

Erosion of the Rule of Law: A Study of Canada and Ukraine

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Introduction

Social inequality is present in every society, and every country has to deal with it differently. Some countries deal with social issues better than others. This paper examines the strength of the rule of law in Canada and Ukraine and the different factors that can affect that strength. Mainly, the factors that the paper focuses on are corruption and discrimination. When looking at something like corruption, we will see that some countries deal with this better than others, while some might deal with discrimination better. The point is that while every country faces these issues, they are not equally affected. The goal is to examine the similarities and differences between Canada and Ukraine regarding these issues.

An effective rule of law "reduces corruption, combats poverty and disease, and protects people from large and small injustices. It is the foundation for communities of peace opportunity, equity underpinning development, accountable government, and respect for fundamental rights" (GovData360). The rule of law is essential to any democratic nation; it ensures a certain way and quality of life. It ensures that everyone is held accountable to the same laws regardless of their status. It stands against the idea of an oligarchy or Authoritarianism where there are people in society who are above the law.

It should be the goal of every country in the world to have a strong rule of law. But what prevents that from happening? Our goal is to examine whether corruption and discrimination affect a country's strength of the rule of law. When corruption is present, there are lower levels of trust in government which is important when it comes to having citizens obey the rules and laws that are set forth by the government. People who do not

trust the government will be less likely to follow the policies. Later we will be examining data and indicators that relate to this to see whether or not the presence of corruption affects a country's strength of the rule of law.

Literature Review

Corruption

Corruption can take shape in all different manners or forms. When you think of corruption, your first thought likely goes to someone who either bribes or accepts bribes. But a simple way to conceptualize corruption is the abuse of public goods and services as a way to further your personal goals or wealth. While our overall focus will be on the justice system, it is important to emphasize how it affects all three branches of government.

Sun (2018) defines transaction-type corruption as an exchange between both a citizen and some government official. Both of these actors benefit from this interaction. One of the key ideas that are introduced in this work is the idea of *privilege-seeking* (p.55). This term encapsulates the idea of the act of trying to gain some level of favor with a government official or someone in a position of power and authority through the usage of material goods. This is different from bribery as the results of this attempted exchange of goods are not guaranteed. The primary outcome here is for an individual to try and build a relationship through the usage of material gains.

Hellman (1998) focuses on the economics of the countries referred to as Former Soviet States (FSU). The main takeaway from this article is the idea of a country that is in the state of a partial reform

equilibrium. This is the idea that "instead of forming a constituency in support of advancing reforms, short-term winners have often sought to stall the economy in a *partial reform equilibrium* that generates concentrated rents for themselves while imposing high costs on the rest of society." (Hellman 1998, p. 204). Societies are divided into two groups, winners and losers. The winners can stall the economic progress of the Former Soviet States, like Ukraine or Hungary. It is also the winners who can take advantage of the transaction-type of corruption proposed by Sun (2018). They use their power and access to material goods to control the government or people in power to keep the country from advancing and reforming.

Quality of government is defined as "when implementing laws and policies, government officials shall not take anything into consideration about the citizens/case that is not beforehand stipulated in the policy or the law." (Rothstein and Torrell, 2008) p. 170). To put it simply, the government must be impartial, hold no biases, and have no outside influence to be considered high quality. Another reason to bring this concept up is that it has a relationship to our previous concept of transaction-type corruption (Sun 2018). Rothstein and Torrell (2008) explain that when a state's quality of government is high, it can lower transaction costs. When the government is more impartial with its decision-making, there is less opportunity for outside influences to breach the various branches of government, including the judicial branch.

Discrimination

When looking at the justice system, discrimination can be represented in the form of overrepresentation of vulnerable populations, both victims and offenders.

Systemic bias is a well-studied area, so to put it briefly, it is the idea that a system, for our purposes, we will be focusing on the legal system, has the inherent tendency to target the same group of people all the time.

Systemic biases can be found in many countries around the world. For example, there is a systemic bias against African Americans in the United States, while here in Canada, our Indigenous Peoples are targeted by the bias. Cunneen (2018) makes an argument to try and explain the reasoning for African Americans being the target in the criminal justice system is due to "high victimization rates in black communities, under-

enforcement of the criminal justice system is a problem rather than over-enforcement." (Cunneen, p. 331).

Suppose we shift our focus to Canada or places like Australia and New Zealand, where the Indigenous Populations are over-represented. Research suggests that this over-representation does not mainly happen due to a racial bias but more because of social and economic marginalization (LaPrairie, 1997, p. 4). This idea of discrimination being more focused on those who are economically and socially marginalized and vulnerable will play a part in our comparison later.

Analysis

The two primary sources of data that I will be basing my analysis and study on are the Corruption Perception Index and GovData360. The methodology that I will be using is that I will be comparing Canada and Ukraine using various indicators from these two data sources. We will examine each country's trends and compare them to the median world score for the possible indicators.

A non-governmental organization, Transparency International, runs the Corruption Perception Index (CPI). Its primary focus is the examination of corruption and trying to fight it all across the globe. The Corruption Perception Index ranks countries based on their perceived levels of corruption in the public sector. This ranking is determined by opinion surveys given to the public and expert assessments. Every year, a new report is published with updated rankings. Countries are given a score of 0 (perceived as highly corrupt) to 100 (perceived as less corrupt). Our goal is to examine the trends in the perceived levels of corruption in Canada and Ukraine. We want to see if Ukraine is becoming more or less corrupt over time, like Canada.

Our other primary data source is GovData360. This is an institution of the World Bank that examines 4700 different indicators related to government effectiveness, accountability, and several other metrics. All data for these indicators come from 35 different data sources, including other World Bank institutions. For this study, I have narrowed the number of indicators we are examining. The indicators include Civil Justice is Free from Corruption; Criminal System is Free from Corruption; Civil Justice is Free from Discrimination;

and Rule of Law, Judiciary. All of these indicators cover my topic's vital areas of study for direct quantitative comparison between Canada and Ukraine. All tables and graphs are viewable in the appendix at the end of the paper.

Summary of Data

	CPI Ranking (2021)	Civil Justice is Free from Corruption (2021)	Criminal System is Free from Corruption (2021)	Civil Justice is Free from Discrimination (2021)	Rule of Law Judiciary (2021)
Canada	74/100	0.90	0.85	0.57	1.66
Ukraine	32/100	0.41	0.35	0.69	-0.67
World Median	n/a	0.55	0.50	0.55	0.0

Corruption Perception Index

Each year when the new report is published, a country is assigned a ranking from 0 (more perceived corruption) to 100 (less perceived corruption). To be ranked, a country must be evaluated by at least three of the twelve approved institutions that work with Transparency International. These partner institutions include The World Bank, Freedom House, and the World Economic Forum.

As of 2021, Canada is ranked 13th (Table 1) in the world to be the country with the least perceived levels of corruption in the public sphere and has a score of 74/100. Countries that rank higher than Canada include European nations like Denmark, Sweden, and Norway. Canada's ranking has been relatively consistent over the year, but one of the interesting trends we see is that ever since 2012, Canada has had a slight downward trend.

Ukraine differs significantly from Canada as it was assigned a score of 32/100 and ranked 122/180 (Table 2) worldwide. Ukraine has some of the highest levels of perceived corruption in Europe, given its political instability. It is not all bad news; however, unlike Canada, ever since 2012, Ukraine has been on an upward trend in seemingly becoming less corrupt. From 2019 to 2020, Ukraine jumped up three spots on the list, showing some marginal upward mobility for the country. Ukraine has been actively trying to crack

down on corruption in recent years, and its efforts are showing some results reflected in this report.

There is a significant gap between Canada and Ukraine on this list. Canada is one of the least corrupt countries in the world while Ukraine is the most corrupt country in Europe. One possible explanation for why their score has been improving over time is that in 2014 Ukraine went through a pivotal event, the Revolution of Dignity. This was a reaction to the decision of the former president of Ukraine to become closer with Russia as opposed to the European Union. In the end, the Ukrainian people overthrew the government because of their ties to Russia. Looking at Table 2, we see that ever since 2014, Ukraine has been on an upward trend in terms of its ranking in the Corruption Perception Index. The country was perceived as less corrupt after the former regime was ousted.

Civil Justice is Free from Corruption Indicator

In our first indicator from GovData360, we are looking at their measure of how free the Civil Justice system is free from corruption (Table 3). The index team at GovData360 developed a set of five questionnaires based on the conceptual framework. These are then administered to experts and the general public. A country's ranking is established through the results of these surveys. Every country is given a numbered score of 0 to 1. The closer a country is to 1, the freer their Civil Justice system is from corruption and the opposite for 0.

Canada in 2021 was given a ranking of 0.90 based on the scale provided, which shows that Canada's Civil Justice system is relatively free from corruption. In comparison, Ukraine had a score of 0.41. For reference, the world median for this indicator was approximately 0.55, meaning that Ukraine is below the median while Canada is significantly above it.

Criminal System is Free from Corruption Indicator

The World Justice Project develops this indicator. Similar to our previous indicator, countries receive a score ranging from 0 to 1. 1 represents being freer from corruption, while 0 means the criminal system is riddled with corruption.

Ukraine was given a score of 0.31, while Canada was rated as 0.85 (Table 4). Once again, to compare these

two countries to the World Median of 0.50. Canada continues to be significantly higher than the World Median while Ukraine is below. From 2013 to 2021, Ukraine has had an ever-slight upward trend in its rating. In 2013 Ukraine had a rating of 0.26, and over the next eight years, they have climbed 0.05 points to where we saw them now in 2021. Canada has been incredibly consistent over this eight-year time period. From 2013 to 2016, Canada sees its biggest climb in rating going from a score of 0.80 to 0.85 in that brief period. For some additional context, the world median has been trending downward since 2013. The conclusion that we can draw from this is that Canada has quite limited amounts of corruption in its criminal system compared to the rest of the world, especially in Ukraine.

Civil Justice is Free from Discrimination Indicator

When looking at the levels of discrimination in the Civil Justice System, we see an interesting development that is unique to this indicator compared to our others. Once again, each country is given a score from 0 to 1, with 1 representing that the Civil system is free from discrimination while 0 shows that the system is rife with it. In Table 5, we can see the representation of the data, Canada has a score of 0.57, Ukraine has a score of 0.69, and the world median is approximately 0.55. This is the only indicator in which Ukraine has a score higher than Canada and the world median, and it is the only indicator in Canada that is this close to the world median.

In Table 5, Canada's rating in this indicator began to plummet in 2016. It went from a mid-high 60s down to its 2021 rating of 0.57, nearly a 10-point drop. Interestingly enough, however, in 2013, Ukraine had a rating of 0.80 before suffering a substantial drop to approximately 0.65 in 2016. Unlike Canada, Ukraine began climbing back up to its 2021 rating of 0.67.

The question now stands, what is the reason for Canada being so substantially lower in its rating here compared to all the other indicators that have been presented? From the literature on this subject, we know that Canada has a pretty severe issue regarding Indigenous people being overrepresented in the legal system. The over-representation of Indigenous people is widespread and well known across Canada, so it is hard to cover

up. This could be one of the biggest factors affecting Canada's rating.

Rule of Law, Judiciary

The final indicator for our analysis is looking at Canada and Ukraine's Rule of Law ratings. Specifically, this indicator looks at the judiciary system of countries and analyzes their strength or weakness in that sector. Each country is given a score ranging from -2 to 2, with 2 being a strong rule of law and -2 being a very weak rule of law. As seen in Table 6, Canada has a rating of 1.67, Ukraine has a rating of -0.67, and the world median is 0.0. Canada has had a very consistent rating in its strength of the rule of law.

Meanwhile, in Ukraine, we can see that ever since 2000, they have been on an upward trend, and their rule of law strength has been increasing. However, even with it being on an upward trend, it still is not that close to the world median of 0.0. In contrast, Canada is significantly above that median, as we have seen a number of times in different indicators.

Implications and Conclusion

When thinking of the implications and impacts that a weak rule of law can have on a country, we will look at this at three levels. How individuals are affected, institutions are affected, and society as a whole is affected.

Individual Implications

People's treatment in the legal system is affected based on corruption and discrimination. If you are going through a system with high levels of discrimination and you are a vulnerable person or some minority, you will be disproportionately targeted and affected. Discrimination can lead to poor health and a lack of opportunity because you are being targeted unfairly. Corruption affects you based on whether you could be considered a winner or loser in society. If you have access to power or material goods, you will have an easier time getting through the system. This relates to the ideas that are presented by Hellman (1998). The rule of law allows people to be treated equally. Having a strict rule of law creates more accountability in the courts, benefiting everyone regardless of their status.

Institutional Implications

The justice system has been discussed throughout this paper and is one of the major institutions that is affected by all three factors corruption, discrimination, and rule of law. A justice system riddled with corruption or discrimination decreases public trust in the justice system. It weakens judicial systems' capacity to guarantee human rights protection. Taking the idea of transaction-type corruption from Sun (2018) and applying to the justice system. If corruption is high and the rule of law is weak, judges, lawyers, and other legal staff are more likely to accept bribes and lose their integrity for personal gains. Once these transactions become the norm in a society, those who benefit from them will do everything in their power to prevent change. They want to lock in this outcome and status quo. There is no incentive for judges to agree to anti-corruption policies when that means they will be losing status, wealth, and power.

The governments of Canada and Ukraine should strive to have a strong rule of law, but as we have seen, that is not always the case. One of the main effects on the government is the erosion of public trust in the institution. Having a strong rule of law means that the government enacts laws openly and transparently. The higher your country's level of corruption, the opaquer the governmental systems in the country are. Another consequence of a weak rule of law is that a country's quality of government is low, leading to low levels of effectiveness and accountability.

Societal Implications

Society becomes more hierarchical in a country where rule of law is weak due to rampant corruption and discrimination. This leads to a system of winners vs. losers. As we saw in the literature from Hellman (1998), those who have the resources to bribe officials or build relationships are of a higher social status than those who are not. The winners of society will do everything in their power to maintain the status quo because they do not want to lessen their status. Creating these divides amongst people is what leads to discrimination to begin with. When a society focuses on dividing people into groups like winners and losers, it emphasizes a person's economic and social status. It is through this scrutiny that discrimination becomes

intrinsic in a society. Those who are winners begin to look down on those of different status and class.

Another outcome from this is that certain forms of government regimes can become more common. Authoritarian leaders are an example of something that can become more prevalent if the rule of law is weak and corruption is high. Corruption is key to maintaining the power of Authoritarian leaders. The members of the oligarchy in a country under Authoritarianism are the people who are the winners of society because they have the access that normal citizens do not because of their wealth and status.

Conclusion

The goal of this research has been to determine whether or not factors like corruption and discrimination can affect a country's strength of rule of law. Based on the data we examined previously, we can make two conclusions. First, countries with higher corruption levels are more likely to have a weaker rule of law. We looked at three variables related to corruption levels in Canada and Ukraine. Canada consistently showed as one of the countries in the world with the least amount of perceived corruption levels. Meanwhile, Ukraine was also consistent in being one of, if not the most, corrupt countries in Europe. When comparing those results to the rule of law in the judiciary indicator, we see that Canada has a very high rating and Ukraine has a low rating below the world median.

Second, the data we analyzed does not provide us with enough evidence to suggest that discrimination affects a country's strength of rule of law. Civil Justice is free from discrimination is the only indicator in which Ukraine has a higher ranking than Canada. Even with the empirical evidence presented, it does not seem enough to move the needle in raising Ukraine's strength of the rule of law. It is because of this that it leads us to the conclusion that of all the things to affect the countries' rule of law, discrimination is not one of them.

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Appendix

Table 1 - Corruption Perception Index – Canada

CANADA

Score
74/100 [What does the CPI score mean?](#)

Rank
13/180
Score change
↓ -3 since 2020

Score changes 2012 - 2021

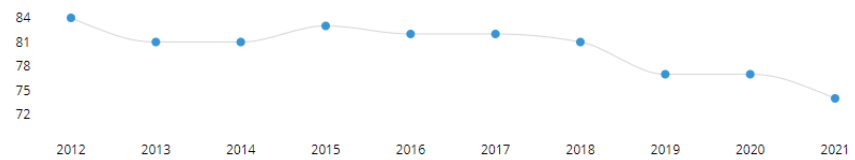


Table 2 – Corruption Perception Index – Canada

UKRAINE

Score
32/100 [What does the CPI score mean?](#)

Rank
122/180
Score change
↓ -1 since 2020

Score changes 2012 - 2021

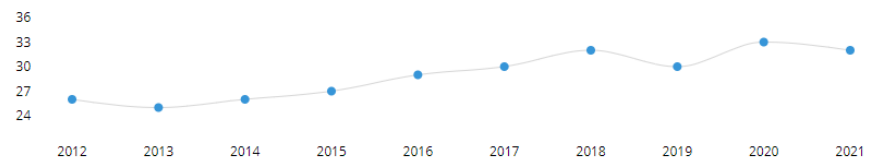


Table 3 – Civil Justice System is Free from Corruption –

GovData360

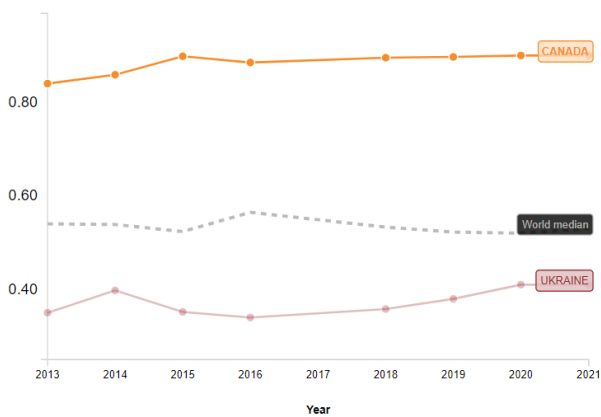


Table 4 – Criminal System is Free from Corruption –

GovData360

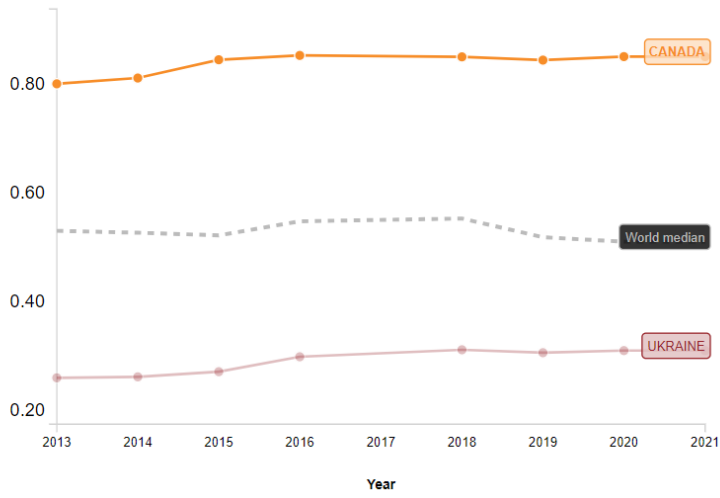


Table 5 – Civil Justice is Free from Discrimination –

GovData360

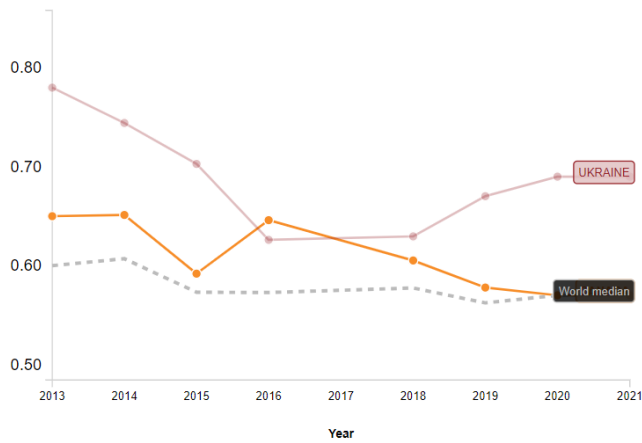


Table 6 – Rule of Law, Judiciary – GovData360

