

Ukraine

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Ukraine can be said to have a semi-presidential system insofar as it has direct presidential elections combined with a prime minister and a government answerable to both president and parliament.¹ Since winning independence in 1991, Ukraine has also gained a reputation for political gridlock. Both of the presidents elected since independence—Leonid Kravchuk (1991–4) and Leonid Kuchma (1994–)—disappointed the initial hopes of their supporters, building up an impressive array of powers on paper, but proving unable to match this in practice. Conflict between presidents, prime ministers, and the chairmen of parliament has been an endemic feature of Ukrainian politics, as have the frustrations of a weak and fractious post-communist party system. Kuchma faces an uphill struggle to be re-elected on schedule in October 1999.

This chapter seeks to explain why semi-presidentialism has nevertheless provided an attractive form of political compromise in Ukraine's ethnically, linguistically, and regionally divided society, despite the problems of political stasis that it has both reflected and helped to promote. There is no space here to discuss the underlying historical reasons for these divisions in Ukrainian society—interested readers may look elsewhere (Wilson 1997a). Instead, our aim is to explain why circumstances have made it difficult for Ukraine to choose any other regime type, despite the residual enthusiasm of the Ukrainian left for a Soviet, i.e. parliamentary, republic. We follow the pattern established in previous chapters by first examining how semi-presidentialism was established in Ukraine and then looking at Duverger's other key criteria: the constitutional powers of the key political actors, the nature of the parliamentary majority, and the relations between the president and that majority.

THE INITIAL SETTLEMENT

Ukraine's constitutional system emerged in two distinct bursts of activity: the first in the turbulent months before and after independence was won from the USSR in August/December 1991; the second in the intense debates surrounding the passing of a temporary Constitutional Agreement in June 1995, followed by the final introduction after six years of discussion of a new post-Soviet constitution a year later in June 1996. Arguably, the regime has therefore been founded twice, but in practice the constitutional settlement of 1995–6 did not mark as sharp a break with previous politics as many commentators had expected or hoped for (Wilson 1997*b*).

The presidency was originally established by the law of July 1991, when the USSR was still in existence and Ukraine was one of its fifteen constituent republics. At the time, Mikhail Gorbachev's reforms had allowed the republics to seize more powers, but he was still trying to keep them in the Union. Ukraine, unlike the Baltic republics, Georgia, or Armenia, was in theory still persuadable. A minority of Ukrainian politicians looked forward to independence, but most were prepared to negotiate with Moscow and saw a Ukrainian president as a means of strengthening their position in this bargaining process. Ukraine was also copying the example of Russia, where, for similar reasons, Boris Yeltsin had just (on 12 June) been elected president of the Russian Federation—also one of the constituent republics of the USSR—as a rival to Gorbachev as Soviet president.

It was therefore not originally envisaged that the new Ukrainian president would act as a head of state; his function would be to protect Ukrainian law and institutions from Moscow's interference. Significantly, the assumed main candidate for the presidency was Leonid Kravchuk, then the chairman of the Ukrainian parliament, known by its Ukrainian name of Verkhovna Rada (Supreme Council or Supreme Soviet). The 1991 Act said little about how the Ukrainian president would actually relate to Ukrainian institutions. As a separate Ukrainian state then seemed a distant prospect, Ukrainian law-makers simply grafted the presidency onto the already existing parliamentary (soviet) system without really considering the consequences this would have in institutionalizing conflict between the various branches of power once the latter began to act with real independence.

Some members of the then opposition did propose that Ukraine go further and adopt an executive presidency, but the Communist Party was implacably opposed, and in 1991 was still powerful enough to block

the suggestion (left-wing opposition to any expansion of presidential power has been a persistent feature of Ukrainian politics ever since).²

However, the law had only been on the statute book for one month (first elections were pencilled in for December 1991), when the failed Moscow coup of August 1991 brought about the destruction of the USSR and radically changed political circumstances. On 24 August the Ukrainian parliament declared independence and on 30 August the local Communist Party was banned. Newly independent Ukraine now needed a head of state, and the institution of the presidency was to be an important means of symbolizing and personifying that independence and emphasizing the break with Moscow. With the main traditional channels of governance disabled, Ukraine also badly needed any kind of political leadership.

Moreover, although parliament had adopted the Declaration of Independence by 346 votes to 1, Ukrainian leaders were well aware that elite consensus was potentially fragile and that the underlying ethnic, linguistic, and regional divisions that had dictated Ukraine's relatively cautious approach before August were still in existence. Ukraine's 11.4 million Russian minority, concentrated in the cities of the east and south, had to be reconciled to the break with Russia. Ukrainian leaders were also sensitive to the historical and religious divides between those parts of the country which had long-standing connections with Russia/the USSR, where millions of Ukrainians spoke Russian as a first language, and the western territories that had only become part of Soviet Ukraine in the 1940s.³ As late as March 1991, 70.5 per cent of Ukrainian voters had backed Gorbachev's referendum on the preservation of the USSR, with only west Ukraine voting solidly against, and Ukrainian elites were anxious to win maximum support in a new referendum to confirm parliament's Declaration of Independence to be held on the same day as the presidential election. The predicted economic benefits of independence and Kravchuk's 'safety first' campaign stressing experience and continuity were therefore presented to voters as a package.

Ukrainian leaders were also concerned to avoid opening up the political system to nascent outsider competition (Easter 1997), and the presidency seemed a good way of shielding existing power-holders from the amorphous and unpredictable parliament (Protsyk 1995). Most of the 346 deputies who voted for independence were former Communist apparatchiks, and it was informally understood that they would be allowed to remain in power so long as their new-found enthusiasm for the national cause remained solid.⁴ A consensus of support for a somewhat stronger presidency therefore began to develop, on the

assumption that the office would be shaped by the personality and political style of Kravchuk, in particular his characteristic preference for governing through brokered compromise between elites.

This was reflected in the choice of constitutional changes made in early 1992,⁵ after the popular vote on 1 December 1991 had safely confirmed Kravchuk as president (61.6 per cent) and Ukraine as an independent state (90.3 per cent). The president was now described as 'the head of state and head of the executive power in Ukraine', and granted the power to appoint the prime minister and other leading ministers, subject to parliamentary approval. The government (Cabinet of Ministers) was now described as being 'subordinate to the president', whom it was envisaged would now exercise considerable executive functions. Kravchuk was even granted limited powers to rule by decree.

However, the underlying assumption of collective elite responsibility left relations between the president and the rest of the executive still seriously underdefined. Kravchuk was reluctant to take responsibility for any programme of real change, and was happy to share power and, more importantly perhaps, responsibility. Although other constitutional innovations included creating a series of extra-parliamentary structures, such as a presidential *Duma* (advisory council) and a system of *predstavnyky* (prefects) in the provinces, their real purpose was to bind all central and regional elites to the independence project rather than to introduce one-man rule.⁶ Kravchuk's decree powers were confined to the area of economic reform, where he remained cautious and inactive, before relinquishing the power after only a few months in October 1992.

Significantly, the president gave an annual report to parliament, but only the prime minister was 'accountable' to it for his actions. On the other hand, Kravchuk failed to establish a lasting working relationship with any of his prime ministers, who were frequently dumped when political circumstances required. Kravchuk's rolling cycle of elite appeasement led to him appointing and dismissing four prime ministers in his two and a half years in office: Vitol'd Fokin (to October 1992), Leonid Kuchma (October 1992 to September 1993), Yukhym Zviahil's'kyi (September 1993 to May 1994), and Vitalii Masol (May 1994 to February 1995).

Moreover, Ukraine retained certain key features of the institutional design of the communist era. In particular, the chairman of parliament was also a significant figure, to the extent that Ukraine was almost governed by a triumvirate. Once elected by a caucus vote of deputies, he directed debate and procedure in the manner of the speaker of the American House of Representatives, as well as chairing the powerful

presidium of parliament and its network of committees. Moreover, the system of local soviets, in a direct hangover from the communist era, was under his control as chairman of parliament, the 'Supreme Soviet' of Ukraine. Kravchuk had held the post before 1991 and his successor, Ivan Pliushch, used it to launch an ultimately unsuccessful bid for the presidency in 1994. Kravchuk's successor, Leonid Kuchma, also had difficult relations with Pliushch's successor, Oleksandr Moroz, the head of the Socialist Party of Ukraine.

Kravchuk's defenders have argued that the new president, sensing the fragility of the state, was not prepared to risk political stability by embarking on any radical reform project. Ukraine had to rely on old political institutions or risk a power vacuum. Moreover, the delicate balance of Ukraine's ethno-linguistically and regionally divided society could supposedly only be preserved if existing elites were left in power (Motyl 1995). This meant, however, that Kravchuk was unable to fight on a record of governmental activism when he was forced into an early election in the summer of 1994 (Arel and Wilson 1994*b*; Litvin 1997; Lytvyn 1994). His economic record (output down some 40 per cent, inflation at 10,200 per cent in 1993 alone) was truly awful. Instead, Kravchuk sought to mobilize a constituency of nationalist support by standing on the achievement of Ukrainian statehood and depicting his main rival, former prime minister Leonid Kuchma, as a dangerous Russophile who would undermine state independence.

Kravchuk lost by 45.1 per cent to 52.1 per cent in the second round, as, in an election polarized between Ukrainian-speakers and Russian-speakers (the population is divided approximately equally between the two), Kuchma's pragmatic defence of Russian-speaking culture and greater emphasis on economic reform proved popular in the east and south. On the other hand, support for Kravchuk amongst Ukrainian nationalists was eroded by the parlous state of the economy. Kravchuk won every oblast west of the river Dnipro (Dnieper), bar one (Kirovohrad); Kuchma won every oblast to the east and south (Arel and Wilson 1994*b*; Khmelko and Wilson 1998). Kravchuk had, however, at least created the circumstances in which voters felt it was safe to remove him from office without threatening Ukrainian independence.

REFOUNDATION, 1995–6

New president Kuchma was temperamentally inclined to push some of the issues that Kravchuk had let lie (Lukanov 1996). Moreover, the

economy at least was at crisis point. Once Kuchma launched Ukraine's first serious economic reform programme in October 1994 he presented his drive to increase presidential power as a means of forcing it through the left-dominated legislature (the left parties in fact only controlled about 40 per cent of the seats after the spring 1994 elections to parliament). Others suspected he saw it as an end in itself. Whatever the case, Kuchma developed a wide-ranging agenda for constitutional reform within a few months of taking office, concentrating in particular on his inability to dissolve parliament, his lack of an effective veto over its often unpredictable legislative output,⁷ and the difficulty of controlling local elites and enforcing reform implementation in the Ukrainian regions. Kuchma therefore proposed a Law on Power to revamp the constitution, at the same time as taking a series of unilateral measures, such as granting himself expanded decree powers and the right to dismiss local elected officials. Kuchma also created a Council of the Regions as a means of binding regional elites to his administration (Wolczuk 1998).

Significantly, however, Kuchma continued Kravchuk's habit of hiding behind the prime ministerial 'shield', even, bizarrely, keeping the left-wing hangover Vitalii Masol in office during the belated launch of Ukraine's economic reform programme in October 1994, as Kuchma presumably judged he had not yet soaked up maximum unpopularity. Thereafter, Kuchma went through prime ministers as rapidly as Kravchuk. After Masol came Yevhen Marchuk (March 1995 to May 1996), Pavlo Lazarenko (May 1996 to July 1997), and Valerii Pustovoitenko (July 1997–). Kuchma also had to continue working with the left-wing chairman of parliament, Oleksander Moroz, whom he was unable to force out of office until after the 1998 parliamentary elections.

Parliament not surprisingly refused to give Kuchma's proposed Law on Power a constitutional majority (two-thirds of all deputies). However, in the spring of 1995 Kuchma's threat to appeal over deputies' heads and utilize his still fresh mandate by holding a national confidence referendum to test the relative popularity of president and parliament led to political compromise. Ukraine backed away from the possibility of repeating the October 1993 confrontation in Russia, when Yeltsin had bombed parliament into submission, and in June president and parliament signed a Constitutional Agreement to delimit authority between them (*Konstytutsiinyi dohovir*, 1995). Nevertheless, 81 deputies, mainly leftists, voted against and the Agreement had to be watered down to secure the support of the 240 who voted in favour, Kuchma having

accepted that the two-thirds majority necessary to amend the constitution in line with the Agreement was unobtainable.

The Constitutional Agreement led to a considerable expansion in the powers of the presidency, largely at the expense of parliament, but not to the extent originally sought by Kuchma. Although the president was now described as 'exercising his power as head of the state executive power through heading the government', the existing balance of power between the various branches of state was not radically altered. The most important change was the introduction of a proper presidential veto power, which now required a constitutional majority (two-thirds of deputies) to overturn. The president's decree powers were also considerably extended. As under Kravchuk, Kuchma could now issue decrees on questions of economic reform, but in theory the power now extended to any area of his competence where there was no existing law. Such decrees would have the force of law until confirmed or overturned by relevant legislation. The president's appointment powers were also extended and parliament's functions of executive oversight reduced.

The Constitutional Agreement was to last for one year only and committed its signatories (president and parliament) to achieving a more long-term solution by devising a new constitution within the same period. Although the method was not specified and parliament once again dragged its feet, the uncertain outcome of the Russian presidential election in June 1996 helped to concentrate minds, and a new constitution was finally passed by 315 votes to 36 after an all-night sitting on 27/28 June (Het'man 1996)—only a few days late. Once again, the document was a compromise. The opposition of the left, many of whom still wanted to abolish the presidency altogether, was only overcome by including a long list of socio-economic rights (to work, welfare, free education, etc.) and by accepting more constraints on presidential power than Kuchma would have preferred.

THE NEW CONFIGURATION OF POWERS

Five years of piecemeal change had seemingly culminated in a lasting settlement. Nevertheless, in essentials the new constitution was little different from the 1995 Constitutional Agreement. The president lost certain powers of appointment, but gained the benefit of tougher impeachment procedures. The latter now had to be initiated by a majority of deputies. 'A decision on accusation' required a two-thirds vote,

and the final vote itself a three-quarters majority. Moreover, the newly created Constitutional Court had to accept that proper constitutional grounds for impeachment (state treason or other crime) had been proved (Article 111). A farcical call for Kuchma's impeachment that rapidly petered out in September 1997 showed how difficult this would be.

The president's power to force through economic reform by decree was extended to the end of his term—edicts would now automatically become law if parliament failed to block them within thirty days. Moreover, the president's right of legislative initiative was strengthened by the stipulation that his proposals could be considered out of turn by parliament—granting the presidential programme a form of priority (Article 93). Crucially, however, despite a long and persistent campaign Kuchma was unable to win the power of dissolution (in sharp contrast to Yeltsin in Russia, neither Kravchuk nor Kuchma were ever able to free themselves of their troubles with parliament by the use of such a power). The president could only dissolve parliament in the unlikely circumstances of it failing to assemble within thirty days of the beginning of a normal session (Article 90). This provision had little effect in practice, although it did make prolonged boycotts of parliament by right or left (in order to prevent sessions formally beginning) much less likely. Kuchma dropped a proposal for a bicameral parliament, as existing deputies suspected he would have too much power over the upper house.

Nor was Kuchma able to win the other key power he coveted, namely the ability to bypass parliament through the use of referenda (his threat to do so in 1995 was unconstitutional but effective, as parliament then assumed he would easily have won any popularity contest). Article 72 of the constitution allowed for the possibility of 'an all-Ukrainian referendum . . . to be designated by the Verkhovna Rada or by the president of Ukraine', but at the same time confirmed the previous situation that referenda could be called on popular initiative on the request of no less than three million citizens of Ukraine (i.e. by petition). Three million (out of a total population of 51 million) was a very high number and had effectively prevented, again in contrast to Russia, the use of referenda since December 1991.⁸ Referenda could not be held on issues of taxes, the budget, and amnesty, but would be compulsory for any proposal to alter the territory of Ukraine (Articles 74 and 73). Amendments to the core principles of the constitution would also have to be confirmed by referendum (Article 156). In practice, this meant that the president could organize a referendum if he really wanted to, but

that civic initiatives on controversial subjects like the status of the Russian language or relations with Russia (which the Communists campaigned for after they argued Kuchma had reneged on his 1994 campaign promises) were likely to fail.

The new constitution conferred considerable appointment powers on the president, including the right to designate ambassadors, and 'on the submission of the prime minister of Ukraine, members of the Cabinet of Ministers of Ukraine, chief officers of other central bodies of executive power, and also the heads of local state administrations, and terminate their authority in these positions' (Article 106). The latter power was particularly significant, as heads of local authorities were directly elected in Ukraine in 1994 and were often local power-brokers in their own right. The president also had the power to appoint the procurator general, one-third of the members of the new Constitutional Court, one-half of the members of the Council of the National Bank and the National Council on Television and Radio Broadcasting, and the heads of the latter, the State Property Fund (the body in charge of privatization), and the Anti-monopoly Committee (Article 106). In Ukraine's semi-reformed economy, still dominated in most spheres by state monopolies, presidential control of the commanding heights of the mass media and the privatization process was of massive importance.⁹

Parliament had to confirm some, but not all, of these appointments, namely that of prime minister (but not other ministers), procurator general, and the heads of the Anti-monopoly, State Property Fund, and Broadcasting Committees.¹⁰ The power to appoint the head of the National Bank, granted to Kuchma by the 1995 Constitutional Agreement, was restored to parliament by the 1996 constitution. In any case, Viktor Yushchenko, head of the National Bank since 1993, was by now a powerful independent figure in his own right.

The constitution also confirmed the president's special powers over the troublesome Republic of Crimea that Kuchma had first introduced in 1995. (The Crimean peninsula was placed under Ukrainian jurisdiction in 1954 during the period of Soviet rule, but was the only part of Ukraine with an ethnic Russian majority, 62 per cent as of 1993. Crimea was made an Autonomous Republic within Ukraine even before independence in 1991. After the election of a separatist Crimean president, Yurii Meshkov, and local assembly in 1994, Kuchma dismissed Meshkov, abolished the office of Crimean 'president', and took special powers to control the Crimean government, that is the local Council of Ministers.)

According to the 1996 constitution, the head of the Crimean Council of Ministers, now effectively the highest remaining political figure in

Crimea, could only be appointed and dismissed from office by the Supreme Council of the Autonomous Republic of Crimea with the consent of the president of Ukraine (Article 136). Kuchma was usually able to place a supporter in the post—on two occasions since 1994 his son-in-law Anatolii Franchuk—although he also kept local feelings in mind. The Ukrainian president also had the power to suspend any law passed by the Crimean assembly, while making ‘a simultaneous appeal to the Constitutional Court of Ukraine in regard to their constitutionality’ (Article 137). The constitution also stated, somewhat confusingly, that the Ukrainian president could ‘revoke . . . acts of the Council of Ministers of the Autonomous Republic of Crimea’ (Article 106) without making any such appeal to the Constitutional Court.

The 1996 Ukrainian constitution also institutionalized key potential extra-parliamentary bases of presidential power, in particular the Council of National Security and Defence first established by Kravchuk (Article 107), although no mention was made of the Council of Regions created by Kuchma in 1994. The Ukrainian president was also Commander-in-Chief of the Armed Forces and responsible for senior military appointments. As such, the president had the power to ‘forward a submission . . . on the declaration of war’ to parliament, and could declare a state of national or local emergency or ‘ecological emergency’, ‘with subsequent confirmation of these decisions by the Verkhovna Rada [parliament] of Ukraine’ (Article 106). Internal security forces were also under his control.

In summary, the 1995–6 settlement did much to define the evolving nature of the Ukrainian version of semi-presidentialism, but many aspects of that system remained *sui generis*. Moreover, the settlement rested on a new constitution that was often unclear or contradictory, or that failed to achieve what it sought to do. It was also far from clear how the new constitution would operate in practice, or if it would indeed determine political practice rather than vice versa. One leading commentator argued that the settlement was best described as a truce between clans, akin to the 1215 Magna Carta, rather than a definitive resolution of all outstanding political problems (Zolotor’ov 1997).

WEAKNESSES AND CRITICISMS OF THE 1996 CONSTITUTION

A first obvious problem was that the 1996 constitution aimed towards a classic separation of powers, but did not fully establish it. The

president's power to issue decrees and the stipulation that the Cabinet of Ministers must follow all 'acts of the president' (Article 114) gave the head of state some quasi-legislative functions. His power to overturn acts of the Cabinet of Ministers, decisions of local authorities, and acts of the Council of Ministers of the Crimean Republic (Articles 106 and 118) usurped some of the functions of a Constitutional Court (Zolotor'ov 1997; see also Tatsii *et al.* 1996; and Bilous 1997). Moreover, the president also had the ability to create and to liquidate central organs of executive power (Article 106), in effect the kind of power to shape the political system normally reserved for founding assemblies.

On the other hand, there was no real provision, as there is in France, for the president to preside at meetings of the Cabinet of Ministers,¹¹ or for the president to countersign ministerial acts. Nor was it clear exactly how the Cabinet of Ministers was supposed to carry out the acts of the president (Articles 113 and 116). Both Kravchuk and Kuchma developed large presidential administrations of their own, but practical coordination of the activities of president and government remained difficult.

The position of the government, sandwiched between parliament and president, was also problematical. It had neither the strength and coherence provided by representing the parliamentary majority, nor the direction imposed by being truly a creature of the president. Successive governments were too often politically opaque, organizationally passive, and lacking in any stimulus to action. There was no reward for taking positive action, only the threat of losing parliament's confidence and/or the president's support. Too many Ukrainian prime ministers have therefore been unaffiliated technocrats with short-term and fragile mandates (Protsyk 1995). Inaction, however, inevitably led to declining public confidence and a rapid turnover of prime ministers—Ukraine averaged one a year after independence, in marked contrast to Chernomyrdin's long service as Russian prime minister.

Nevertheless, despite president and parliament sharing 'dual control' over the government, the advantage lay with the president. A particularly controversial aspect of the new constitution was the stipulation that the prime minister was accountable to the president rather than to the parliamentary majority (Article 114). Elections that changed the composition of parliament need not necessarily change the composition of the government, whereas the election of a new president automatically led to the resignation of the whole government (Article 115). Significantly, the new parliament elected in March 1998, although little

different in composition from its predecessor, began a campaign to change this clause almost immediately.

The president could dismiss the prime minister and the government at any time (Article 115), but a parliamentary vote to censure the government required the support of one-third of deputies to initiate and a majority of all deputies, not just of those present and voting, to succeed. The constitution also limited parliament's power over the government through the provision that 'the issue of responsibility of the Cabinet of Ministers . . . shall not be considered by the Verkhovna Rada of Ukraine [parliament] more than once during one regular session' (Article 87). In other words, a vote of no confidence could only be proposed once a session, not passed. If it failed to pass, deputies could not try again. Moreover, in order to try to avoid the kind of constant parliamentary harassment of government that left-wing deputies engaged in after the launch of Ukraine's economic reform programme in October 1994, the same article of the constitution stipulated that once deputies voted to approve the programme of the Cabinet of Ministers a confidence motion could not be proposed for a year thereafter. Taken together, the two provisions were supposed to resemble a Ukrainian equivalent of the constructive vote of no confidence required in the German Bundstag, according to which deputies cannot just vote a government out of office but must already have another to put in its place. Finally, a degree of confusion was added by the requirement that the final resignation of the prime minister and his government must be accepted by the president, with the as yet untested implication that the president could order the government to remain in post even after a successful parliamentary vote of no confidence (Article 115).

All seven Ukrainian prime ministers since 1991 have technically been removed by the president rather than parliament, although in practice of course the president was often responding to political pressure from outside. Vitol'd Fokin, for example, was removed in October 1992 after an earlier vote of no confidence in July (the vote received a plurality but not a majority), Pavlo Lazarenko was removed in July 1997 after criticism at the congress of the main centre party, the People's Democratic Party. Kuchma haughtily declared before the 1998 parliamentary elections that he saw no reason why they should effect his existing choice of prime minister.

The contradictions and confusions in the constitution were not helped by the fact that the position of the Constitutional Court as a constitutional guardian and arbiter and policer of the separation of powers had still to be established. Despite several attempts, Ukraine was unable to elect a Constitutional Court until the winter of 1996/7, and the line the

Court took in its first decisions would have a crucial long-term effect on the political system. Unfortunately, Ukraine's general legal system had no well-established tradition of freedom from political interference. Most judges were still political appointees from the Soviet era. One-third of the Court's members were appointed by the president, one-third by parliament, and one-third by a Congress of Judges of Ukraine (six each). The Court itself elected its chair by secret ballot, but only for one three-year term (Article 148).

IN SEARCH OF A PARLIAMENTARY MAJORITY

The Ukrainian president's apparent relative advantage in terms of constitutional powers has, however, been offset in practice by problematical relations with the parliamentary majority, or, more precisely, by the absence of such a majority.

Neither Ukrainian president has ever enjoyed a position of stable control over parliament. The main reason for this situation, equally apparent in both the 1990–4 and 1994–8 parliaments, has been Ukraine's weakly developed party system. As in all post-communist states, the amorphous and embryonic nature of civil society has made party formation difficult, but in Ukraine the process has also been hindered by the sub-national divisions that hinder the formation of truly all-Ukrainian parties (see below) and by political and legal barriers.

As regards the latter, the 1990 elections were in effect held simultaneously with the abolition of the Communist Party's long-standing monopoly on party politics. Although an embryonic umbrella opposition movement was able to secure some representation (see below), the process of party formation in effect began after the elections (Wilson and Bilous 1993). The 1994 elections were held under a law which handicapped party development by retaining the Soviet-era system of workplace nominations and majority voting in individual territorial constituencies. National parties could not nominate candidates, only their local branches. As a result, some three-quarters of all candidates were non-party, as were around a half of those originally elected (Arel and Wilson 1994a). The majority of non-party deputies joined parties or factions after the elections, after parliamentary rules were changed to privilege factions in debate and in committee and delegation membership, but many of the new parties were therefore top-down structures, created by ambitious deputies with no real grass-roots organization.

The 1998 elections were held using a mixed voting system, with 50 per cent of the seats elected from territorial constituencies and 50 per cent from national party lists, as in the 1993 and 1995 elections to the Russian Duma. Ukraine introduced a 4 per cent barrier for parties to secure representation on the party list, lower than Russia's 5 per cent, but still a formidable hurdle in the Ukrainian context. The new system was designed to accelerate processes of party development and consolidation and increase the long-term possibility of alignment between presidential and parliamentary party coalitions. Nevertheless, eight parties were successful, although their combined vote of only 65.8 per cent led to the exclusion of the 22 other parties and blocks on the list. The proportion of deputies originally elected as independents (114 out of 450, or 25 per cent) was, however, significantly lower than in 1994.

Underlying problems remained, however. The most important was that, even after several sets of national elections, there was still no real consolidated national Ukrainian party system as such, only a series of overlapping regional party systems. Paradoxically or not, this has meant a certain stability in Ukrainian politics. The sum-total of the regional party systems tends to be a result that is quite predictable overall, as it is so difficult for parties to cross regional barriers (Arel and Wilson 1994a; Birch 1998). In the west of Ukraine, the historical heartland of Ukrainian nationalism, party competition is largely a contest between different brands of that nationalism. In central Ukraine moderate nationalists compete with the parties of the left and sometimes the centre, whereas in the largely Russian-speaking east and south the nationalists are shut out and the left and centre parties are the main contestants. In most places local parties compete with national alternatives and rural contests are very different from urban. Crimea has its own unique party system.

It has therefore proved impossible to date for any single party to speak for a 'majority' in Ukraine. This was of course one further factor increasing the importance of the president as the one figure with a national mandate (Shugart and Carey 1992). However, practical realities of coalition-building in Ukraine have meant that likely candidates for the presidency have had to emerge from the amorphous middle ground, both ideologically and geographically. It is unlikely that any candidate could win the presidency from either extreme—either a Communist or a Ukrainian nationalist.¹² Ukraine's most radical nationalist region, Galicia in west Ukraine, only contains about 10 per cent of the electorate. Its polar opposites, the east Ukrainian left-wing stronghold of the Donbas (Donets'k and Luhans'k) account for only 16 per cent

and Russian nationalist Crimea only 5 per cent. Kravchuk came from Volhynia, north of Galicia in west Ukraine, but was strongly associated with the political elite in Kiev (Kyiv) and did not run as a nationalist in 1991. Kuchma's political base was in the central-eastern city of Dnipropetrovs'k, an archetypal centre of Russian-speaking Ukrainian culture.

On the other hand, Ukraine's best-organized parties are concentrated on the left and on the right, while centre parties remain weak and divided. Although centrist voters are numerically dominant at election time, the amorphous identity of Ukraine's central regions and Ukraine's 'central', i.e. Russian-speaking Ukrainian, voters makes party formation and political mobilization of centrist forces relatively difficult between times (Smith and Wilson 1997). Electoral realities may have forced both Kravchuk and Kuchma to try to govern from the centre, but neither has found much consolidated support there.

The 450 members of the parliament elected in 1990 were originally divided more or less clearly between the Communist 'Group of 239' and their would-be nemesis, the national-democratic opposition umbrella movement, whose 122 deputies dubbed themselves the 'People's Council'. A further 28 deputies belonged to the 'Democratic Platform', a centrist splinter group from the Communist Party (see Table 13.1). Initially the Communists functioned as a majority caucus, albeit with increasing indiscipline, but by the time the presidential system was set up in late 1991 the USSR had collapsed and the Communist Party had been banned. Furthermore, the People's Council, deprived of its original *raison d'être*, had split into several factions.

In the latter years of the parliament, between 1992 and 1994, no single group or faction could therefore command more than fifty or sixty seats. The main successor group to the People's Council, *Rukh* (the

TABLE 13.1. *Main groups in the Ukrainian parliament, initial balance of forces*

Groups	1990	1994	1998
Left	239 (53%)	147 (43%)	177 (39%)
Centre	28 (6%)	49 (14%)	106 (24%)
Independents	61 (14%)	50 (15%)	114 (25%)
Right	122 (27%)	92 (27%)	49 (11%)
TOTAL	450	338	450

Sources: Wilson 1997a: 121; Arel and Wilson 1994a: 12–13.

Ukrainian for 'movement') had 50 deputies, the refoundation Communists (technically the For Social Justice faction created in spring 1993) approximately forty. In any case, consolidation of an effective majority was rendered difficult by the damaging provision that deputies could belong to any two factions. Politics was dominated by the amorphous middle ground, mainly former Communists, but with a sprinkling of moderates and centrists from the People's Council.

In the next set of parliamentary elections in 1994 only 338 out of 450 seats were originally filled.¹³ Of these, 147 belonged to the Left Block (Communists, Socialists, and Agrarians) and 92 were on the right, including *Rukh*, which had twenty-seven. The rest belonged to a shifting kaleidoscope of centrist or independent factions. Apart from *Rukh* and the Communists, none of the 15 parties represented in parliament had more than 20 seats (25 deputies were necessary to form a faction, so most were non-party or coalitions of parties). Moreover, Kuchma's election in July 1994 came after the parliamentary elections in March (as with Kravchuk in 1991). He was therefore unable to shift the parliamentary arithmetic in his favour through any coat-tails effect. (As so often in semi-presidential systems, the failure to synchronize presidential and parliamentary elections has increased the chances of estrangement between different coalitions of political forces backing the two.)

The left parties secured the election of Oleksandr Moroz, leader of the Socialist Party, as chairman of parliament (and successfully resisted periodic attempts to oust him after 1994), and won control of the more important parliamentary committees. However, they were unable significantly to restructure the government, which remained amorphous and largely non-party. Moreover, with a plurality not a majority of the seats, the left could be outvoted if the right and centre joined together,¹⁴ especially as the three left parties were increasingly prone to divisions both between and within themselves. In effect therefore the left began to act as a 'disloyal opposition'; they had the power to block many presidential initiatives, but were unable to form a decisive parliamentary majority of their own (Wilson 1997c).

In the 1998 elections the Communists won even more seats, 121 out of 450, but the overall balance of forces was little changed. The left parties had 177 seats in total (39 per cent), the centre 106 (24 per cent), the right 49 (11 per cent), and independents 114 (25 per cent). The parties themselves, however, emerged from the elections somewhat stronger, and it was likely that they would gradually absorb the independents, most of whom seemed likely to gravitate towards the centre parties. Nor was there a presidential 'party' in any parliament. Both

presidents emerged from the amorphous parliamentary middle ground. Kravchuk never aligned himself openly with any political force. He was a 'national communist' renegade in 1990–1 and briefly flirted with *Rukh* in 1992, but neither group was a secure enough platform for his political ambitions (Wilson 1997*a* and 1997*b*; Litvin 1997). Kravchuk's re-election campaign in 1994 was backed by most nationalists and Ukrainophile centrists, but was resolutely non-party.

Kuchma's natural supporters, east Ukrainian centrists, controlled less than 50 seats after the 1994 elections. Moreover, although Kuchma made a tactical pitch for the support of leftist voters in eastern and southern Ukraine in July 1994, his adoption of a radical programme of economic reform in October quickly alienated the left parties and explains the bitterness of their subsequent hostility to his administration. Thereafter, Kuchma was forced to rely on attempts to build broader coalitions of support in the centre and/or centre-right, but the former remained difficult to consolidate and the latter insufficient in itself.

Various attempts were made to consolidate the political centre and launch a series of 'parties of power' in 1995–7, including the Popular Democrats, the party of many leading ministers, a relaunched Social Democratic party with Kravchuk as a leading member, and a state-supported Agrarian party to rival the leftist version. Former prime minister Pavlo Lazarenko took over the *Hromada* (Community) party in 1997. Kuchma also attempted to split the left by wooing the relatively moderate Moroz away from the Communists. However, the new parties competed amongst themselves and Kuchma could not risk associating himself with any one of them alone. In the 1998 elections Kuchma declined to back any single party and urged electors to vote against the left. His supporters fanned out amongst several parties, many of whom failed to make it into parliament, while the closest party to the president, the Popular Democrats, won only 4.99 per cent of the list vote and only 30 out of 450 seats.

Significantly, Kuchma was largely unable and/or unwilling to adopt a more active role after winning wider powers in 1995–6. He has never sought to bypass parliament or resort to government by decree to the extent practised by Yeltsin after 1993. In part this was because Ukraine entered a prolonged pre-election period after 1996, with the parliamentary elections in March 1998 closely followed by the presidential election in 1999 (Kuchma *de facto* announced his intention to run for re-election as early as Autumn 1996). However, it was also because Kuchma, well aware of the narrowness of his political base and the

relative stability of Ukrainian political geography, was reluctant to brow-beat parliament with constitutional powers alone, especially after the 1998 elections left the parliamentary arithmetic little changed and his own position considerably weakened.

In Ukraine, therefore, there has been no real alternation between shifting parliamentary majorities, or between 'presidential' and 'parliamentary' phases of government. In the paradigmatic case of the latter cycle, Fifth Republican France, such alterations have been due either to presidents being forced to appoint prime ministers who head an incoming anti-presidential parliamentary majority (1986, 1993, 1997) or, conversely, to a new president dissolving parliament in the attempt to align parliamentary arithmetic to his own newly created majority (1981, 1988). In Ukraine, neither scenario is likely as yet. Neither president nor prime minister has ever really enjoyed a majority in parliament in the true sense, so such a cycle has been impossible.

The lack of clear-cut majorities in parliament also affects the position of Ukrainian prime ministers. Prime ministers have to be confirmed by an arithmetical majority in parliament, but have never been leaders of the majority. Presidents tend to consult with faction leaders before making their choice of premier, but even if the latter were to edge towards a common recommendation it would be unlikely to be a partisan choice—the number of factions was simply too many. Most prime ministers, like Ukraine's presidents, have emerged from the amorphous centre ground. Even when a left-wing premier was deliberately chosen by Kravchuk after the left-wing parties won a plurality of seats in the spring 1994 elections, Kravchuk managed to find one (Vitalii Masol) who was not formally affiliated to any party. In the immediate aftermath of the 1998 elections, Kuchma declared his loyalty to Pustovoitenko, even though his party, the Popular Democrats, had won only 5 per cent of the vote.

The balance of power between president and prime minister has therefore also depended on the personality of Ukraine's numerous premiers and the party and clan politics that surround them. Kravchuk's first prime minister, Vitol'd Fokin, was a weak figure handicapped by the fact that he was a carry-over from the Soviet era, who became prime minister only in virtue of his previous office (Chairman of the Council of Ministers) having been converted into the premiership. Fokin's successor, Kuchma, in contrast, was a powerful figure in his own right, backed by Ukraine's industrial elite, who was initially able to force Kravchuk to take a back seat once he was appointed prime minister in October 1992. Kuchma's successor, Zviahil's'kyi, was a regional boss

from Donetsk in east Ukraine, appointed after strikes in the region in the summer of 1993, with a limited mandate to keep the region quiet. Of Kuchma's prime ministers, Marchuk and Lazarenko were more assertive than Masol, who was handicapped by having originally been Kravchuk's choice. Marchuk was a former head of the security service, Lazarenko an ally of Kuchma from Dnipropetrovsk, but both were dismissed when they developed political ambitions of their own (arguably the non-party status of Ukrainian prime ministers encourages the development of presidential aspirations—as Kuchma himself did under Kravchuk; if prime ministers were members of the president's party they would perhaps be easier to discipline). Pustovoitenko was widely seen as a stop-gap, appointed to prepare Kuchma's re-election campaign rather than enact any real programme of reform.

CONCLUSION

The Ukrainian system is characterized not so much by the alternation of presidential and parliamentary phases around a semi-presidential mean (Linz 1994), as by the coexistence of a potentially authoritarian but rarely activist presidency with an unaccountable and populist parliament (see also Pritzel 1997). The president's constitutional position is formidable, but his position in parliament has always been weak. The division of labour could not be said to have had productive consequences, at least in terms of regularized policy outputs (Linz 1997). It has, however, helped contribute to social stability by discouraging winner-takes-all majoritarianism. The dangerous polarization that emerged in the 1994 presidential election has rightly led Ukrainians to fear the consequences of such a system. It also explains why Ukraine, often attentive to Russian example in other respects, has refrained from creating a more purely presidential system along the lines consolidated by Yeltsin after 1993.

However, Ukraine's semi-presidential system still lacks a certain internal logic. Relations between president, prime minister, and parliament remain problematical. Instead of the president directly answering to parliament for his or her policy, it is the government which is actually responsible to parliament, despite the president's considerable range of executive functions. Parliament confirms the president's appointments of prime ministers (and certain other senior appointments) and votes on approval of the general programme of the Cabinet of Ministers, but is not forced to take on any more positive responsibil-

ity. The legislature is therefore encouraged to be free-floating and to criticize all and sundry, making it even more difficult for a permanent consolidated majority to emerge. On the other hand, the president, as argued above, tends to hide behind the government and the prime ministerial 'shield'. Prime ministers tend to be given just enough authority to make their later dismissal worthwhile, but not sufficient to actually govern.

The main reason for the absence of clear fields of responsibility is the lack of strong political parties to give some backbone to the system and to help align its various parts. The 1998 elections produced some limited progress towards party consolidation, but stronger parties are unlikely to be created by constitutional engineering alone. They will also have to bridge the underlying social divisions that remain a more fundamental reason why the Ukrainian political system is diffuse and difficult to coordinate and why political leadership is such a difficult art.

NOTES

1. In terms of Shugart and Carey's schema (1992), the Ukrainian system can be considered 'president-parliamentary' (Wilson 1997*b*).
2. The left has sought to preserve the characteristic constitutional features of 'Soviet power', in particular the traditional hierarchy of 'people's assemblies' supposedly responsible to local communities but also capable of disciplined defence of 'socialist achievements'.
3. Kiev and the eastern (Right) Bank of the river Dnipro (Dnieper) were first linked with Russia in 1654; eastern and southern Ukraine were absorbed by Russia in the late eighteenth century. Russian-speakers predominate throughout the region. Central Ukraine west of the Dnipro, including the province of Volhynia, was annexed by Russia during the final Partitions of the old Polish Commonwealth in 1793–5. The rest of west Ukraine (the three sub-regions of Galicia, Bukovyna, and Transcarpathia) was only joined to the Ukrainian Republic, then a part of the USSR, during the Second World War. Ukrainian-speakers predominate west of the Dnipro, especially in the far west. In terms of religion, most Ukrainians are Orthodox, although since 1991 there have been at least three branches of the Church (the Moscow Patriarchy, Kievan Patriarchy, and the Autocephalous). Ukrainians in the western regions of Galicia and Transcarpathia have since 1596/1649 mainly belonged to the Greek Catholic Church.
4. The former opposition in fact split on the issue of whether to cooperate with Communists-turned-nationalists, but most regarded the mere fact of independence as sufficient to overcome their doubts.
5. Until 1996, the 1978 Soviet-era constitution remained in force, as periodically amended by parliament.

6. Both the *Duma* (after barely a year) and the *predstavnyky* (in 1994) were quickly abolished, demonstrating the difficulty of institutionalizing the new Ukrainian political system.
7. Before 1995 the president had no real veto, only had the power to return legislation. Should he do so, parliament could enact any proposal as law by passing it again by a simple majority.
8. Ukrainian elites were rightly wary of the effect that referenda could have in Ukraine's divided society. In particular, they worried that local leaders in Crimea or the Russian-speaking east might add questions to the ballot that could compromise Ukrainian statehood.
9. During the 1998 parliamentary elections, a strong negative campaign against former prime minister Lazarenko and his *Hromada* party was organized through the state mass media.
10. In 1997 Kuchma kept the controversial liberal, Volodymyr Lanovyi, in his position as head of the State Property Committee despite parliament's repeated refusal to confirm him in office.
11. The president often attended meetings of the Cabinet of Ministers, Kuchma more so than Kravchuk, but there was no constitutional provision for this to be regularized.
12. All elections from 1990–8 showed a similar coalition of nationalist support, concentrated in the west and amongst the central Ukrainian intelligentsia, producing a maximum of around 25 per cent of the vote (for example, in the 1991 presidential election, Kravchuk's main nationalist opponent, V'iacheslav Chornovil, won 23.3 per cent). At the opposite end of the spectrum, the Communists are the largest single party in Ukraine (in the 1998 elections they won 24.7 per cent), but even when united with the other parties of the left had a maximum support level of just over 40 per cent. The only feasible presidential strategy for the left was to form an alliance with some of the centre parties (Wilson 1997c).
13. The election law for 1994 imposed two distinct requirements for elections to be valid. A majority in any given constituency had to vote, and a candidate had to receive a majority of the votes cast. Originally, most elections were sabotaged by the latter provision, as Ukraine preserved the Soviet system of negative voting. Voters crossed off the names of all but their chosen candidate, but 4–5 per cent of voters might cross off every name, meaning that 50 per cent was difficult to achieve in a tight race (positive voting was introduced in 1998). When elections were rerun in the empty seats, however, voters were reluctant to turn out. Parliament was therefore handicapped by both provisions. As late as 1997, 35 seats were still without an elected deputy.
14. The key to the formation of 'situational majorities' was the centre factions. Their support (and that of moderate leftists) secured the passing of the 1996 constitution; their indifference and/or lack of voting coherence frequently led to the loss of economic reform measures.