the mass media. Since the oligarchs own the most influential mass media in Ukraine,⁵⁸ they have had no trouble presenting their message to the population. It has been much more difficult for them to make the population believe it.

Both the Ukrainian state and business community have started to widely employ the concept of corporate social responsibility (CSR) and have been discussing ways to introduce it in Ukraine. CSR could become one of the major means of legitimization for the oligarchs. CSR considers the private sector to be a potential agent of social development. It includes a more responsible approach to labor relations by corporations, environmental management and community development.⁵⁹ Socially responsible corporations can also be expected to run their business in a clear and transparent manner, maintain standards of corporate governance and pay taxes⁶⁰ - the principles the Ukrainian oligarchs have often violated in the past. Employment of the Western-coined concept

⁵⁴ Aslund, Anders. 2005. “Comparative Oligarchy: Russia, Ukraine and the United States.” Centre for Social and Economic Research, p.6. Available at http://www.case.com.pl/upload/publikacja_plik/4931074_SA%20296last.pdf (last accessed May 17, 2008).

⁵⁵ Ibid, p.10.

⁵⁶ Ibid.

⁵⁷ Ibid, p.11-12.

⁵⁸ See, for e.g.: Struk, Olena. “TeleTUZyky.” Available at <http://www.politexpert.in.ua/news.php?readmore=462> (last accessed May 20, 2008).

⁵⁹ Rozanova, Julia. 2006. “Portrayals of Corporate Social Responsibility: A Comparative Analysis of a Russian and a Canadian Newspaper.” *Journal for East European Management Studies* Vol.11, No.1, p.50.

⁶⁰ See: <http://www.president.gov.ua/news/9359.html> (last accessed May 23, 2008).

such as CSR can help the oligarchs persuade the population that they are businessmen who speak a common language with the world community.⁶¹

Certainly, not all oligarchs have been equally zealous in gaining legitimization. Rynat Akhmetov and Victor Pinchuk, Ukraine's two richest men according to *Forbes* magazine,⁶² have strived towards it more than others. Incidentally, they are also the biggest losers of the re-privatization campaign. Even though this paper does not explicitly discuss the problem of oligarchs' legitimacy abroad, the domestic and foreign legitimacy are certainly interrelated. The population pays attention to the international standing of business magnates while foreign businesses take into account whether or not the oligarchs are accepted at home as legitimate actors when making decisions about possible partnerships with the latter.

Rynat Akhmetov has made significant efforts to improve the perception of his company SCM by foreign and domestic public. SCM's international corporate communications campaign launched in summer 2005 was aimed at spreading positive information about the company through advertisements in a number of Western editions, including *The Wall Street Journal*, *The Economist*, *The Financial Times*, *The Washington Post*, and *Newsweek*.⁶³ The company also hired the respected Pricewaterhouse-Coopers to bring its financial reporting in line with international standards, while McKinsey was tasked with the company's restructuring.⁶⁴ Increased transparency of the SCM can foster its legitimization. At home, Akhmetov has been earning a reputation of a philanthropist by sponsoring a number of activities – from the development of sports to large public celebrations to charities. Quite remarkably, Akhmetov's charity fund "Development of Ukraine" was established on July 15, 2005 when re-privatization campaign was in full swing. The philanthropy by the Ukrainian oligarchs corresponds to expectations of the public about the role business should play: according to the ICPS public opinion poll, 76 per cent of respondents think that big business should be involved in charity.⁶⁵ The support of social programs by Ukraine's big business is likely to be favorably accepted by the population, which has been suffering from the collapse of the Soviet welfare state and inability of the government to offer an acceptable substitute for it.

In addition to philanthropy activities, Akhmetov tasked his Fund for Effective Governance with drafting a strategy for Ukraine's long-term economic development. The strategy that was written is very neo-liberal in its ideological outlook. It considers the main role of the state towards business to be creation of fundamental preconditions for economic growth.⁶⁶ The strategy emphasizes the need to reduce the portion of property

⁶¹ The concept and the principle of CSR itself have been gaining popularity in Ukraine through its promotion by the United Nations, in particular through its Global Compact Initiative launched in December 2005 in order to foster a dialogue on CSR in Ukraine.

⁶² See: http://www.forbes.com/static/bill2005/country_Ukraine.html (last accessed May 12, 2008).

⁶³ "System Capital Management Unveils International Corporate Communications Campaign Aimed To Promote Ukrainian Business' Place At The Heart Of Europe," *Prnewswire*, July 29, 2005.

⁶⁴ Orange, Richard. 2005. "Ukraine Business Giant To Seek London Float." *The Business Online* October 23.

⁶⁵ At the same time, 20 per cent think business should only be involved in business and 12 per cent think that business should take a direct part in politics. See: "The Left King Is Naked" ["Livvy korol' golyy"]. Available at http://www.icps.com.ua/doc/BusinessAndReforms_U.pdf (last accessed May 3, 2008).

⁶⁶ "Conception of Economic Development of Ukraine for 2008-2015." The Fund "Effective Governance," Preliminary version, p.5. Available at http://www.feg.org.ua/ua/cms/projects/economic_concept (last accessed April 30, 2008).

that remains in state hands in order to increase economic efficiency and prevent corruption. While it is natural that big business is interested in further advancement of privatization, some of the strategy's policy recommendations contradict the past behavior of the Ukrainian oligarchs. In particular, the strategy advises that qualification requirements for participants in privatization of enterprises, including foreign investors, be minimal.⁶⁷ This is in stark contrast with the conditions of privatizations the former oligarchs secured for themselves during the last years of Kuchma's presidency. Akhmetov claims that he did not see the strategy before its public presentation since his fund does not interfere into the process of program development.⁶⁸ Still, the fact is that he embraced it publicly and suggested using it as a foundation for the program of the government.

Victor Pinchuk, the second richest person in Ukraine, has been trying to gain legitimacy through organization of private lunches with prominent political and economic figures during the World Economic Forum in Davos. While introducing Aleksandr Kwasniewski, the former president of Poland, to his guests, Pinchuk noted the important role the latter had played in "our Orange Revolution."⁶⁹ At home, Pinchuk has been donating funds to a number of projects in the spheres of health, culture, education, and human rights. The Pinchuk Foundation has also been concerned with Ukraine's place in the world – hence its Yalta European Strategy initiative which aims to foster closer ties between Ukraine and Europe. The oligarch also hired Steven Spielberg to make a documentary about the Ukrainian holocaust.⁷⁰ According to *Kontrakty*, Pinchuk's most expensive social projects were carried out in 2005-2006 – the years immediately following the Orange revolution when the oligarchs felt insecure about their assets.⁷¹ In 2006 Pinchuk created the Victor Pinchuk Foundation for carrying out a variety of such projects. In 2008, the Pinchuk Foundation organized the Philanthropic Roundtable during the Davos Forum to discuss the issues of philanthropy and the specifics of this activity in the transition countries. Legitimization in the case of big business goes hand in hand with publicity. Sponsorship is widely made known and personalized as the name of Pinchuk's foundation manifests.

The efforts of the oligarchs to legitimize themselves in the eyes of the population can either be significantly enhanced or undermined by the position that the state takes towards them. Are Ukrainian authorities interested in legitimization? They can be expected to gain from legitimization of the oligarchs in the long run since a good business climate also raises the prospects of economic growth and thus makes the basis for popularity of politicians more solid. In the short run, however, campaigns such as re-privatization offer significant opportunities for filling in the budget easily and raising the popularity of certain politicians.

⁶⁷ "Conception of Economic Development of Ukraine for 2008-2015." The Fund "Effective Governance," Preliminary version, p.18. Available at http://www.feg.org.ua/ua/cms/projects/economic_concept (last accessed April 30, 2008).

⁶⁸ "Akhmetov Created A Fund," *Novosti.dn.ua*, July 9, 2007. Available at <http://novosti.dn.ua/details/48103/> (last accessed May 6, 2008).

⁶⁹ Berry, Lynn, "Ukrainian Billionaire Viktor Pinchuk's Davos Lunch With George Soros, Strobe Talbott, Arseniy Yatsenyuk, Jean Lemierre," *The Moscow Times*, January 30, 2006.

⁷⁰ "Oligarch Agonists," *Economist*, December 18, 2004.

⁷¹ Dubohryz, Evhen. 2007. "Komsomol'tsi-dobrovol'tsi." *Kontrakty* March 26 2008. Available at http://kontrakty.com.ua/show/ukr/print_article/8732/1320078732.html (last accessed May 23, 2008).

President Yushchenko seems to understand what the choices between the long term and the short term entail. In October 2005, he held his first formal meeting with a group of Ukrainian oligarchs, during which the newly elected President and representatives of Ukraine's big business discussed possibilities of cooperation and establishment of a permanent dialogue between business and the state and institutionalization of their relations.⁷² Among other things, President Yushchenko suggested that big business pay taxes in full and participate in solving the country's economic and social problems. Business was offered a "carrot" of capital amnesty if cooperation between business and the government were established.⁷³ The President promised the big business that their property rights would be respected in the future. He also criticized the economic policies of Yulia Tymoshenko's government fired in September 2005, which had taken the most radical view on the scope of re-privatization.⁷⁴ The authorities, however, can only endow business with legitimacy if they themselves are viewed as legitimate and popular with the society. Given that Yushchenko's popularity has been declining since 2005, his embrace of big business cannot help the latter gain legitimacy.⁷⁵ Moreover, considering the strength of the negative attitudes towards the oligarchs by the population, being "soft" on the oligarchs has its price for a politician who chooses to support them publicly. Yushchenko's attempts to reach agreements with the oligarchs have been one of the factors that have led to the decline of his popularity in the first turn. The authorities have so far failed to demonstrate the benefits of their cooperation with business elites for Ukraine's long-term development to the public and to convince the public that this cooperation will not evolve into the recapture of the state by the oligarchs. It is not only the formerly pro-Kuchma oligarchs who are facing the need for legitimization but the pro-Yushchenko oligarchs as well. Just as Kuchma's oligarchs, Poroshenko does not enjoy support among the population.⁷⁶ His increased political influence immediately after the Orange revolution was viewed highly negatively by the population and had its effect on Yushchenko's declining popularity.

⁷² "Yushchenko Has Tasked the Secretariat With Maintaining Cooperation with the Big Business" ["Yushchenko doruchyv Sekretariatu zabezpechuvaty spivpratsu z velykym biznesom"], ProUA.com, October 14, 2005. Available at <http://ua.proua.com/news/2005/10/14/201038.html> (last accessed May 8, 2008).

⁷³ "The Authorities Will Treat Business Properly" ["Vlada bude korektno stavytysya do biznesu"], Press Service of President of Ukraine Victor Yushchenko, October 14, 2005. Available at <http://www.president.gov.ua/news/1448.html> (last accessed May 10, 2008).

⁷⁴ "'The Orange Revolution Is Over,' Yushchenko Rejoiced the Oligarchs" ["'Pomarancheva revolutsiia zavershylas', poraduvav Yushchenko oligarkhiv"]. Oglyadach.com October 17, 2005. Available at <http://oglyadach.com/news/2005/10/17/28643.htm> (last accessed May 22, 2008).

⁷⁵ While the 2005 meeting could boast remarkable attendance by Ukraine's highest economic elite, during the July 2007 meeting attracted very few high-level businessmen. While one explanation for this absence in the press was that the businessmen were notified about the meeting too late, it could also be viewed as a reflection of the importance that representatives of big business gave to their meetings with the President. By 2007, they had already restored their positions of power in politics while the President had lost his appeal with the population. See http://www.bbc.co.uk/ukrainian/pressreview/story/2007/07/070705_press_thursday_ak.shtml (last accessed May 23, 2008).

⁷⁶ Poroshenko's rate of absolute distrust by the population as of September 2005 was 59.7 per cent (21.8 per cent expressed distrust predominantly while only 0.4 per cent said they trust him entirely). See <http://pravda.com.ua/ru/news/2006/7/3/42686.htm> (last assessed May 16, 2008).

Reformulating the relations between business and the state remains a priority for Ukraine's present elite if they are to deserve the name of reformers. Yushchenko's declared goal of separation of business and the state is not to be treated literally. The separation can never be complete, since business and the state are dependent on each other.⁷⁷ Business and the state need to be separated institutionally, so that business would not feed off the state and its resources at the expense of economic development and that the state would not be predatory towards business. Ukraine is still to undergo such a partition. The separation, however, should not mean lack of communication between the two. A dialogue between business and the state and public-private partnerships could serve Ukraine's long-term development. The state's decisional autonomy coupled with responsiveness to the needs of big business – what Peter Evans calls the “embedded autonomy”⁷⁸ – could give business stakes in supporting the new political system but also serve Ukraine's overall development. The cooperative relations between business and the state could also support the democratic system indirectly. Schneider and Maxfield note that “[t]o the extent that good relations between business and government contribute to policy effectiveness generally, they enhance governability and democratic governance.”⁷⁹

Conclusion

This paper applied Eva Bellin's term “contingent democrats” to Ukraine's oligarchs in order to demonstrate that capital owners support the political regime that promises to serve their interest best. Before the Orange revolution, the Ukrainian oligarchs were against democratization as they were dependent on state sponsorship and feared the consequences of the empowerment of the masses. Yet, unable to prevent it they accepted the suboptimal outcome in the short-term trying to adapt to the new regime and also to adapt the regime to serve their interests. While the former adaptation gives hope for the enhancement of the positive role the oligarchs play in Ukraine, the success in the latter adaptation has unfortunately led to more negative continuities with the previous regime than it had been hoped for.

The gradual increase of the structural power of big business leaves it an important lever of influence over the state decision-making in the democratized Ukraine. Although the increased structural power of the oligarchs has allowed them to accept democratization, paradoxically it could also undermine democratic institutions by making the country leadership a hostage to the interests of big business.⁸⁰ Also, as contingent democrats, the Ukrainian oligarchs have tried to control how far democratization will advance and to restore the positions of power they once had. The oligarchs have not left politics and promote their interests through influencing the decision-making at the state level. At this point it is unlikely that the interests of the oligarchs, even though

⁷⁷ See, for e.g.: Schneider, Ben Ross and Sylvia Maxfield. 1997. “Business, the State, and Economic Performance in Developing Countries.” In: Maxfield, Sylvia and Ben Ross Schneider (eds.) *Business and the State in Developing Countries*. Cornell University Press, p.5.

⁷⁸ Evans, Peter. 1995. *Embedded Autonomy: States and Industrial Transformation*. Princeton University Press.

⁷⁹ Schneider, Ben Ross and Sylvia Maxfield. 1997. “Business, the State, and Economic Performance in Developing Countries.” In: Maxfield, Sylvia and Ben Ross Schneider (eds.) *Business and the State in Developing Countries*. Cornell University Press, p.20.

⁸⁰ Lindblom Charles. 1982. “The Market as Prison.” *The Journal of Politics* Vol.44, No.2, pp.324-336.

safeguarded by democratization in some ways, will lead them to push for the establishment of a full-fledged democracy in Ukraine. The old ways of asset accumulation still promise too many benefits to be completely abandoned.

Among the main challenges democratization in Ukraine brought for the oligarchs has been the re-privatization campaign the launching of which became possible due to the illegitimacy of the oligarchs' wealth in the eyes of the population. One of the ways the Kuchma-era oligarchs have been adapting to the new political regime in Ukraine has been the strategy of social legitimization. The paper does not claim that *all* of the oligarchs have put legitimization on top of their agenda. Many of them continue to be non-public figures. Neither is legitimization the *only* strategy of adaptation the oligarchs have pursued. Their efforts have given hope, however, that the relations between business and society at large in Ukraine could be gradually transforming into a positive sum game, even if this transformation is pushed solely through the oligarchs' realization of their interests. One should not exaggerate the impact of the Orange revolution in pushing the oligarchs towards transformation since the Orange revolution has not turned them into democrats. The incentives to undergo social legitimization exist even in authoritarian states, as the case of Russia demonstrates. The Orange revolution merely changed the environment in which the oligarchs pursue their interests.

Considering the importance of the support of big business for democracy's survival, it is paradoxically in the interests of the Ukrainian population to give the oligarchs a chance to legitimize themselves and to move the relations between business and the public at large to a new level. Ukraine's democratization has strengthened the voice of citizens in affecting the state decision-making. The population can help democracy consolidate in two major ways. First of all, the future of democracy in Ukraine depends on how the society is going to use the mechanisms of democracy and whether it is able and willing to hold the elites accountable for their policies and actions. The wide-spread disenchantment of the public with the current leadership which was unable to realize the expectations of the public and the resulting apathy towards politics is a troubling tendency in this regard. Secondly, the society itself has to move from the logic of distribution to the logic of accumulation in order to give the oligarchs a stake in supporting the more democratic political regime.⁸¹ If Ukraine's economic elites obtain a long-term perspective on the development of their business, they are also more likely to take a long-term perspective on Ukraine's future and the social environment in which they develop their business. They could also then switch from efforts to distribute the existing pie to efforts to increasing the size of the pie. Since democracy is a product of struggle between social forces,⁸² one needs to explore the evolving relations within the triangle business-state-society at large and the push and pull of these relations in order to assess its prospects for endurance.

⁸¹ Bellin, Eva. 2000. "Contingent Democrats. Industrialists, Labor, and Democratization in Late-Developing Countries." *World Politics* Vol.52, p.181.

⁸² *Ibid*, p.177.

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