



**BLUEPRINT FOR DEMOCRATIC CONSOLIDATION AND
REINFORCEMENT:
A HOUSE BUILT UPON ROCK**

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EXECUTIVE SUMMARY

The product of this research and analysis is a blueprint for transitional countries moving toward democratic and free market systems. Using comparative case-study analysis, the Blueprint provided here aims to identify primary and secondary features of a transition roadmap which can aid each country through the transition process. Ideally, the results will prove applicable for all developing democracies, most specifically with post-Communist transitional states in Eastern Europe and the former Soviet Union.

The Blueprint is designed to facilitate two objectives: to consolidate and entrench the democratic system and rule of law in nascent democracies, and to deter and reverse illiberal regressions and democratic backsliding in democracies of various levels of development. It includes the common and primary cornerstones of democratic projects: judiciary independence, powers separation, and democracy maximization. The Blueprint also offers secondary features that address possible transition obstacles. These secondary features include specific civil society bodies, and policies designed to address the domestic and foreign actors that commonly emerge and disrupt post-Communist transitions.

The cohort of comparative analysis consists of four case-study countries that have emerged from the Communist Bloc, with each country analyzed along the lines of the Blueprint features. Each country represents one of the primary transitional regions of the continent which has transitioned away from command-economy Communism: Serbia, Ukraine, Georgia, and Kyrgyzstan. In addition, the United States' recent backsliding period and brush with populist illiberalism is also briefly analyzed in comparison. The Blueprint and analysis conclude with a comparative summary and forward-leaning prospectus of the overall democratic project, and whether the Blueprint can serve its purpose for the entrenchment and development of consolidated and unconsolidated democracies alike.

INTRODUCTION

Illiberalism and democratic regression, also known as democratic backsliding, are ongoing global trends. Along with these regressions inevitably come reductions in civil liberties and diminishments of civil and human rights.¹ These backslidings and stagnation predominantly originate from within the national democratic systems that they consistently undermine.² In most cases, the forces of illiberalism are able to manipulate and exploit the flaws and weaknesses of vulnerable democratic systems and their constitutions that were instead meant to support and maintain democracy. The cases of backsliding have grown in number in recent years, particularly in the fledgling post-Communist democracies of Europe and Asia,³ which has created an acute need for a comprehensive but flexible blueprint for consolidating and maintaining democratic resistance to illiberal regressions in transitional states.

The purpose of this research and analysis is to create that blueprint. Using comparative case-study analysis, the Blueprint provided here aims to identify primary and secondary features of a transition roadmap which can aid each country through the transition process. Ideally, the results will prove applicable for all developing democracies, most specifically with post-Communist transitional states in Eastern Europe and the former Soviet Union.

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¹ Bermeo, 2016, p. 8.

² Sitter et al., 2017, p. 4.

³ Bermeo, p. 13.

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There is a bit of a blurred overlap between a blueprint for international development assistance, and a blueprint for the systemic transformation of a transitional country. This Blueprint is the latter, not the former. From Argentina to South Africa to Italy to Japan, countries around the world have successfully transitioned from corporatist autocracies to free market democracies. This Blueprint attempts to build upon prior successes and to translate some of those features to post-Communist states. The core argument of this construction is not that 'one size fits all' or even that all post-Communist Eurasian states have the same limitations and features, but rather that there are commonalities among them for which a flexible and broad-based blueprint can be put to use in the right circumstances.

The Blueprint is a flexible template of options from which each transitional state may choose, and the underlying core objectives are broadly applicable. Not all features need to be implemented by every transitional state, but the overall philosophy and objective of the blueprint is largely applicable to all of them.

The Blueprint is there to create the domestic systems so that the local people can imprint their own values, priorities, and abilities on self-government. The development process comes only afterward, when the body of a representative democracy is in place to decide the course and trajectory. The goal is to help create a self-sustaining system rather than a system dependent upon international economic actions or a system incapable of surviving future challenges to its democracy.

THE BLUEPRINT DEBATE AND COUNTERARGUMENTS

Counterarguments

There are a few prominent counterarguments to the necessity and utility of this kind of blueprint. They tend to fall into areas of criticism that attack a blueprint as overly broad and superficial if it is intended to be applicable to too many states, or – to the opposite extent – as overly narrow so as to not really be a blueprint but rather a country-specific set of policy recommendations.

The most prominent academic and policy counterargument is that such a blueprint or guideline is tantamount to a one-size-fits-all (OSFA) plan or policy. This is a somewhat facile argument because it is based upon the strawmanned position that any blueprint presupposes that all transitional countries are the same, and therefore any blueprint that works for one of them will work for all. This Blueprint does not make that assumption. Although there certainly are a number of benchmarks, achievements, and cultural shifts that all states transitioning to free market democracies must endeavor to surpass, when a blueprint moves beyond those base objectives, it does not thereby automatically digress into a OSFA plan.

Instead, this Blueprint has flexible and optional features. As an example of a selective feature, the process of deconstructing and replacing the pre-existing superficial façades of democracy and rule of law vary widely by country, even within these four case studies. In cases like Kyrgyzstan, the Blueprint advocates complete replacement of those systems. However, in cases like those of Serbia, or to a lesser extent, Georgia, wholesale replacement is unnecessary, and the transitional country can build upon the earlier system and its development.

Author discussions

On the subject of blueprints, the literature and academic arguments are slanted against them in general. The prevailing argument is that blueprints are too inflexible and fail to address the specific needs and issues of each country. Authors such as Kleinfeld-Belton⁴ and Ginsburg⁵ argue that development and transition plans must be narrowly-tailored, context-specific, or something that is not just an inappropriate transplant of a more developed sponsor-country.

However, this argument largely ignores success stories, specifically the cases in which the transplantation of democratic capitalist system wholesale onto a transition state were very effective long-term, as were the cases of Germany, Italy, and Japan. Arguably, many of the transitional states of central and eastern European also represent success stories.

Another flaw within the argument against blueprints is the conflation of failing to implement a plan and the failure of the plan itself. This argument is prevalent in international development circles, particularly in cases where development assistance appears to have been ineffective. However, as Ginsburg and Kleinfeld concede, it is the implementation and execution of many development assistance plans that doom them, not the existence of the plans themselves.⁶ While Kleinfeld-Belton argues in favor of goals rather than institution-building, her overall argument supports the idea that there is a concrete and almost universal set of goals that development assistance endeavors strive towards.⁷ If the goals and achievements are overwhelmingly agreed upon, then a blueprint for consolidating a system to achieve those goals should not be dismissed so easily.

⁴ Kleinfeld-Belton, 2005, p. 7.

⁵ Ginsburg, 2014, p. 122.

⁶ Ginsburg, p. 124.

⁷ Kleinfeld-Belton, p. 8.

As Ralf Michaels notes, the presumption that development assistance must be context-specific – meaning that most developing countries are incapable of following and adhering to a more broad-based general blueprint – is condescending and runs the risk of infantilizing transitional countries.⁸ By now scores of countries, including two dozen post-Communist examples, have engaged in the transitional process and many have not needed a process specifically designed for its own context.⁹

The general critique made by Ginsburg and others that transplanting another country's system wholesale onto a fragile and insecure country is problematic is a fair one. Systemic transplanting eliminates the flexibility required to properly address the dynamic issues most transitional states go through, and it often imposes a system from a state that is at a very different stage of development. However, this does not mean that successful models should not be at least partially imitated. Effective and transferable features of other transition success stories can and should be added selectively to the regimen of new transition countries, particularly if the countries share a similar transition scenario (such as post-Communism, etc.).

The European Union as counterexample

The most common critique of a blueprint is arguably also the easiest to dismiss by highlighting comparative double-standards, most specifically with the membership process and requirements of the European Union (EU). International and multinational organizations tend to have blueprints – guidelines and minimum standards – that they require of their applicants and members. These standards do not seem to receive the same dismissive criticism that blueprints do for transitions or development assistance, even though many of the features are very similar.¹⁰ As

⁸ Michaels, 2013, p. 3.

⁹ Bermeo, p. 6.

¹⁰ Kleinfeld-Belton, p. 7.

an example, when the EU lays out well-defined and ambitious benchmarks for Latvia or Croatia as those nations endeavor to become members of the union, these requirements are generally seen as prudent and expected.¹¹ It is the same for the OECD, or NATO, or really any multinational organization that supports a common trajectory and level of attainment. The organization, or ‘club’, into which the new country is aspiring membership has a concrete set of values, benchmarks, responsibilities, and duties that they publicize in detail and then gauge the aspirant’s progress toward those goals. Supporters of Latvia and Croatia would have difficulty making credible arguments that the requirements of NATO and the EU are “too inflexible” or “OSFA”. If the incoming countries want the benefits and recognition of membership, then they must fulfill the obligations to meet that standard. The same applies to this Blueprint.

The similarities are especially applicable when comparing to the EU, because many EU applicant requirements correlate directly to the standards of this Blueprint.¹² The progression to improved levels of development, economic growth, and representative democracy are evident in both the EU standards and the Blueprint. The primary difference is that the attainable goal of the EU standards is to attain and maintain EU membership, while those of this Blueprint are to achieve a self-sustaining democratic and free market system capable of independent survival and growth.

Overall, the general academic debate over blueprints and external assistance and guidance for transitional and developing countries paints a somewhat contradictory picture. As the authors illustrate and detail, wholesale transplanting and overemphasis on institution building at the expense of cultural development are clear negatives, as are inflexible cookie-cutter plans or those that have no topical or optional features. But flexible blueprints with selective features, like this

¹¹ Sitter, 2017, p. 5.

¹² Kleinfeld-Belton, p. 8.

one, that build toward a concrete consensus objective, like that for EU applicants et al., have a proven history of effectiveness, particularly when they are tailored to a specific cohort and spur self-sustaining policy and institutions.¹³ This Blueprint endeavors to implement those positive features while eliminating the negatives, which in the end puts it far more in line with the arguments of Michaels and Kleinfeld-Belton than with blueprint sceptics such as Ginsburg and Channell.¹⁴

Flexibility

Similarly, the Blueprint offers the flexibility of prioritizing. While none of the recommendations are so unimportant that any of the countries should dismiss one altogether, the timing and the ordering should be tailored to each country. This Blueprint has primary and secondary recommendations, not all of which are applicable – or necessary – for every transitional country. For some countries, a Blueprint feature might be a priority, while for others it may be unneeded or in rare cases counterproductive. Corruption, as an example, is a significant problem for all transitional and developing countries, particularly in those cases where the former economic and political systems were highly intertwined with nepotism and a black-market economy.¹⁵ In severe cases, the embedded inertia and resistance can hamstring transitional reforms, or corrupt the new system at its outset. In those cases, such as that of Ukraine, anti-corruption bodies and regulations should be prioritized and should precede the selection of the judiciary, for example. However, a country in Serbia's position, in which it is already a participant in multiple EU cooperative development programs, may not need to prioritize the blueprint anti-corruption features and instead prioritize the codification of separation of powers and democratic bolstering.¹⁶

¹³ Bermeo, p. 6.

¹⁴ Channell, 2005, p. 8.

¹⁵ BTI Serbia CP, 2020.

¹⁶ BTI Serbia CP, 2020.

Overall, the flexibility of the Blueprint's features in prioritization and chronological ordering should mean that rather than being a OSFA plan that lacks utility, it can be a flexible and useful tool for a variety of transitional and unconsolidated democratic states.

Tailoring and Communalities

Another counterargument against this type of blueprint is that the international diversity of transitional states in geography, history, economy, leadership, and national culture precludes it from being effectively applied to such a broad range of states. That is an incorrect assumption because there are fundamental prerequisites that any state must fulfill if it can be considered a free and open society.¹⁷ And, specifically, this Blueprint is loosely tailored to countries that have emerged from the wave of transition and democratization that followed the collapse of the Communist Bloc. All four case-study countries are successor states of command-economy Communist states that began their transition processes in the early 1990's. While there is significant diversity throughout the post-Communist world, and among these case-study countries, there are important communalities that enable broader utility for the Blueprint among this cohort. These four transitional countries share considerable commonalities which the blueprint addresses in turn. The most prominent of these communalities are:

- **Untested Capitalism:** These states share an economic history in which modern capitalism – and the culture and consumer society that come along with it – were absent. This lack of familiarity with and development of a modern capitalist system can lead to common but predictable obstacles during the economic reform process.

¹⁷ Kleinfeld-Belton, p. 7.

- **Domestic Anti-Reformists and Oligarchs:** Because Communist states developed their own socioeconomic elites and powerholders, the transition process commonly produces factions that either seek to stymie or reverse the country's transition, or to exploit the weaknesses of the transition process for their own gain. The resulting emergence of local strongmen and oligarchs is commonplace in the post-Communist world.
- **Russian Illiberal Influence and Interference:** The intimate and interconnected relationship that all these countries have with Russia is unique to Eurasian post-Communist states. Combined with Russian illiberal preferences and penchants for aggressive external actions, all four countries must address Russian influence as a critical feature of their transitions.
- **Misdirected Centralization:** Coming from highly centralized countries that have divided into new states, all four transitional states must redirect and partially recentralize their transport, infrastructure, and economies.
- **Common Conflicted Relationship with Democracy and the West:** Finally, all of these countries must also navigate the difficult and unpredictable path of reconstructing their national identities and relationships with Western democracies.

The design and purpose of the blueprint is a set of guidelines, recommendations, and objectives for current and future states undergoing the systemic transition to representative democracy. The features and focus of the blueprint are most applicable to post-Communist states, but can also contribute to the plans of any transitional states with the clear goal of attaining consolidated representative democracy. The flexibility and interchangeability of the Blueprint should allow each transitional country that follows it to maximize its utility, and to tailor its secondary and supplementary features to its own timeline and requirements.

PRIMARY FEATURES

The primary features of the Blueprint are fundamental recommendations and guidelines that nearly any transitional state must implement in order to become an accepted and functional member of the democratic free market community. They represent the minimum requirement for entry into that club. While the manner, timing, and priority of these primary features are flexible, it would be exceedingly difficult for any transitional state to succeed in this endeavor if it were to fail to implement any one of these key features.

Formational or Restorative Features

The features of the Blueprint can roughly be divided into two categories: Formational Features and Restorative Features. Formational features are primarily used to lay the foundation for the construction and consolidation of a new democratic system in a state that has little or no history of functional free-market liberal democracy. These features are tools and sources of building new democratic institutions, bodies, rules, and norms where they likely had not previously existed. They are comparable to constructing a new democratic edifice from scratch, a fresh start without the need to maintain or carry forward the features that predominated under the prior undemocratic system.

Restorative features are primarily used to repair, reinforce, or reform a democratic system that is in crisis, has undergone regressive backsliding, or has become antiquated, stagnated, or dysfunctional. These features are not necessarily used to replace the system, but rather to improve or modernize the democratic system already in place. Because these case-study countries are relatively new to democracy, they should rely more heavily on formational rather than restorative

features. However, just as with even the longest-tenured and most established democracies, they should all take the opportunity to implement restorative features as well. These features can serve as safeguards to protect against anti-democratic regressionists (ADRs), and as backstops against moments of democratic backsliding that those systems may suffer in the future.¹⁸

Replacing the Electoral Façade

In a foundational democratic reconstruction, the first step is to remove electoral façade of the previous undemocratic system. Under nearly all twentieth century autocratic systems – including Communism – the trappings and window dressing of democracy were put on display. One-party states held meaningless elections, and vote counts were invented numbers that suited the regime in power.¹⁹ The point of elections in those undemocratic states was, and continues to be, to create a mirage of popular democracy and legitimacy in an autocratic system.²⁰ As such, corrupted or unrepresentative elections can actually be harmful, both to the fragile neophyte institutions of a vulnerable democracy, and to the legitimacy of the democratic system in the eyes of the public.²¹ This also applies to the empowerment of any agency or branch within that system.

This makes the chronology important in the scheduling of elections. Firstly, the prior faux-democratic system must be removed completely, replaced by a new system based solely upon the codes, norms, and rules of the new untainted democracy. The new electoral system must be completely in place and already prepared to organize and monitor the election months prior to election day, because the campaigning and lead up to the election are crucial to electoral democratic outcomes, and they require a system in place to protect them as well.²² For those

¹⁸ Eisen et al., 2019.

¹⁹ Eisen et al., 2019.

²⁰ Aslund, 2018.

²¹ Aslund, 2018.

²² Eisen et al., 2019.

important reasons, elections should be one of the final stages of a foundational democratic system's transition. If elections are held too soon, as they arguably were in two of our case study countries (Kyrgyzstan and Ukraine), without the protections and guidance of a consolidated democratic system, they are likely to be undermined or stolen.²³ The prior system must be vetted and purged thoroughly at the beginning, before it is empowered. Premature empowerment can cripple a transitional democracy in its infancy.²⁴ It is far better to have a caretaker or interim government in transparent control, than to rush through a fatally flawed election to empower a new regime that is likely less willing and less able to entrench the strong roots of a new democratic system.

Independent Judiciary and Constitutional Court

Once the elements of the previous undemocratic systems have been expunged, the next chronological step should be the establishment of an independent judiciary. This early step is a requisite because it should be this judicial branch that oversees the potential authorship of a new constitution, and overall systemic construction. This same institution can then be transformed into a constitutional court at the conclusion of the transition. Because the judiciary will serve as a check and balance vis-à-vis the rest of the government, and because illiberal regimes have routinely sought to coopt or disempower independent judiciaries to maximize their political powers, these branches should be strictly separated.²⁵ This separation should be from the very outset and last well beyond the transition period. As such, those who serve in the judiciary during or after the transition should be barred from any political positions in the following democratic system. This prohibition should last, at a bare minimum, for five years. However, a prohibition of ten years or more would be ideal and would be the best deterrent against ADRs and politically ambitious

²³ Aslund, 2018.

²⁴ Aslund, 2018.

²⁵ Bermeo, p. 10.

groups and individuals that may attempt to establish political power via the judiciary.²⁶ Instead, the transitional judiciary and constitutional court should rely on academics and legal professionals to fill their ranks. In this manner, the incentive for the authors and architects of the constitution and democratic system to mold the system for their own empowerment would be largely eliminated. Once established, the constitutional court should be wholly independent body, the responsibility of which will be to rule only on constitutional and separation of power questions. This is a critical function even if there is not a newly authored constitution.²⁷

Separations of Power

The most common understanding of separation of power refers to the separation of branches of government. However, there are other, equally important separations that – properly implemented – can serve as democratic protections. Two of these entities that must be detached as completely as possible from government are money and media. Both of those are, of course, integral components of political power, but each of them impacts politics distinctly.

The most direct and likely legal method of money affecting the democratic system is campaign funding.²⁸ The candidates with more money have more resources in their campaigns, making them more likely to win. And, once in office, they may be pressured to ‘reward’ their past – and likely future – benefactors.²⁹ The most effective solution to this funding problem is to make all political spending transparent, limited, and publicly funded.³⁰ The goal is to strip away the potential for conflicts of interest and unethical behavior by leveling the playing field and

²⁶ Bermeo, p. 10.

²⁷ Eisen et al., 2019.

²⁸ Eisen et al., 2019.

²⁹ Aslund, 2018.

³⁰ Eisen et al., 2019.

diminishing the impact that money has in the electoral system. This can be done by capping all political spending both by the campaigns and by outside groups, requiring the publishing of all political spender identities, and by requiring that all campaigns be publicly rather than privately funded.³¹ These safeguards block avenues of monied influence and preclude the most common paths for outside actors to try to use political spending to influence democratic outcomes.

The other necessary separation is that of media from political power. Because both are sources of power and wealth, there is an ever-present risk of a group or individual using its media power to affect politics, or its political power to affect media. Similar to the solution for money in politics, this can be solved by prohibiting ownership or management of media for all public servants.³² Government-controlled media should be as limited as possible, while at the same time independent media should be incentivized with tax breaks and equal access to all candidates and members of government. Those who run for office should be required to sell their media holdings, and there should be no selective enforcement of freedom of expression laws or partisan censorship. In this manner, the independence and objectivity of independent media can be maintained, resulting in a better-informed public with protected rights to public information.³³

Overall, these separations are meant to prevent one source of political power from bleeding into another. When the separations are not maintained, opacity increases and power accumulation naturally accelerates, creating overpowered entities that can undemocratically affect the outcomes of elections and policies.³⁴ This applies to government branches, campaign funding, and media control and management. The Blueprint strategy and guidance are the same for all of these power

³¹ Eisen et al., 2019.

³² Eisen et al., 2019.

³³ Bermeo, p. 13.

³⁴ Aslund, 2018.

sources; keep them separated, and keep them as open as possible, maximizing public knowledge and access to all critically separated areas.

Democracy Maximizers

It is paramount to avoid the public apathy or distrust that has plagued many of the case study countries. A lack of public participation or interest can lead to a decline in government transparency and accountability. It can also lead directly to unpopular government policy and illiberal state capture.³⁵ To avoid these regressions, the opportunities and avenues for public participation in the democratic system should be maximized. This includes reductions of barriers to entry to the field of public service, public holidays for elections, increased facilitation of all manners of both campaigning and voting. Such maximizers would increase public attention and participation while maintaining vigilance over ADRs and other actors that may have a motivation to derail the democratic process for personal gain.³⁶

These critical features of the Blueprint should be integrated into the core of the new democratic system, the civil code, precedent law, and the constitution. And, they should be explicitly protected by eternity clauses or other inviolable measures. Those protections cannot be left uncoded, because if the new democratic system leaves any method available in which a group can acquire power by undermining democracy, someone will inevitably attempt to do so.³⁷ Amending the constitution or overriding precedent law must be sufficiently difficult, and require enough consensus, so that potential ADRs will find that diminishing democratic safeguards and destabilizing institutions will be the path of greatest rather than least resistance.³⁸

³⁵ Aslund, 2018.

³⁶ Eisen et al., 2019.

³⁷ Bermeo, p. 13.

³⁸ Bermeo, p. 14.

SECONDARY AND SUPPLEMENTAL FEATURES

Secondary and supplemental features are optional. While the Blueprint strongly recommends most of these features for most transitional states, they are not indispensable and are even more flexible than the primary features. They are also more suitable to be adapted as context-specific measures for individual transitional countries.

Watchdogs, Commissions, and Bodies

The primary purpose of what is sometimes referred to as ‘militant democracy’ – the protection and support of the democratic system – is the paramount and most fundamental purpose of this Blueprint. In this analysis, instead, the institutions and strategies of militant democracy will be dubbed Democratic Bolstering (DB), because they refer both to the protections and defenses necessary to keep the democratic system healthy and functional, as well as to the measures that are needed whenever the democratic system suffers crises and regressions.

Because debilitating threats to democratic welfare can arise both from within and from outside the political system, DB protections must be broad and reflexive enough to offer comprehensive protection. The purpose of DB protections is to prevent paths and motivations for individual states to regress illiberally before such backsliding takes hold in the vulnerable democratic system.³⁹ Transitional and recovering democratic states can choose from a variety of such protections, including term limits, eternity clauses, sunset clauses, state capture defenses, separation of powers, and emergency power limitations. All of these can be used separately or in

³⁹ Bermeo, p. 14.

combinations to deter or divert anti-democratic and illiberal movements. In addition to the Independent Judiciary/Constitutional Court as detailed above, this Blueprint has identified four DB protections that should be included in all democratic systems, and should be independent, non-partisan, and permanent in nature

Anti-Corruption Watchdog

As will be discussed below in the analysis of ADR threats to the democratic system, corruption is not specifically a form of ADR, but its traits and remedies do have significant overlap with those ADR actors which work specifically to undermine the democratic system. Corruption produces a myriad of negative effects that directly and indirectly undermine the economy, public faith in democratic institutions, and the prestige and legitimacy of the state.⁴⁰ The most efficient method to ameliorate these corruption problems, particularly when corruption is widespread and culturally expected, is an independent anti-corruption watchdog or commission whose sole responsibility is to deter new corruption and root it out in places it has already taken hold.⁴¹ By making this watchdog independent with a narrowly focused portfolio, conflicts of interest and selective enforcement can be minimized. The anti-corruption body should not be attached to the executive or legislative branches, must be non-partisan with a clear code of ethics, and rather than delivering judgments or penalties the watchdog should instead deliver public reports and recommendations. Any oversight of this watchdog should come from the judicial branch, and its members should be precluded from being future or former members of any branch apart from the judiciary.

⁴⁰ Aitmatova, 2021.

⁴¹ Aslund, 2018.

Civil Rights Watchdog

Similar to its anti-corruption affiliate, the civil rights watchdog should be structured and staffed in much the same manner. It should be an entirely independent body purposed to investigate and root out significant civil rights violations whenever they arise, putting acute focus on policies or institutions which contribute to any large-scale or systemic civil rights deprivations. The mission of the civil rights body is to offer legal voices and remedies to those groups and individuals that may have had their civil rights directly or indirectly abrogated, and to inform and counsel the government as to which policies and strategies can best minimize such violations in the future. Because, unlike the anti-corruption watchdog, the civil rights body is not likely to face partisan political pressuring nor inherent conflict of interest,⁴² its members may hail from other branches of government, but priority should be granted to prospective members who have judicial backgrounds.

National Election Commission

Because the electoral process is so fundamental to any democratic system – from the oldest and most consolidated, to the newest and most vulnerable – every democratic state should have a national election commission that is charged with organizing, scheduling, monitoring, securing, and then publishing the periodic elections that take place. The manifest goal of this commission should be to have elections that are as free, fair, and transparent as possible, with as many participants as possible. The membership of the election commission should be multi-partisan, inclusive of all major political parties, and include representation from both the legislative and judicial branches. If the democratic system is presidential rather than parliamentary, then the electoral commission should not include representation from the executive branch so as to avoid a

⁴² Eisen et al., 2019.

conflict of interest from the presidency and any undue executive influence in the processes. Electoral monitoring and supervisory bodies are not uncommon, and can be supplemented by international monitoring bodies as well.⁴³ However, any vulnerable democracy should not be dependent upon foreign and multinational bodies to safeguard and legitimate its election processes. While international groups can serve to legitimize large national elections for the international community, each democratic system must have its own independent election body to cover every election, great and small.

Democratic Welfare Commission

The single most important institutional feature of this Blueprint is the innovative ‘democratic welfare commission’. Put simply, this commission is an actualized body of Democratic Bolstering. The permanent and inviolable mandate of this democratic welfare body is to monitor, defend, report, and recommend on the ongoing status of the country’s democracy. In addition to all the other pro-democracy institutions and bodies, this commission is unique in that its portfolio is a comprehensive responsibility for all facets of democratic processes that go beyond the elections themselves (which should be handled by a national election commission as discussed above).

As is the running theme with all of these democratic bolstering bodies, such a commission must be completely independent of other governmental bodies, have oversight from the judicial branch alone, and its members should be drawn from the academic and judicial communities. The best defense and support of any type of fledgling or struggling democracy is to have such a body whose nature and sole purpose is to serve as caretaker and supervisor of the democratic system.

⁴³ Bermeo, p. 13.

Many of the other forms of militant democracy, promotion of the rule of law, and protections of civil and human rights, are designed in efforts to partially and indirectly achieve the same objectives that this democratic welfare commission would do directly and comprehensively.⁴⁴ This body can also serve as a mediator or court of last resort when conflicts relating to core democratic elements arise among other government branches and agencies.

The democratic welfare commission is the most important and indispensable of these recommended democratic bolstering bodies because its paramount objective relates to and affects the objectives of all the other democratic watchdogs, commissions, and agencies. By keeping its portfolio strictly limited to overall democratic bolstering outside of the responsibilities handled directly by other democratic bodies, and maintaining its agency independence, this commission will have a free hand and undivided attention in protecting and shepherding the democratic development of these vulnerable systems. A democratic welfare commission is thereby akin to a ‘living constitution’ given form and authority, an architect perpetually on-site, there to oversee any and all democratic repairs and refurbishments.

ADR Defenses and Safeguards

There is a myriad of forces that may in certain scenarios work against the development and consolidation of democracy. For the sake of clarity and brevity, any individual or group in whose interest it is to intentionally corrupt, hinder, obfuscate or rollback democracy will be termed as an Anti-Democratic Regressionist (ADR). Similar to what were eventually dubbed ‘counter-revolutionaries’ or ‘reactionaries’ in revolutionary societies, the ADR’s of transitional democracies are not limited to any particular ideology, class, or demographic group, but are instead identified merely as an outside actor that finds at least one important feature of an unconsolidated

⁴⁴ Eisen et al., 2019.

democracy to be antithetical to its goals. As such, the strength and make up of various ADR forces vary by country, but they are present and impactful in all four case study countries of this analysis.⁴⁵

Although corruption is a ubiquitous problem in all transitional countries, and independent anti-corruption watchdogs and commissions are an important part of this Blueprint, participants in pervasive corruption are not necessarily categorized as ADR actors in this analysis. Even though corruption certainly undermines democracy by stripping power away from regulated authorities, political representatives, and law-abiding citizens and transferring it to black markets participants, criminals, and the wealthy elite,⁴⁶ it is not by itself an ADR actor. While participants in corruption often simply seek to profit from the gaps and weaknesses of imperfect democracies, ADR actors specifically seek to reverse some or all of the features of the democratic system to their own benefit. Accordingly, despite the remedies against corruption and ADR forces having considerable overlap and inter-reinforcing features, this Blueprint will treat them as distinct categories of democratic safeguarding and oversight.

Representative democracy is arguably the most egalitarian and benevolent form of modern government. Yet, it is still the embodiment of a system the primary function of which is to concentrate and then dispense and administer power. And, because power is something that features clear and significant value in every society, it has the permanent status of a coveted good. A democratic blueprint must, therefore, be equipped with protective ‘militant democracy’ features designed specifically to deter, protect against, and ultimately reverse the actions of those societal

⁴⁵ Bermeo, p. 17.

⁴⁶ Aslund, 2018.

factions which inevitably come to recognize or believe that their power is inversely related to the functionality of their democratic system.

The Blueprint default presumption must be that the democratic system, no matter how old and consolidated, is always under potential threat by ADR forces. The danger that ADR forces pose to unconsolidated democracies is even greater when those countries are in an unstable state of flux or transition (which applies to all post-Communist states), are suffering a regional or national crisis, or when those states are under the influence of a foreign undemocratic power.⁴⁷ These conditions for heightened dangers apply to all four of our case-study countries, particularly those that remain to a significant extent geopolitically and economically dependent upon the Russian Federation.⁴⁸

The transition from command-economy communist autocracy to free-market capitalist democracy is, in its essence, a transition of power. Ostensibly, if the transition is true to its objectives, that power is being transferred from the political and economic leaders of the old regime to the leaders, representatives, and citizens of the new regime.⁴⁹ It is natural for those groups and individuals which are losing power in the process of the transition to either attempt to derail the transition, or to attempt to replicate their old power in the new system through illegal and/or undemocratic means.⁵⁰ Because the instability and economic hardships of such a society-wide transition can take many years, ADR forces have a prolonged and wide-open window of

⁴⁷ Bermeo, p. 17.

⁴⁸ Bermeo, p. 15.

⁴⁹ Aslund, 2018.

⁵⁰ Aslund, 2018.

opportunity to recover power, which nearly always provokes their corollary attempts to stagnate or reverse democratic development.⁵¹

For these reasons, the Blueprint safeguards must be tailored to focus on deterring and preventing the potential reclaimant actions, specifically versus oligarchs, former Communist Party apparatchiks, and organized crime. It is logical and predictable that there will be a temptation for one or more disempowered groups to attempt to derail the democratic system into cutthroat capitalist autocracy and/or endemic corruption. Tailored against these regressions, the Blueprint features an independent judiciary, a constitutional court, and defenses against corruption and nepotism. In this regard, the predictability of ADR forces coming out of post-Communist countries serves as a crucial advantage in the Blueprint's utility in stymieing them.

Unlike some other threats and impediments to functional democracy, ADR forces cannot be counted on to diminish over time.⁵² The Blueprint can prescribe various policies and civil society infrastructure that use carrots and sticks to diminish ADR incentives to undermine democracy while encouraging potential ADR forces to work within rather than against the system. But, their dangers cannot be eliminated entirely.⁵³ Existing and potential ADR forces serve as continuous dangers to democratic development, with the Blueprint designed to minimize their impact as much as possible. And, although there is always the possibility of ADR forces undermining a new and vulnerable democratic system, the Blueprint carrots and sticks should serve both to encourage abandonment of ADR groups, and discouragement of ADR actions.

⁵¹ Bermeo, p. 14.

⁵² Eisen et al., 2019.

⁵³ Eisen et al., 2019.

Russia and other Anti-Democratic Actors

Obstacles to democratic security and development do not always come from within. Although domestic derailment of the democratic development process is far more common and tied more concretely to the policy and institutional strengths and weaknesses built into the system and the constitution,⁵⁴ foreign interference is increasingly common.

Anti-Democratic Actors (ADAs) may have multiple reasons to be motivated to reverse, destabilize, or outright sabotage the democratic development of a transitional state. The ADA might have a vested interest in the country remaining authoritarian, predictable, corruptible, or want to keep a friendly and/or geopolitically reliable autocrat in control. The ADA might simply want the country to remain or become unstable and weakened so that it remains dependent upon the ADA or is incapable of working cooperatively with the ADA's opponents. Or, the ADA may want to undermine and negatively portray any democratic development whenever and wherever it happens as a means of delegitimizing democracy in general. There are countless potential motivations for ADAs to work against democratic development, especially with a country that is a close neighbor and with which the ADA has an interdependent relationship.

The current regime of the Russian Federation has all of these traits, giving it ample motivation to run ADA interference in these case-study countries.⁵⁵ Such interference is all the more likely because every country of analysis is a former member of the Communist Bloc and resultingly had and has intense relations with Russia. That is not to say that Russia is the only current or likely future ADA for these transitional democracies. Such interference can come from any external actor with a vested interest in undermining democratic development, with the

⁵⁴ Sitter et al., p. 5.

⁵⁵ Eisen et al., 2019.

willingness to act on that motivation. But, because of its history of close ties, its geographic proximity, its economy interdependence, and its well-documented hostility to pro-democratic ‘color revolutions’, Russia stands as an ever-present ADA hazard for all four countries.⁵⁶

Just as it was for ADRs, the most effective countermeasure for ADAs is to remove as many points of vulnerability and windows of opportunity for foreign malfeasance as possible. This begins with foreign funding. Whenever possible elections should be publicly funded, and that funding should be absolutely transparent. When political and election funding is privatized and/or anonymized, ADAs can circumvent electoral security which itself also undermines the democratic process.⁵⁷ Campaign and electoral financing should be strictly regulated with the sources and totals made available to the public both during and after the electoral processes. No foreign state or entity should be allowed to contribute monetarily in any way to any democratic campaign.

For instances of outright hostility and tampering from an ADA – for example hacking, disinformation campaigns, or ballot manipulation – the aforementioned democratic welfare commission and national election commission must be empowered and appropriately funded to capably help to defend the democratic process from these outside actors. Much of the work of sabotaging and derailing democratic development requires local bad actors rather the ADAs themselves.⁵⁸ As such, there must be significant monetary and even criminal penalties for anyone assisting or enabling an ADA in acts of corrupting or undermining the democratic process.

The potential impact of the malevolence of an ADA with the power and influence of Russia working actively to undermine democratic development in these case-study countries should never be downplayed or minimized. It is a grave and ongoing problem that will almost certainly continue

⁵⁶ Eisen et al., 2019.

⁵⁷ Aslund, 2018.

⁵⁸ Bermeo, p. 10.

for the foreseeable future.⁵⁹ The Russian government has made it clear that it is seeking to delegitimize and undermine democratic development everywhere, with particular and pernicious focus upon the countries that it has traditionally described as its ‘near abroad’ in post-Communist Eurasia.⁶⁰ In effect, this means that Russia’s immediate goals regarding democratic development run directly counter to the goals for which this Blueprint is designed to help achieve.

There are, however, some silver linings to Russian and other ADA interference. Their actions can be used as ‘stress tests and demonstrations of why and how other ADAs can be predicted and successfully blocked. Additionally, once a malicious actor is identified, they become far easier to predict and isolate, particularly if they are dependent upon assistance from local actors.’⁶¹

In one form or another, all four countries were impacted by Russian actions to the detriment of their democratic development and stability. Although Ukraine and Georgia are the most obvious examples due to their direct conflicts with the Russian military, Kyrgyzstan and Serbia were impacted as well. The lesson that must be learned is that if a metropole/regional power fails in its transition to democracy, it must be assumed that it will in turn work secretly or publicly to ensure that the countries that remain under its influence or with which it is still interdependent also fail in their democratic transitions.⁶² It is in their direct economic and geopolitical interests to actively sabotage those countries’ democratic transitions. For those reasons, foreign actions involving transitioning democracy processes should be proscribed for all activities apart from international election monitoring.

⁵⁹ Eisen et al., 2019.

⁶⁰ Eisen et al., 2019.

⁶¹ Sitter et al., p. 9.

⁶² Bermeo, p. 14.

FOUR CASE-STUDY HOUSES AND THE UNITED STATES

Serbia [Balkans]: A house with influential neighbors

Serbia is the biggest positive outlier among these case-study countries, exhibiting the least damaged or compromised democratic system, with multiple largely free and fair elections in its history and peaceful exchanges of power.⁶³ Serbia ranks the highest in measures of freedom, rule of law, civil rights, and overall democratic functionality,⁶⁴ and continues in membership negotiations with the European Union (EU) and other Western multinational organizations.⁶⁵ Serbia is somewhat unique among the cases because it is geographically surrounded by the European Union and is actively engaged with the OSCE and EU in its transition and integration process.⁶⁶ This relationship with the EU and the West in general partially shields and protects Serbia from some of the negative impact from ADRs, Russian malfeasance, and regional instability.⁶⁷

However, Serbia's democratic system has undergone prolonged deterioration during the tenure of Prime Minister turned President Aleksandar Vucic, and his party growing political power has been mirrored by overall democratic regression, weakening of the rule of law, and repression of independent media in Serbia.⁶⁸ Serbia's democratic trajectory is downward trending as the

⁶³ BTI Serbia CP, 2020.

⁶⁴ WJP Serbia, 2020.

⁶⁵ FH Serbia CP, 2020.

⁶⁶ BTI Serbia CP, 2020.

⁶⁷ FH Serbia CP, 2020.

⁶⁸ Eror, 2019.

ruling party uses traditional illiberal and corrupt tactics to maintain unearned power and marginalize the opposition and any media uncontrolled by the state.⁶⁹

Serbia is also relatively advantaged in that the current political system is not the immediate successor to the Communist regime, but rather the second – and much-improved – system that was constructed following the downfall of Slobodan Milosevic in 2000. The Blueprint’s restorative features, therefore, are more appropriate for Serbia going forward, because Serbia had a functional and modern democratic system prior to the regressions undergone over the past decade.⁷⁰ Because the electoral system was put in place afresh after Milosevic and long after Communism, it has no need for replacement. Serbia’s judiciary on paper remains independent, but it is increasingly politically influenced and made up of partisan appointees.⁷¹ The separation of powers is similarly muddled now that Vucic has moved from the position of Prime Minister, which is nominally head of government, to the position of President. As president, Vucic has accumulated political powers that are not codified in the Serbian constitution and has strengthened his party’s comprehensive grip on power.⁷² Serbia does have an anti-corruption commission, but under Vucic it has been underfunded and has generally been limited to sensational charges but very little legal success.⁷³ The objectives and policies of the other non-specific Blueprint bodies are largely present on paper, but none are actively funded or mandated. Serbia’s government and constitution have most of the features recommended by the Blueprint, but they largely go unenforced or circumvented.⁷⁴

The primary Vucic government means of maintaining power and undermining the democratic process is by allowing or supporting only those features of the democratic system that

⁶⁹ EWB, 2019.

⁷⁰ Eror, 2019.

⁷¹ WJP Serbia, 2020.

⁷² FH Serbia CP, 2020.

⁷³ BTI Serbia CP, 2020.

⁷⁴ EWB, 2019.

benefit his party. In all other cases, the government works against the Blueprint features – either through neglect or through obstruction – which weakens the opposition, blurs the separation of powers, and minimizes democratic functionality.⁷⁵

In general, the most damaging ADRs are ADRs that obtain state control of government.⁷⁶ That is currently the case in Serbia, as the group that is responsible for the functioning and protection of the democratic system, consistently has motivation to undermine that democracy for the group's benefit.⁷⁷

The reason that Serbia's system remains partially democratic and functional is the country's close geographical and political proximity to the EU and the West.⁷⁸ Serbia is surrounded on all sides by NATO and EU members and aspiring members, which does have considerable influence on decision-making in Belgrade.⁷⁹ Clearly, the EU supports many of these pro-democracy recommendations, and any country with a collapsed democratic system is a non-starter for membership negotiations. The Vucic government straddles two fences as a result; one between the West and Russia, and the other between democracy and one-party autocracy. If Serbia strays too far toward Russia and illiberal regressions, the EU will predictably delay or cease membership negotiations.⁸⁰

This makes Serbia the only case-study country which is predominantly being guided through the features of the Blueprint rather than choosing to follow or abandon it themselves. But, this dependency on EU guidance for democratic development rather than domestic motivations runs the risk of either Serbia or the EU eventually abandoning the membership drive process –

⁷⁵ Eror, 2019.

⁷⁶ Bermeo, p. 11.

⁷⁷ Eror, 2019.

⁷⁸ FH Serbia CP, 2020.

⁷⁹ FH Serbia CP, 2020.

⁸⁰ EWB, 2019.

which would eliminate Serbia's largest remaining motive for maintaining its democratic system – or of Serbia undermining the EU applicant blueprint from within, if Serbia attains membership without consolidating and developing the culture and features of its democratic system.⁸¹

This highlights the two most prominent, and opposite, features of Serbia's democratic development. In the negative, the currently entrenched and increasingly illiberal regime has every motivation to continue undermining the democratic system while accumulating political power and marginalizing any opposing political or societal groups.⁸² But, in the positive, Serbia is permanently encircled by, economically dependent-upon, and democratically-guided by the influential and strictly pro-democracy EU that will never allow an undemocratic country to join its ranks. For those two most prominent but opposing reasons, Serbia is the case-study country for which the Blueprint is least needed. The EU has already given Serbia a blueprint of its own, and the only question is whether Serbia will follow or abandon it.

Ukraine [Eastern Europe]: A house under siege

In stark contrast to Serbia, Ukraine's democratic system's primary detriment is from an external ADA source, not a domestic one. Of all the case-study countries in this analysis, Ukraine's democratic development is the most impacted by foreign influence, which has come in the form of Russian belligerence.⁸³ Although endemic corruption is rampant in Ukraine, and is by far its greatest domestic impediment to democratic development, it is direct and malicious Russian interference has had the greatest negative impact in Ukraine since the fall of former President Yanukovich in 2014.⁸⁴ In fact, it is fair to argue that Russia has been the biggest and most determined obstacle to Ukrainian democratic development since its outset following the Orange

⁸¹ Bermeo, p. 14.

⁸² Eror, 2019.

⁸³ Motyl and Soltys, 2019.

⁸⁴ FH Ukraine CP, 2020.

Revolution in 2005.⁸⁵ As is the case with all belligerent ADAs, the actions of and responses to Russia often supersede in importance what is happening domestically in Ukraine.⁸⁶

Because the Ukrainian constitution and system have already been rewritten and reconstructed in post-Communism,⁸⁷ the Blueprint features that are necessary are largely restorative rather than formational. However, similar to Serbia, the problem for Ukraine's democracy is not a lack of codified democratic bolstering features, but rather a lack of their funding, enforcement, and empowerment.⁸⁸ Ukraine does, for example, have a mostly independent judiciary and a Constitutional Court, but corruption and partisan manipulation has seeped into those institutions, to the degree that the Constitutional Court overturned key transparency and anti-corruption laws in 2020.⁸⁹ This represents a rare instance of the judiciary working directly against reform and democratic development, and highlights the requirement that whatever branch or agency is empowered to fight corruption, must be thoroughly vetted and cleared of corruption *before* that empowerment.⁹⁰ Democratic development can be stopped in its tracks if the judiciary – which is the presumptive primary overseer of democratic bolstering throughout this Blueprint – develops conflicts of interest with democracy.⁹¹

Those conflicts of interest can lead directly to the destabilization of the separations of power that underpin necessary checks and balances. This was demonstrated in the clash between branches over the Constitutional Court nullification of anti-corruption laws, to which President Zelenskyy responded by attempting to dissolve the Court altogether.⁹² While it is necessary to have

⁸⁵ Motyl and Soltys, 2019.

⁸⁶ BTI Ukraine CP, 2020.

⁸⁷ WJP Ukraine, 2020.

⁸⁸ FH Ukraine CP, 2020.

⁸⁹ WJP Ukraine, 2020.

⁹⁰ Aslund, 2018.

⁹¹ Eisen et al., 2019.

⁹² WJP Ukraine, 2020.

inter-branch oversight that precludes any branch from obtaining a monopoly of political power, conflicts such as these can quickly lead to constitutional crises and democratic floundering. For that reason, anti-corruption laws and bodies must apply to all of government, including the judiciary.

Russia's influence and anti-democratic intent does make employing democratic maximizers more difficult, but all the more essential. While Ukraine lacks a comprehensive anti-corruption body, it does have laws in place designed to directly combat corruption through transparency and enforcement.⁹³ These laws complement the efficient Central Election Commission which has largely succeeded in overseeing and protecting Ukrainian electoral processes since 2015.⁹⁴ Ukraine lacks a specific civil rights watchdog and, like all the case-study countries, has nothing as comprehensive and empowered as a democratic welfare commission.⁹⁵ Nevertheless, Ukraine's system has many of the requisite formative and restorative features that can nurture its democratic development. Although there have been set-backs, Ukraine has enacted multiple significant reforms since Yanukovich was ousted, particularly under Zelenskyy.⁹⁶ This illustrates that the tools and institutions are already in place within the Ukrainian house, but they need to be powered up and used for their intended purposes. The primary obstacle to that development is Russia.⁹⁷

Ukraine is unique among the case-study countries because it is the only country in the midst of a prolonged armed conflict and occupation (the Georgian conflict with Russia was comparatively brief). As such, Ukraine suffers from ADA interference the most by far of the four

⁹³ BTI Ukraine CP, 2020.

⁹⁴ FH Ukraine CP, 2020.

⁹⁵ FH Ukraine CP, 2020.

⁹⁶ BTI Ukraine CP, 2020.

⁹⁷ Eisen et al., 2019.

countries. Russia's interference and negative influence is not limited to the battlefield, but conveys as well through Russian-language media, economic influence, and geopolitical pressures.⁹⁸ This affects, usually negatively, every stage of democratic processes from campaign funding, public information, polling security, to ballot access, and local minority enfranchisement.⁹⁹ Because it appears to be in the direct interest of the Russian regime that Ukraine has as little democracy and stability as possible, Russia is consistently attempting to counteract the Blueprint whenever easy opportunities to do so arise.¹⁰⁰

Overall, Russian malevolence and its impact on Ukraine does not represent a failure of Ukrainian democracy, but rather an exogenous variable that is largely out of Ukraine's control. Ukraine has done well to take the only consistent remedy to ADAs, to seek closer relations with Western democratic systems.¹⁰¹ These relations have partially succeeded in mitigating some of the problems created and exacerbated by Russian intransigence, particularly recurrent economic crises.¹⁰² Ukraine must weather the dual challenges of ADA obstinance and endemic corruption for the foreseeable future. To overcome them both, particularly with the affects of the Covid pandemic magnifying the difficulties all around, Ukraine will need to continue to implement and augment the many Blueprint features that are already institutionalized, and to properly empower them despite the culture of corruption that exists throughout the Ukrainian system.¹⁰³ At the same time, like Serbia, Ukraine's eventual success or failure will be tied heavily to the amount and quality of assistance it receives from the EU and other Western institutions. So far, Ukraine has done well to maintain its democratic development features despite the crises, and if it continues to

⁹⁸ Motyl and Soltys, 2019.

⁹⁹ FH Ukraine CP, 2020.

¹⁰⁰ Motyl and Soltys, 2019.

¹⁰¹ Eisen et al., 2019.

¹⁰² FH Ukraine CP, 2020.

¹⁰³ Motyl and Soltys, 2019.

do so, will be primed to consolidate and expand upon them once the conflict with Russia finally ends.¹⁰⁴

Georgia [Caucuses]: A house in disrepair

At first glance, Georgia appears to be a fairly dynamic and functional democracy. It exhibits many of the important features of a healthy democratic system and there do not appear to be any dangerous ADRs or ADAs that pose a direct threat to Georgia's democratic survival. There is diverse media control and an active civil society, a Constitutional Court and full equality rights for women and minorities.¹⁰⁵ The Georgia democratic house appears sound.¹⁰⁶ But, upon closer inspection, flaws and weaknesses show through. Yes, there is a Constitutional Court, but its seating is highly partisan, and its rulings are not always enforced. Yes, there are equal rights for women and minorities, but they make up a tiny percentage of political and business representation and leadership. Yes, there are laws and regulations in place to monitor elections and protect civil rights, but there are not mandated and empowered commissions or agencies that can consistently protect them.¹⁰⁷ Georgia does not have a specific ADR problem, but rather a general culture of neglect of democratic development features that has left its system weak and inefficient.¹⁰⁸

Georgia is an example of why concrete, codified, and empowered laws and bodies are required to ensure bolstered democracy. If democratic pluralism and the rule of law are based largely on culture and self-regulation, without specific dedicated agencies to maintain that culture, enforce those laws, and expose creeping incompetence or corruption, the democratic system can

¹⁰⁴ BTI Ukraine CP, 2020.

¹⁰⁵ FH Georgia CP, 2020.

¹⁰⁶ Van Asseldonk, 2018.

¹⁰⁷ WJP Georgia, 2020.

¹⁰⁸ Navarro, 2018.

become obsolete and decrepit.¹⁰⁹ When it becomes clear that consistently bending rules, flouting norms, and gaming the unmonitored system has no negative consequences, but rather reaps benefits, participants in the system adopt undemocratic behavior if for no other reason than it puts them at a competitive disadvantage not to do so.¹¹⁰ That is precisely why this Blueprint calls for specific empowered and independent agencies, with codified and enforceable laws behind them, to guide and monitor the democratic development of all transitional and vulnerable democracies. A leaky roof left unrepaired does nothing but worsen. Rusted beams and rotted woodwork will eventually buckle.

The result of this lack of maintenance for Georgia is that it is in the bottom tier of post-Communist states that have close ties with the West in terms of rule of law and democratic development.¹¹¹ That is despite its relationship with the EU, membership in the European Court of Human Rights, and initiatives to join Western international organizations. Georgia has just enough positive features – dynamic civil society, equal rights, healthy independent and opposition media, an independent judiciary, positive relations with the West – to keep its flawed democracy functioning.¹¹² But, it also has enough negative features – micro and cultural corruption, malign Russian influence, partisan judiciary, inept or selective law enforcement, splintered opposition – to make substantive democratic bolstering very difficult.¹¹³ It lacks the foundations of an established and consolidated democracy necessary to create the culture and system that can withstand soft corruption.¹¹⁴ That foundation requires institution building and empowerment.

¹⁰⁹ WJP Georgia, 2020.

¹¹⁰ Bermeo, p. 13.

¹¹¹ BTI Georgia CP, 2020.

¹¹² Van Asseldonk, 2018.

¹¹³ BTI Georgia CP, 2020.

¹¹⁴ Navarro, 2018.

The Blueprint solution for Georgia is made up of restorative features which can build those institutions and empower them to be self-sustaining and culture-changing. This should start with the creation (or recreation) of the recommended democratic bolstering bodies. The current existing Constitutional Court should be separated completely from the other branches of government and its decisions should be codified, implemented, and enforced just as any other laws.

Although Georgia does not appear to have significant civil rights deprivations at this time, a watchdog in that area should be established now so that when civil rights issues arise in the future, it will already have precedent and experience.¹¹⁵ Georgia's elections are plagued by small irregularities and unequal resources.¹¹⁶ A new, professionally staffed and legitimately empowered national election commission can maximize an already dynamic Georgian electorate and help to strengthen the democratic culture that keeps soft corruption and illiberal tactics at bay in the election process. And, as with all these case-study countries, Georgia should prioritize and make paramount the creation of a new and empowered democratic welfare commission. Such a commission engages the system-wide problems of illiberalism and democratic development stagnation when piecemeal efforts to solve them often fail.¹¹⁷ The possibility of future membership in Western institutions will continue to have moderate influence on Georgian democratic decision-making, serving as a minimal safeguard against democratic collapse. However, Georgia must refurbish its own democratic house, before the lack of maintenance condemns its system to failure.

Kyrgyzstan [Central Asia]: A house on fire

The democratic development process in Kyrgyzstan has utterly failed.¹¹⁸ Despite briefly exhibiting hopeful signs of fledgling democracy, and repeated attempts to instill reforms and

¹¹⁵ FH Georgia CP, 2020.

¹¹⁶ FH Georgia CP, 2020.

¹¹⁷ Eisen et al., 2019.

¹¹⁸ Helf, 2020.

democratic bolstering, the Kyrgyz system was simply incapable of overcoming the active ADR resistance within the Kyrgyzstan economic and political systems.¹¹⁹ To be fair, it was always a very tall task to create and sustain a functional democratic system anywhere in Central Asia, let alone in the tiny, impoverished, landlocked and vulnerable country of Kyrgyzstan. There is precious little Western influence in the region, and Russia – through its interdependent relationship with its former Soviet territory and its regional power – wield considerable soft power.¹²⁰ In order for Kyrgyz democracy to survive, the stewards of the system would have needed to provide both the foundational and restorative features of the Blueprint for a prolonged period of time, during which the culture and institutions could have consolidated. Instead, Kyrgyzstan lurched from one political crisis to the next with mob rule repeatedly taking control of events, leaving no one left with the ability or the desire to salvage the democratic system.¹²¹

Kyrgyzstan is the purest example of ADRs attacking and undermining a democratic system to such an extent that it collapses entirely. At repeated junctures, individuals and groups – including the current president and illiberal strongman, Sadyr Japarov – chose to empower themselves and disempower their rivals by directly undermining the democratic system.¹²² Japarov himself was broken out of prison by a mob of his supporters and then effectively installed as acting president and prime minister via mob intimidation and violence. Since his attainment of the presidency, he has moved to consolidate his power, strip out all of the remnants of the previous democratic system save the decorative features, and moved to closer relations with Russia.¹²³ Kyrgyzstan is a cautionary tale for other vulnerable democracies which demonstrates what can

¹¹⁹ BTI Kyrgyzstan CP, 2020.

¹²⁰ FH Kyrgyzstan CP, 2020.

¹²¹ Aitmatova, 2021.

¹²² FH Kyrgyzstan CP, 2020.

¹²³ WJP Kyrgyzstan, 2020.

happen when there is no power source in the system with the responsibility and capability to protect the democracy itself.

All that remains now of the former Kyrgyz democratic system are the aesthetic trappings of former democratic processes that do not provide the electorate with representative choice, but rather only offer a façade of legitimacy to a moribund political system.¹²⁴ It is unclear if and when Kyrgyzstan will again return to the endeavor of building and consolidating a genuine democratic system, if ever. But, when it does, it must begin with the Blueprint's formational features, starting with clearing out the remaining veneer of a long-abandoned democracy. This means a complete replacement and modernization of its institutions, processes, and codes, including the constitution, governmental infrastructure, and the entire electoral system. The structure that is in place now cannot support or defend a democratic system in the long-term.¹²⁵ It can only prop up a fatally flawed regime which can be expelled whenever an ADR entity decides that another mob-enforced overthrow might be beneficial.¹²⁶

Because of this need for wholesale reconstruction, Kyrgyzstan is the only case study country for which the Blueprint recommends a long-term interim government which can run the country during the period in which an entirely new system must be painstakingly constructed. If possible, this transitional government should be made up of professionals, academics, and lawyers, and there should minimally be a five-year ban on interim government officials working in the executive or legislative branches of the new governmental system. The interim government should also bear the responsibility of authoring a new constitution. Within that new constitution, the

¹²⁴ Aitmatova, 2021.

¹²⁵ Aslund, 2018.

¹²⁶ Aitmatova, 2021.

democratic bolstering features recommended by the Blueprint should be explicitly detailed and codified, particularly the commissions on elections and democratic welfare.

It is paramount that Kyrgyzstan follows this proper chronology, first using the formational features to establish an interim government, completely root out and replace the old system, and only then to build and install the new system replete with restorative features and safeguards against future ADRs. Only if those requirements, and that chronology, are followed, can Kyrgyzstan be reasonably expected to break out of the cycle of overthrow, instability, and mob rule that has plagued the country since its independence from the Soviet Union a generation ago.¹²⁷ Some houses cannot simply be repaired and refurbished. Some houses are so damaged by fire or natural disaster that they must be completely rebuilt before they can resume their purpose.

The United States: A cautionary case

All four of the case-study countries in this analysis are transitional post-Communist Eurasian states, in proximity to and influenced by powerful neighboring states and multinational organizations. Each country is in a general period of instability and geopolitical weakness because it is undergoing a transformational process while still trying to develop in a highly competitive international system. The features of the Blueprint – particularly the formational ones – are intended to help these transitional countries along their path of democratic development during an especially vulnerable period. However, transitional and unstable developing democratic regimes are not the only ones for which the Blueprint can serve as a useful tool for bolstering their democratic systems. The United States, along with many other established and consolidated democracies, should serve as a cautionary tale, a warning, that even the most powerful and ancient

¹²⁷ Aslund, 2018.

democratic systems can come under threat if those systems lack, or have let atrophy, many of these democratic bolstering features.

Unlike these four cases, the US is not undergoing a transition. It is not weak or exploitable geopolitically or economically. It does not have more powerful neighbors that can influence its domestic dynamics. And, its democratic institutions, bodies, and agencies are long-serving and fundamentally established.¹²⁸ The American constitution, Supreme Court, Justice Department, Federal Election Commission, and Civil Rights Division are far longer tenured than most in the world.¹²⁹ The American democratic system has been developed and bolstered for 250 years. Even so, the most pernicious ADR of today's democratic world – rightwing populism – dealt a blow to American democratic stability and prestige in recent years, and even briefly threatened the core of the American electoral process.¹³⁰

As with all ADRs, this comes down to base interests. Like the ruling parties that were already noted in Serbia, Kyrgyzstan, and to a lesser extent in Georgia, the ruling party or clique can at any point decide that the best way to maintain or increase its power is to undermine democracy. The American Republican Party is not unique in this conclusion, and it is common among unpopular but ruling parties in unconsolidated democratic systems.¹³¹ However, the consensus view prior to the recent rise of populism was that the American democratic system *was* consolidated.¹³² Nevertheless, members of the ruling party – including President Trump himself – decided not only that undermining democracy was their best chance to hold onto power, but also that they could openly flaunt American democratic norms and rule of law, and get away with it

¹²⁸ FH USA CP, 2021.

¹²⁹ WJP USA, 2020.

¹³⁰ FH USA CP, 2021.

¹³¹ Bermeo, p. 13.

¹³² WJP USA, 2020.

with impunity.¹³³ Fortunately, the American democratic system resisted and finally repulsed that illiberal power-grab, but not before raising alarm over the apparent vulnerability of the world's oldest democracy.¹³⁴

The American experience illustrates why the restorative features of democratic bolstering must be permanently maintained, even after the system is consolidated and stable. In any genuine functional democracy, there must be a possibility that one group or individual loses political power to an opponent. That is the nature of elected representation and political change. But, those moments of power transfers also represent the moments of highest risk for an ADR to act against the democratic system.¹³⁵ Although that risk diminishes over time as the democratic system matures, it never disappears. The US needed – and still needs – those protective democratic bolstering features detailed in this Blueprint. The US needs independent anti-corruption and civil rights bodies that are completely independent, and not under the control of the Justice Department and its presidentially-appointed Attorney General.¹³⁶ The US needs to empower its relatively toothless and advisory FEC and to codify enforceable election laws to deter electoral corruption. And the US should create a Democratic Welfare Commission that is wholly independent from the executive and legislative branches, with a portfolio of monitoring and reinforcing democratic development at all levels throughout the federal system. Transitional and vulnerable democracies should use the recent US experience as an instructive cautionary tale which demonstrated in real time how important and permanently necessary democratic bolstering features are for all democracies, not only the new ones.

¹³³ FH USA CP, 2021.

¹³⁴ FH USA CP, 2021.

¹³⁵ Eisen et al., 2019.

¹³⁶ WJP USA, 2020.

CONCLUSION AND PROSPECTUS

The Blueprint for this complex, prolonged, and intricately difficult democracy project is not a cure-all. It is not a magical panacea that will prevent all threats to the democratic system or predict all crises that will come to pass. It is merely a guiding plan – centered upon flexibility and selectivity – with the twin objectives of nurturing democracies in their infancy, and of assisting and strengthening democracies through their adolescence and maturity. There is no plan or scheme to build a perfect or disaster-proof house. The goal instead is to maximize the potential and opportunity for democratic growth, and minimize wherever possible the chances for backsliding, crisis, and breakdowns. The results of this analysis make it clear that some outside factors that consistently affect the countries' democratic trajectory – specifically, economic crises, Russian malevolent interference, and Western benevolent relations – can supersede the impact of even the most prescient and detailed blueprint. But, it is equally clear that with the right planning and assistance, vulnerable democracies can overcome years of significant adversity. Both Serbia and Ukraine are still within striking distance of adopting enough of the Blueprint features to return to the path of developing democracy, especially if Russian interference can be properly counter-balanced. Georgia has strayed farther from that path, but is still within range of a reset. Only Kyrgyzstan, of the four, requires a complete democratic reconstruction because its case of illiberal regression may be too severe to be served by this Blueprint without massive external assistance.

More important than short-term utility is the comparative analysis that the Blueprint provides, and its two fundamental conclusions. The first is that nascent and transitional democratic systems must have democratic bolstering protective features from the very beginning of the

project. The early days are when they are most vulnerable and unpredictable, and also when anti-democratic forces and actors are most likely to derail the transition.¹³⁷ Those features should be integrated into the very first steps of any democratic project. The second, as was illustrated with the recent experience of the United States and other seemingly consolidated democracies, is that all democratic systems must be regularly strengthened and maintained regardless of how old or successful they may be. Those two features together – a rock solid foundation, and consistent maintenance – cannot fully guarantee a strong house and successful project, but they are the two controllable factors that can best predict that the democratic edifice is still standing long into the future.

¹³⁷ Aslund, 2018.

BIBLIOGRAPHY

- Aitmatova, Shirin, “Corruption – The only constant of Kyrgyzstan’s faux democracy”, The Foreign Policy Center, March 2021.
<https://fpc.org.uk/corruption-the-only-constant-of-kyrgyzstans-faux-democracy/>
- Aslund, Anders, “Ten lessons from a quarter of a century of post-communist economic transformation”, *Economics of Transition* Vol. 26(4), 2018.
- Bermeo, Nancy, “On Democratic Backsliding” *Journal of Democracy* 27, no. 1 (2016): 5–19.
<https://sites.unimi.it/carbone/wp-content/uploads/2018/04/Democratic-backsliding-Bermeo-JOD-2016.pdf>
- Bertelsmann Transformation Index, “Georgia Country Report 2020”, Country Profile, 2020.
<https://www.bti-project.org/en/reports/country-report-GEO.html>
- Bertelsmann Transformation Index, “Kyrgyzstan Country Report 2020”, Country Profile, 2020.
<https://www.bti-project.org/en/reports/country-report-KGZ.html>
- Bertelsmann Transformation Index, “Serbia Country Report 2020”, Country Profile, 2020.
<https://www.bti-project.org/en/reports/country-report-SRB.html>
- Bertelsmann Transformation Index, “Ukraine Country Report 2020”, Country Profile, 2020.
- Eisen et al, Norman, “The Democracy Playbook: Preventing and Reversing Democratic Backsliding”, Brookings Institute, Governance Studies Report, November 2019.
https://www.brookings.edu/wp-content/uploads/2019/11/The-Democracy-Playbook_Preventing-and-Reversing-Democratic-Backsliding.pdf
- Channell, Wade, “Lessons not learned”, Carnegie Papers Rule of Law Series, No. 57, May 2005.
https://ceulearning.ceu.edu/pluginfile.php/438631/mod_resource/content/1/Channell_Lessons%20not%20learned.pdf
- Erer, Aleks, “Two Decades After the Fall of Milosevic, Dictatorship Is Returning to Serbia”, World Politics Review, May 14 2019. <https://www.worldpoliticsreview.com/articles/27847/two-decades-after-the-fall-of-milosevic-dictatorship-is-returning-to-serbia>
- European Western Balkans, “Shadow Report: State of Democracy in Serbia 2019”, Centre for Contemporary Politics, 2019. https://europeanwesternbalkans.rs/wp-content/uploads/2019/10/State-of-Democracy-2019.pdf?fbclid=IwAR0VFOcWp2Bs1unr5FBuNaS73buiJXaDDNNFtae_PuXlQ430SXghH8jn_k5k
- Fairbanks , Charles H., “Georgian Democracy: Seizing or Losing the Chance?” *Journal of Democracy* 25, no. 1 (2014): 154–65. <https://www.journalofdemocracy.org/articles/georgian-democracy-seizing-or-losing-the-chance/>
- Freedom House, “Freedom in the World: Georgia”, Country Profile, 2020.
<https://freedomhouse.org/country/georgia/freedom-world/2020>
- Freedom House, “Freedom in the World: Kyrgyzstan”, Country Profile, 2021.

<https://freedomhouse.org/country/kyrgyzstan/freedom-world/2021>
 Freedom House, “Freedom in the World: Serbia”, Country Profile, 2020.
<https://freedomhouse.org/country/serbia/freedom-world/2020>
 Freedom House, “Freedom in the World: Ukraine”, Country Profile, 2021.
<https://freedomhouse.org/country/ukraine/freedom-world/2021>
 Freedom House, “Freedom in the World: United States”, Country Profile, 2021.
<https://freedomhouse.org/country/united-states/freedom-world/2021>
 Freedom House, “Nations in Transit: Georgia”, Country Profile, 2018.
<https://freedomhouse.org/report/nations-transit/2018/georgia>
 Freedom House, “Nations in Transit: Kyrgyzstan”, Country Profile, 2018.
<https://freedomhouse.org/report/nations-transit/2018/kyrgyzstan>
 Freedom House, “Nations in Transit: Serbia”, Country Profile, 2020.
<https://freedomhouse.org/country/serbia/nations-transit/2020>
 Freedom House, “Nations in Transit: Ukraine”, Country Profile, 2020.
<https://freedomhouse.org/country/serbia/nations-transit/2020>
 Ginsburg, Tom, “What can constitutions do?: The Afghan case”, *Journal of Democracy*, Vol. 25, No. 1, January 2014. [Ginsburg_What%20can%20Constitutions%20do.pdf](#)
 Helf, Gavin, “In Kyrgyzstan, it’s easier to start a revolution than to finish it”, *United States Institute of Peace*, October 2020.
<https://www.usip.org/publications/2020/10/kyrgyzstan-its-easier-start-revolution-finish-it>
 Kleinfeld-Belton, Rachel, “Competing definitions of the rules of law: Implications for practitioners”, *Carnegie Papers Rule of Law Series*, No. 55, January 2005.
[Kleinfeld_Competing%20RoL%20Definitions%20.pdf](#)
 Michaels, Ralf, “One size can fit all”, *Comparative Constitutional Design and Legal Culture Law*, 2013.
https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5449&context=faculty_scholarship
 Motyl, Alexander, and Soltys, Dennis, “Ukraine’s Democracy Is (Almost) All Grown Up”, *Foreign Policy*, August 28 2019. <https://foreignpolicy.com/2019/08/28/ukraines-democracy-is-almost-all-grown-up/>
 Navarro, Luis, “An Uncertain Future for Georgian Democracy”, *Atlantic Council*, Dec 5 2018.
<https://www.atlanticcouncil.org/blogs/new-atlanticist/an-uncertain-future-for-georgian-democracy/>
 Sitter et al., “Backsliding in area of constitutional safeguards...” Working Paper Series 2017/7, *Centre for Policy Studies, CEU*, (2017).
<https://cps.ceu.edu/sites/cps.ceu.edu/files/attachment/publication/2959/cps-working-paper-transcrisis-d6.2-2017.pdf>
 World Justice Project, “Rule of Law Index: Georgia”, *Rule of Law Profile*, 2020.
<https://worldjusticeproject.org/rule-of-law-index/country/Georgia>
 World Justice Project, “Rule of Law Index: Kyrgyzstan”, *Rule of Law Profile*, 2020.
<https://worldjusticeproject.org/rule-of-law-index/country/Kyrgyz%20Republic>

World Justice Project, “Rule of Law Index: Serbia”, Rule of Law Profile, 2020.

<https://worldjusticeproject.org/rule-of-law-index/country/Serbia>

World Justice Project, “Rule of Law Index: Ukraine”, Rule of Law Profile, 2020.

<https://worldjusticeproject.org/rule-of-law-index/country/Ukraine>

World Justice Project, “Rule of Law Index: United States”, Rule of Law Profile, 2020.

<https://worldjusticeproject.org/rule-of-law-index/country/United%20States>

Van Asseldonk, Maxim, “Georgia’s Democracy Is Alive and Well”, New Eastern Europe, June 20 2018. <http://neweasterneurope.eu/2018/06/20/georgias-democracy-alive-well/>