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# Structural Constraints in Ukrainian Politics

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The 2010 Ukrainian presidential election points to a certain consistency in Ukrainian electoral politics, especially in regional dynamics. These enduring constraints limit the options of political leaders and channel outcomes into a narrower range than would be expected from a focus on the personal preferences of leaders or the political views of the forces they represent. This article seeks to identify these constraints and the prospects that the current government or a future one might escape them. Starting with the common assumption that all leaders (even in democracies) seek to retain office as long as possible, the article examines what has made consolidation of power more difficult in Ukraine than other post-Soviet societies. Important factors include regional divisions, the absence of a natural-resource-based economy, and the relative weakness of the post-communist security services. It then considers factors that favor the consolidation of political power and the erosion of meaningful competition, such as weak institutions, weak norms, and increasing facility with the methods used elsewhere in the region to weaken competitors. The article concludes by proposing that both authoritarian consolidation and democratic consolidation present challenges in Ukraine and that we need to focus more on the barriers to the concentration of power in new democracies.

**Keywords:** *Ukraine; elections; democratization; authoritarianism; 2010 presidential election*

## I. Introduction

The triumph of Viktor Yanukovich in the 2010 Ukrainian presidential elections, and the apparently complete collapse of the “Orange” forces in Ukraine, have raised a great number of questions regarding Ukraine’s future. Much of this prognostication has sought to predict Yanukovich’s strategies and those of other Ukrainian actors. The standard interpretation sees Yanukovich as inclined to be less democratic domestically and more pro-Russian in foreign policy. A more benign interpretation welcomes the prospect of steady and competent leadership after the roller-coaster ride of the Orange Revolution.

The outcome of the election also points, however, to a certain consistency in Ukrainian electoral politics that has endured throughout the independence period, despite efforts to overcome it. Ukraine’s regional division appears stubborn and nearly unchanging, and the electoral map has changed only marginally across Ukraine’s five

presidential elections. This pattern raises the question of the structural constraints on change in Ukrainian politics.

The purpose of this article is to examine the entire period of Ukrainian independence to try to identify the structural constraints that limit the options of political leaders and channel outcomes into a narrower range than might be expected by a focus on the personal characteristics of the leaders, or the political views of the forces they represent.

Why is this important? First, it is important from a theoretical perspective to understand the weight of various factors driving politics in Ukraine. As a very important case that hovers between democracy and authoritarianism, Ukraine has special importance for our understanding of post-communist politics. Second, it is important for prognostication, which in the final analysis is the goal of most political theorizing.

### **Theoretical Approach**

The theoretical approach adopted in this article comes from two areas seemingly distant from the study of Ukrainian politics. First, I adopt an assumption about the motivations of actors that is common in the study of Western legislatures: I assume that their primary interest is to win reelection.<sup>1</sup> In other words, in contrast to much of the current discussion, this article makes no effort to understand Viktor Yanukovich, or the differences he might have with Yushchenko or Tymoshenko, or his possible affinities with Putin or others. I simply assume that he will want to remain in power as long as possible, and will act to that end. I assume that other actors, especially parliamentarians, will act the same way.

Second, the article adopts a theoretical perspective from international relations theory. International relations theory considers a realm that is largely anarchic, meaning that there is no central ruler, but that is also partially institutionalized.<sup>2</sup> It might appear extreme or simply wrong to consider Ukraine from this perspective, but doing so yields an important insight: there are no rules of the game in Ukraine that cannot be changed. Moreover, the use of force remains an option, as the protests of 2004 showed clearly. My point is not that Ukraine is anarchic, but rather that we need to consider Ukraine as a society in which rules are very weak constraints on the behavior of actors. Therefore, power becomes more important. Part of the puzzle of Ukrainian politics, for practitioners as well as political scientists, is to figure out what constitutes power and how it can be wielded effectively.

Put this way, the question in evaluating Ukraine's future is not, "What does the president want to do?" The question is what opportunities does any Ukrainian leader have to expand and prolong his or her power, and what obstacles exist to doing so.

To summarize the argument, a series of divisions in Ukrainian society, and among Ukrainian elites, will continue to make it very difficult for any individual or party to gather power solely through electoral means. Most salient is Ukraine's well-known regional division, but others are also identified. At the same time, however, there are

few political or economic constraints on concentrating bureaucratic and economic power in ways that would allow one to build a very powerful electoral machine. The question for Ukraine's future, in this view, is the same as the story of its past: will the regional divisions and national identity provide a sufficient barrier to concentration of power to resist the use of "administrative resources" or "machine politics" to ensure that elections return the incumbents to power?

The article proceeds as follows: First, it considers the effects of regional diversity on leaders' efforts to build a nationwide political machine, and it considers in particular how a nationalist foreign policy is not an available tool to overcoming domestic divisions. Second, it considers other levers of authoritarianism that are less available to Ukrainian leaders, including a strong security service, a resource-based economy, and overall economic strength. Third, it considers Ukraine's political institutions, which create very little barrier to consolidation of power, and indeed provide many levers for doing so. Perhaps the most powerful institutional obstruction to an aspiring authoritarian is the two-term limit on the presidency. In sum, there is little in the Ukraine of 2010 to prevent a repeat of the consolidation of power that Leonid Kuchma achieved in 1999 to 2003. The question is whether Yanukovich or some successor will have better luck and skill at overcoming the formidable obstacles that impeded Kuchma.

## II. Regional Division as an Obstacle to Consolidation of Power

Ukraine's regional division is among its most salient political features, and a great deal has been written about regional cleavages and the linguistic, ethnic, and national distinctions that partially correlate with region in Ukraine. The vast majority of the literature sees these divisions as a problem to be coped with or overcome. However, as I have argued elsewhere, Ukraine's regional divisions also provide a formidable obstacle to the consolidation of political power.<sup>3</sup> This is, of course, bad as well as good news for Ukraine. It makes it harder to reach consensus on many issues, but it also makes it harder for any single force to dominate the others. To some, regional fragmentation leads to political stalemate, and is therefore a justification for increased authoritarianism (or at least for institutional rules conferring extensive powers on the presidency). While regional divisions may provide a desire or justification for stronger central government, they also make it more difficult to achieve practically. This benefits liberalism and democracy.

This argument has its roots in the American federalist tradition. Madison, writing in the *Federalist Papers*, argued that the danger to democracy was not strong minorities, but strong majorities. The goal of political institutions, in this view, is to counteract the tendency toward "majority faction." As we will see below, Ukraine's political institutions provide few constraints on a dominant majority. Its natural regional diversity, however, does.

The extent of Ukraine's regional divisions has been widely documented and quantified, and does not need reexamination here.<sup>4</sup> Three points are central. First, political leaders who want to win elections need to build cross-regional support, and this is difficult. Second, regionalization of parties will mean that building a majority in parliament will likely require a coalition. Third, a regional basis for forging an opposition movement is always available.<sup>5</sup>

Ukraine's five presidential elections produce maps that are neatly geographically divided. Though political scientists can argue about exactly how to define the regions, political leaders do not find it easy to bridge them. In essence, there is a built-in bloc of opposition to any leader who is identified with one region or the other. Those identified primarily with one region (Vyacheslav Chornovil in 1991 and Petro Symonenko in 1999) have failed spectacularly, while Leonid Kuchma succeeded by assiduously countering his eastern Ukrainian origins by co-opting the nationalist agenda supported in western Ukraine. In 2004 and 2009, we saw extremely competitive elections fought between candidates associated primarily with one region.

The problem for such a leader who seeks to consolidate power is that a great number of people will oppose him or her simply on regional grounds. With a large opposition virtually guaranteed, the leader hoping to win elections has to court the remaining electorate even more carefully. While it is not a certainty, transparent efforts to quash democracy are likely to impede that effort.

More broadly, regionalization in Ukraine means that Ukraine will almost certainly have a multitude of parties in parliament.<sup>6</sup> No party has been able to build an effective organization across the country, so it is nearly impossible to win enough votes to avoid a coalition.<sup>7</sup> This too is likely to have some moderating effects, because one can expect these coalition partners to avoid creating circumstances that would reduce their influence in subsequent elections.

Regional identity is, in general, a strong factor influencing collaboration in Ukraine.<sup>8</sup> In other words, Ukrainians find it much easier to solve collective action problems in organizing political or economic cooperation within regions than across them, such that regionally based economic and social networks are a potent factor. This makes it relatively easy to build a regionally based political movement (even when in opposition) and relatively hard to extend any organization across the entire country.

All of these factors amount to a single important tendency: an attempt by a particular leader or group to dominate the country's politics is likely to be viewed as an attempt by a particular *region* to dominate, and it will be resisted by other regions. Leonid Kuchma was able to build cross-country support in 1999 by combining his regional base in the east with a cooptation of nationalist themes. But his efforts to dominate were seen as a threat, above all in the west. Viktor Yanukovich, as a candidate in 2004, was seen in the west not just as a thug, but as pushing a takeover of western Ukraine by eastern elites. Similarly, Viktor Yushchenko, once he had triumphed in the Orange Revolution, found that he had no support in the eastern half of the country, where his

triumph was seen as an illegal usurpation by a western nationalist. So far, only Yuliya Tymoshenko has been seen as possibly bridging this divide, but she has simply been too unpopular to prevail.

In sum, if a leader identified with one region tries to “take over” the whole system, he or she will likely face a somewhat automatic resistance by other actors based simply on regional identity and interest. At the level of elite politics, this means having rival oligarchs line up their forces in opposition. At the electoral level, it means that some opposition politician from another region can start off a campaign counting on something like 40 percent of the vote.

Thus, domestic politics in Ukraine function roughly similarly to traditional balance-of-power politics in the international realm. Because people do not count on the rules to obstruct consolidation of power, they take the task on in practical terms. As one region (or one leader) becomes sufficiently powerful to threaten to dominate the system, the others oppose it. This is a structural effect: none of the regions want balance; they all want to dominate, but the natural tendency is toward balance. These dynamics, however, are impossible to overcome. Indeed, for democratic politicians as well as for aspiring authoritarians, the challenge in Ukraine is to win votes in the west as well as the south and east.

## Nationalism and Foreign Policy

One dimension of the regional division in Ukraine concerns foreign policy. The western part of Ukraine is seen as “pro-Western” and the eastern and southern parts as “pro-Russian,” and while it needs to be recognized that these are rough generalizations, they capture an important dynamic. One influence of this on Ukrainian politics has been widely understood, but another has not been. It is widely understood that different priorities in foreign policy constitute one dimension of regional political differences. A leader seen as too pro-Russian will have trouble in western Ukraine, and one seen as too pro-Western will have problems in the east. This simply reinforces the argument made above. These tendencies have created a tendency toward a “multivector” foreign policy, in which leaders carefully balance relations with Russia and the West.<sup>9</sup>

There is another, perhaps more significant, effect to this dynamic. Ukrainian leaders cannot use nationalist foreign policies to forge domestic support. Leaders around the world, democratic as well as authoritarian, have used nationalist foreign policies to consolidate their domestic power. These tactics work in two ways. First, by adopting a belligerent foreign policy (even if only verbally), leaders hope to win over supporters who disagree with them on other issues. If “politics stops at the water’s edge,” then the leader who can make foreign policy the salient issue can build a broader coalition than might be possible on other issues. Second, by creating the impression or reality of an external threat that needs to be managed, leaders can seek to paint their opposition as unpatriotic.

The “rally around the flag” effect is well documented in literature on foreign policy analysis, and recent anecdotal evidence abounds.<sup>10</sup> In Russia, Vladimir Putin has used the appearance of standing up to the United States to tap into a general sense of humiliation and to position himself as the person who is helping Russia stand tall again. In Iran, Mahmoud Ahmedinijad has pushed confrontation with the United States, over nuclear weapons, as a way of backing his opponents into a corner. If he can provoke a U.S. or Israeli attack, his problems with domestic opposition will be much easier to solve. In the United States, the Bush administration similarly sought to use foreign policy to rally support for its domestic policies and build a permanent Republican majority in the Congress.

The problem for Ukrainian leaders is that this tool is simply not available. Because there is fundamental disagreement on who the country's enemies are, it is impossible to build support through a belligerent foreign policy. The policy that delights half the country will enrage the other half. Dmytro Tabachnyk, who since has become minister of education, wrote in 2009 that “We have different enemies and different allies.”<sup>11</sup> The problem could only be overcome if some threat were to emerge that elicited fear and loathing across Ukraine. One possibility would be a terrorist group. Another might be immigrants. Domestic terrorism and hostility toward Chechnya provided Vladimir Putin the common enemy he could use as a unifying theme in 1999. It is not clear what foreign state could provide such a threat for Ukraine. To be clear, this is not a factor that pushes Ukraine towards democracy; it just means that a Ukrainian leader seeking to extend his or her power and popularity has one fewer tool to rely on than leaders in many other countries.

### III. Other Inhibitors to Concentration of Power

#### Weakness of Ideology

While region is a highly salient actor in Ukrainian politics, ideology, outside questions of national identity, is relatively unimportant. The main parties are not defined according to any left-right spectrum, as their names indicate: “Party of Regions,” “Bloc of Tymoshenko,” “Bloc of Lytvyn.” The weakness of ideology provides some opportunities to the aspiring authoritarian, but also some constraints, and here I focus on the constraints. The primary challenge is that without ideology, some other “glue” is needed to hold one's organization together.

In the Soviet Union, the Communist Party's monopoly on power was held together in part by the shared ideology of communism, and when that ideology diminished in attractiveness, the organization stagnated. Understanding this, various aspiring authoritarians have sought to invent ideologies to help maintain the legitimacy of their rule and to maintain the solidarity of their organizations. In Russia, Putin's ideologues have developed themes such as “sovereign democracy,” while in Venezuela, Hugo Chavez has articulated the “Bolivarian Revolution” and “twenty-first-century socialism.”

In post-Soviet Ukraine, ideology itself has become highly discredited. The primary way of holding political organizations together is through various forms of inducements known as “administrative resources.” Positive inducements include, above all, jobs, immunity from prosecution, and business opportunities. Negative inducements include losing one’s job or one’s firm. These inducements, in the absence of ideology, can be highly effective. The problem for the ruling group is the bill must keep being paid. One can think of this system as one of free agency: when someone believes he or she may get a better deal from another organization, the barriers to exit are low (I will discuss below how this also offers opportunities to leaders).

The difference between Ukraine’s system and that of many countries is how easy it is to switch teams.<sup>12</sup> In most countries, a politician who leaves one party cannot simply join the opposition—he or she would lose credibility for such a shift in principles, and the recipient party would likely reject him or her. In Ukraine, with few exceptions, parties are not ideologically opposed in a way that makes it inconsistent to change from one to another. The regional differences are more salient. The good news for the aspiring president-for-life is that it may be easy to pick off enough legislators to build a coalition for a particular bill. The bad news is that to retain their services (not loyalty), one must keep paying. A central question that emerges, therefore, is whether the organization can forge a sustainable economic model that keeps enough people sufficiently paid to retain their services.

There are, however, notable differences in party coherence. The Party of Regions has been notably more successful than parties based in western Ukraine (and, more broadly, those identified as nationalist, pro-Western, or more democratic). Regions has been highly effective at luring other parties’ members, especially when it has been in power, and has generally been successful in maintaining its members’ allegiance when out of power. Our Ukraine and the Tymoshenko bloc have been less successful, both at luring others’ members when in power and keeping their own when out of power. Similarly, in the 1990s, western-based parties such as Rukh repeatedly split or saw their members defect, while the Communist Party demonstrated much higher loyalty. The variation in party coherence remains insufficiently explained.

## **Economic Weakness**

Ukraine’s economic weakness may turn out to be the most significant constraint on the ability of its rulers to consolidate their power. There are several related constraints here. First, a poorly performing economy undermines leaders’ popularity, making it harder to win elections or persuade people to yield more power to the leader. Second, to the extent that money is needed to maintain the loyalty of one’s organization, a weaker economy undermines the stability of the “machine.” Third, economics gives many elites a powerful incentive to try to overthrow the existing leadership, in order to redistribute the most lucrative assets. Finally, but perhaps most important, Ukraine lacks a strong natural resource economy. A strong natural resource base is statistically correlated with weak democracy, and equally important, it often provides the crucial economic leverage to maintain a strong organization.<sup>13</sup>



## Economics and Elections

The most obvious economic constraint on authoritarianism in Ukraine is that an underperforming economy weakens support for the incumbent. Yuliya Tymoshenko can attest to what leaders find across the world: economic performance is a solid predictor of electoral performance, with incumbent parties' success correlated with economic growth. Both Tymoshenko and Yanukovich employed promises of populist economic policies to win over voters in 2010. It is not clear how such programs will be paid for in the medium to long term. To the extent that retaining power continues to rely on winning free and fair elections, this will be an important factor constraining incumbents.

## Economics and Organizations

The goal, of course, is not to have to rely too heavily on the voters, and herein lies perhaps the bigger economic challenge. Steven Fish has argued that one of Vladimir Putin's most significant accomplishments in Russia has been to build an organization with a financial model that retains the services not only of the top-level supporters, who are getting very wealthy, but also of the rank-and-file members of the organization.<sup>14</sup> Ukraine is in some respects a wealthy country, and there is a lot of largesse to spread around. However, especially in the central and western parts of the country, it will take money to maintain the support of those who have no regional affinity for Yanukovich. It is not yet clear whether a Ukrainian leader can build a "business model" that can maintain support within the economic constraints.

Ukraine's economic elite is perhaps the most pluralistic element of its society. A relatively large number of oligarchs are influential in business and politics, and multiple "clans" compete for influence. Moreover, affiliations among business elites are conditional and transient—alliances are driven by short-term interest, and allies and adversaries quickly change places.

In this area, Yanukovich and the Party of Regions appear to have a distinct advantage over other individuals and groups. The wealthiest oligarchs in Ukraine, notably Rinat Akhmetov, are based in eastern Ukraine and have been strong components of the Party of Regions. That advantage might not be decisive, however. In 2004, it did not prevent other oligarchs from defecting, did not ensure electoral victory, and did not stop the Orange Revolution. This leads to a great deal of speculation over who is allied with whom at any given time.

This is not surprising in a deinstitutionalized system, one characteristic of which is that there is no reliable means for the enforcement of deals. As rational choice theory has shown, absent enforceable rules ending the process, there is no equilibrium division of resource among multiple actors who can choose to revise arrangements. No matter what division of resources obtains at a give point in time, there is always some redivision that would leave some actors better off, and therefore they will seek it. The classic

illustration involves three people deciding by majority rule how to divide a dollar. There is no distribution of the wealth that cannot be replaced by another distribution that leaves two of the players (a majority) better off.

In practical terms, this means that any prevailing distribution of economic spoils in Ukraine is susceptible to challenge by those hoping for a bigger share. In many respects, this is what the Orange Revolution was really about: a group of oligarchs who were relatively disadvantaged by the existing arrangements (or feared what would happen under Yanukovych) banded together to finance the Orange Revolution, leading to a new distribution of spoils (most notably involving the reprivatization of a major steel works).<sup>15</sup>

In Russia, Vladimir Putin found a solution to this problem: he imprisoned or exiled those oligarchs who did not accept their “places” in the economic/political system he had constructed. This depended in part on Putin’s having at his disposal a powerful and loyal security service, which Ukraine lacks. But we can certainly expect any ambitious Ukrainian leader to try to rectify this problem. Moreover, as Fish points out, Putin has been able to build a system of loyalty that goes down far deeper than the top level of elites.<sup>16</sup> The rank and file of employees in government and in many enterprises owe something to Putin’s rule. Some of this is due to Putin’s organizational skill, but much of the money comes from natural resource rents.

## Natural Resources

It is widely argued that natural resources create a “curse,” both economically and in terms of democracy. High natural resource endowments undermine democracy because they provide huge incentives to capture the rents from them by capturing the state. They also provide the government a revenue stream that allows it to provide services in excess of what can be paid for with tax revenues. Most important, however, is the way that controlling natural resource industries can help a leader buy the loyalty of a wide range of actors. In places as diverse as Venezuela, Iran, and Russia, state control of oil has been used to increase government revenues, to finance ruling parties, to control leading economic actors, and secure the loyalty of thousands of employees.

Ukraine’s energy markets are nontransparent, and a great deal of wealth is “earned” through control and manipulation of them. This rent-seeking, however, is essentially coming at the expense of Ukrainian consumers, not “out of the ground” or at the expense of the foreigners who purchase the fuels. It is thus a zero-sum game for the rulers in their efforts to maintain power: they can provide more funds to their supporters only at the expense of the citizens whose popularity they hope to retain. This is not necessarily a force for democratization, but it represents the absence of a lever widely viewed as facilitating the shift from democracy to authoritarianism.

Overall, Ukraine’s economic weakness is a potential liability for someone trying to build an authoritarian regime. This assertion seems to contradict the notion, popularized by Adam Przeworski that increased wealth tends to lead to democracy. The point made

here is narrower: if one is trying to build a particular kind of partly democratic machine, money is a crucial asset.

## Security Services

A final constraint on Ukrainian leaders is the absence of loyal and highly effective security service. The SBU, or Security Service of Ukraine, is in many respects a feared organization. Its operatives have been responsible for any number of political crimes. The same is true for the Interior Ministry forces. So far, however, these forces have not been a highly unified force or a reliable tool of the presidency. This was clear in the case of the murder of the journalist Heorhiy Gongadze. The murder of Gongadze was likely carried out by elements of the Interior Ministry. But Kuchma's involvement with it was publicized by a member of the president's security detail. Similarly, during the Orange Revolution, there was considerable uncertainty that Interior Ministry forces would follow orders, and SBU officials sent open signals that they would not suppress the protests.

Ironically, the extent of corruption in these organizations constitutes a partial brake on authoritarianism. Many officials at all levels are involved in various economic schemes, and these may conflict with each other or those of officials in rival security services or other parts of the government. The extent of intrigue among the various security organs is such that no one really knows who is on whose side in various conflicts. This makes it hard for leaders to control them. Thus, Ukraine's state is quite weak in the Weberian sense: the lower levels of the organization are not fully controlled by the upper levels.

Post-Orange Ukraine has seen several attempts to use the security services to consolidate power, and these have failed due to divided loyalties between the services.<sup>17</sup> In May 2007, President Yushchenko sought to fire the procurator general, who turned for help to the interior minister, an appointee of Prime Minister Yanukovich. Yushchenko sent forces from the SBU to enforce his order, and they were confronted by forces from the Interior Ministry. Yushchenko then sought to bring other Interior Ministry forces, loyal to him, from outside Kyiv, but they were blocked by police forces still loyal to the minister. The standoff, which threatened violent conflict, was resolved only through a personal meeting and deal between Yushchenko, Yanukovich, and Oleksandr Moroz, speaker of the parliament, which resulted in an agreement to hold a preterm election.<sup>18</sup>

A similar confrontation occurred in April 2008, this time between Yushchenko and Prime Minister Tymoshenko, over Tymoshenko's efforts to replace the head of the State Property Fund. In this case, Yushchenko sent members of the Presidential Guard to prevent his ally's ejection, and they succeeded in taking control of the building. Tymoshenko, armed with a court ruling confirming her decision to replace the Fund head, personally sought to enforce it, but failed, as the Presidential Guard unit controlled

the building. That standoff was resolved only when the parliament voted to dismiss Yushchenko's choice for the position.<sup>19</sup>

In both cases, a balance of forces resulted in a diplomatic deal—more akin to one of the partitions of Poland or to one of the pre-WWI Balkan crises than to the workings of a liberal democracy. This does not bode well for the rule of law, but it might actually make effective authoritarianism more difficult to implement, as a contrast with the Russian situation indicates. In the Russian case, the KGB was transformed into the FSB with a much higher retention of esprit de corps and sense of mission. It has, in effect, become the Russian state. Putin was able to eliminate the danger from oligarchs such as Berezovsky and Khodorkovsky because he could rely on the FSB to arrest them if they presented problems. In Ukraine, it is not always clear whether a president could get such an order carried out. These tendencies become self-reinforcing: once one knows that Putin can have anybody in Russia ruined, it becomes highly irrational not to go along with his plans; but to the extent that challenges in Ukraine go unpunished, and are potentially highly lucrative, it is irrational not to challenge the existing arrangements. An important question after the 2010 elections, however, is whether the security services will remain divided. With President Yanukovich and Prime Minister Azarov belonging to the same political team, it seems less likely that the efforts of one will be blocked by forces loyal to the other.

To summarize, building authoritarianism in Ukraine is limited by several conditions. Some of these, such as Ukraine's regional division, are genuinely structural conditions, in that they are beyond anyone's ability to change. Others, such as the independence and corruption of the security services, might be thought of as structural, but one can imagine that a concerted effort to change these organizations might succeed. These arguments do not mean that it is impossible to build authoritarianism in Ukraine, only that some conditions make it harder and some factors that ease the process in other countries are less available in Ukraine.

The conclusion is not that Ukraine is likely to become more democratic. Rather, it is that Ukrainian leaders seeking to maintain their power will work hard to change the things that can be changed. Ukraine's weak political institutions will provide a tempting target. They provide few barriers, and many possible levers, to abuse of power. This is the subject of the next part of this article.

#### **IV. Institutional Weakness and the Possible Path to Authoritarianism**

In this section, I consider the ways in which Ukrainian politicians are not constrained from pursuing authoritarianism. To summarize the argument, most of the factors that allowed Leonid Kuchma to move Ukraine to the verge of authoritarianism prior to the Orange Revolution remain in place. Of those that do not (such as control of the press), it is not clear that there are reliable obstacles to re-creating them. This part of the article

first considers four factors that facilitate the concentration of power: machine politics, weak institutions, normative support for strong rule, and the absence of ideology. It then considers institutions that one might hope would preserve democracy: a free press, presidential term limits, and the expectation of free and fair elections.

## Machine Politics

Leonid Kuchma put into effect a number of practices intended to control through informal means a political process that was ostensibly open. Elsewhere I have labeled these practices “machine politics,” because they were part of a coherent and well-organized effort to use government resources to hobble opposition.<sup>20</sup> As the label indicates, these practices occur in polities around the world, and one of the underresearched factors of the current era of democratic rollback is how practices that undermine democracy have been transmitted transnationally. These practices fall into three broad categories: selective law enforcement, control of the economy, and control over government jobs.<sup>21</sup>

Selective law enforcement includes a broad range of tools that further control of the economy, the press, and individual politicians. In the economy, selective law enforcement allows the government to bankrupt the firms of opposition elites (which has both an indirect deterrent effect on opposition and a direct effect on opposition finances). It is notable, in this respect, that Yanukovich appointed as prime minister Mykola Azarov, who as leader of the State Tax Administration under Kuchma widely used the tax collection apparatus to attack opponents. Selective law enforcement also allows the government to convey immunity on businesses that support it. The ability to convey protection, and then to withdraw it if loyalty wanes, is very powerful. Selective enforcement is also a powerful tool to control the press. Under Kuchma, tax laws and fire codes were among the tools used to close opposition media. Lastly, selective law enforcement can be used to control individual politicians, either by allowing them impunity or by threatening prosecution. This behavior may have waned after the Orange Revolution, but there are no barriers to it that did not exist prior to that time.

Control of the economy follows to some extent from selective law enforcement, but it also has roots in the extensive role that the Ukrainian state continues to play in the economy, as an owner of businesses and as a regulator. More broadly, control of the economy allows the ruling group a source of income that it can use to build organizations, contest elections, and finance other enterprises. The role of the Ukrainian government in negotiating the terms of gas purchases and transit across Ukraine creates a huge source of potential revenue.

The traditional heart of machine politics is patronage—the exchange of government support and jobs for political support.<sup>22</sup> Patronage is crucial to the ability to win free or partly free elections, because winning elections depends on turning out millions of voters. I have estimated that 2.5 million jobs, or roughly 10 percent of the Ukrainian electorate, depend on the government.<sup>23</sup> While one cannot assume 100 percent efficiency, a concerted effort to control those votes might easily tip a close election. No notable progress on civil service legislation was made in the past five years, so this tool remains

available. Moreover, the politicization of businesses means that patronage is not limited to government employment.

## Weak Institutions

Ukraine's political institutions are notoriously weak, in two senses. First, the formal rules are fairly easy to evade, and people seem to expect and tolerate this. Second, the rules are easy to change. The combination creates immense power for the enterprising leader. Leonid Kuchma was able to evade or ignore the rules that constrained him and at the same time to rewrite the rules in ways that increased his power. The rules, therefore, shift from being a constraint on government power to being a lever for extending it.

One recent example both illustrates the tendency and shows that it did not vanish with the Orange Revolution. Following Yanukovich's victory in the presidential election, the parliament abolished a law requiring that parliamentary blocs vote as a whole in forming a coalition. This allowed Yanukovich's party to "pick off" individual members of opposition parties to form a government. That the change probably violated the constitution was of little concern. As a result, Yanukovich did not need to form a coalition with an opposition party and was able to name one of his stalwarts as prime minister. The next step, presumably, will be to use such tactics to control the three hundred votes in the parliament that will be needed to change the constitution to strengthen the president's powers.

## Norms and Institutions

These institutional changes (and the move to strengthen the presidency in particular) are bolstered by norms that are widely shared in Ukrainian society. For whatever reason, formal institutional requirements do not engender the same sentiments that they do elsewhere. Perhaps because Ukrainians have had to shirk, bend, or ignore the rules for centuries to survive under the tsars and commissars, they have not tended to protest when the government bends the rules. In other words, they have a substantive rather than procedural approach to good government, and if the policy in question is seen as desirable, whether it violates the rules is less important. For whatever reason, there is little record of Ukrainian politicians opposing a policy or act simply because it violated the rules. This makes it much easier to build a situational majority in support of particular legislative changes. Leonid Kuchma masterfully used pragmatism at the expense of rules to implement the new constitution in 1996.

Two other norms help empower the presidency. Most importantly, there exists a strong normative consensus in favor of a stronger presidency in Ukraine. This is one thing that Tymoshenko, Yushchenko, and Yanukovich all agreed upon, and few, if any, Ukrainians disagree. Oleksandr Moroz, leader of the fading Socialist Party, had been the main advocate for a parliamentary system. Relatedly, there is only a weak norm, if any, in support of the basic concepts of divided power and separation of powers. Therefore, in strengthening the presidency at the expense of the prime minister and parliament,

Ukrainians do not see themselves giving up much. This normative consensus will make it easier to strengthen the presidency.

Finally, we return to a factor discussed above: the relative low salience of ideology in Ukrainian politics. As discussed above, when people lack an ideological attachment to a particular party or cause, it may mean that leaders need to expend considerable resources to maintain their support. However, potential opposition groups have the same problem. In the absence of ideological opposition to Yanukovich, many people may be especially willing to trade political loyalty for other benefits. More broadly, shared ideology is one of the factors that might help potential opposition groups overcome the collective action barriers to collaboration. Without it, region is the strongest attachment around which to build a potential opposition. The effects of weak ideology are particularly important at the level of elites. Yanukovich may have to pay continuously to maintain people's support, but he will encounter few people who cannot collaborate with him because their ideology is in some way incompatible with his.

How can weak ideology be a factor both favoring and obstructing consolidation of power? Shared ideology helps to bring people together and hold them together. Without it, other extrinsic rewards must be more salient. Overall, an advantage probably accrues to those in power, because they are likely to control more resources. But it means that more of those resources will need to be spent paying off one's supporters, leaving less for other tasks.

### **Term Limits as a Constraint on Concentration of Power**

The power of term limits in maintaining young democracies has perhaps been underestimated.<sup>24</sup> In several countries, aspiring presidents-for-life have faltered because term limits forced powerful leaders out and opened the system to renewed competition. In some cases, leaders overturned term limits, and in others, they outmaneuvered them, as Vladimir Putin did in Russia. But in Ukraine, it seems likely that the Orange Revolution would not have happened had Leonid Kuchma been able to stand for a third term. Had Leonid Kuchma been able to run for a third term, using all the power he had accrued to that point, he may well have been able to win (unfairly). Term limits force a temporary opening in the system because they raise the question of who the candidate of the ruling party will be. This creates at least the possibility that a dispute within the ruling group will create an opening for an outsider. This is especially true in Ukraine, where the weakness of parties eliminates one of the standard agents by which power is transferred from one person to another within a dominant ruling group.

However, if term limits are a strong constraint on power, they are highly vulnerable to that power. In most of the post-Soviet states, and around the world, leaders in electoral authoritarian regimes have used various methods (usually referenda) to eliminate term limits. Until a Ukrainian president has been in place for ten years, the issue is moot. But in our effort to understand what is "structural" and what is contingent in Ukrainian politics, we should regard term limits as contingent. Even if they have been a constant in Ukraine, other countries' experience shows how quickly they can be done away with.



Related to this factor is the expectation of free and fair elections. Surely, one might argue, after the Orange Revolution, another attempt to steal an election would engender widespread protests. Without arguing this point (which is very debatable), we should focus on another aspect of the problem. The goal of any electoral authoritarian regime is not to commit outright fraud but to win without it. The tools of machine politics described above could go a long way to shaping the vote in such a way that the results are largely determined long before polling day. At least for now, monitoring organizations are poorly equipped to handle such transgressions: as long as the voting and counting seem fair, it is less important what precedes them. Indeed, many analysts agree that had Kuchma's camp put forward someone less polarizing than Viktor Yanukovych in 2004, they would have won the election without blatant fraud, and the Orange Revolution would have been avoided.

Finally, what about Ukraine's vaunted free press? The freeing of the press, which was increasingly tightly controlled under Kuchma, was perhaps the signature achievement of the Orange Revolution, and the press has stayed free to this day. Could it be put back in a box without spurring a major protest movement, among both elites and masses? Two factors indicate that it could.

First, Ukraine's press is "free" in the sense that the government does not control it tightly. But it is not "independent." Rather, the majority of major media outlets are controlled by or connected to large business interests. In many cases, the connection exists because the media outlet is owned by an oligarch with extensive business. Second, then, the linkage of media outlets to business interests makes them highly vulnerable targets of selective law enforcement. It is fairly easy to shut down a paper or TV station on some pretext or another. It is equally easy (and perhaps more effective, in terms of increasing state power) to coerce such outlets into following a particular line by threatening the business interests of the owners. In the Kuchma era, this system became refined over time, so that by 2002, directives known as *temnyky* went directly from the presidential administration to editors, telling them what to cover. There is no barrier to a reestablishment of this system, and there are some signs that it is already under way.<sup>25</sup> Surely a sudden decree ending press freedom would create an uproar. But a slow, steady campaign of coercing business leaders to change coverage would likely succeed. For Yanukovych, such a campaign may not even be necessary, since most of Ukraine's major media outlets were already, at the time of his election, controlled by his allies.

## V. Summary and Conclusions

The first part of this article elucidated the obstacles to concentration of power in Ukraine, what one might call the centripetal forces. The second part summarized factors that facilitate concentration of power, what one might call the centrifugal forces. We have no reliable way to predict which set of forces will prevail—indeed, I would argue that it is somewhat unpredictable. What is predictable, I would suggest, is that leaders will try to extend their power and their time in power.



It is above all Ukraine's regional division that any aspiring authoritarian will have to overcome to build a reliable and secure political machine in Ukraine. The inability to identify an agreed-upon external enemy removes a time-tested means of building support. Ukraine's economy, which is weak overall and does not have significant natural resources, further weakens the hand of the aspiring authoritarian. Compared to many of the polities where nascent democracies have been transformed into variants of authoritarianism, Ukraine lacks some of the levers that ease the path to authoritarianism.

In its political institutions, however, the path to authoritarianism is more open. The tactics used by Leonid Kuchma are still available today, and today's leaders can learn from Kuchma's failures as well as the successes of Putin, Chavez, Aliyev, and others. Ukrainian politics will continue to be a contest to see whether the president and his or her team can use the institutional tools at their disposal to overcome the structural impediments to authoritarianism.

Thus, if Ukraine seems unique among post-communist states, it may be in its particular combination of centripetal and centrifugal forces. Concentration of power to the point where democracy becomes a charade is possible in Ukraine, but it is not easily accomplished.

To some extent, many of our conversations about Ukraine in recent years have asked the wrong question: they have asked what it takes to produce democracy. Instead, we should ask what it takes to produce and sustain authoritarianism, or the hybrid of democracy and authoritarianism of which we have seen several variants around the world. There is little evidence that any of the leading figures in Ukrainian politics want liberal democracy. What they want is to rule, and democracy is either an end to that goal or a consolation prize to protect their position in the event they lose power.

Ukraine has some inherent characteristics that will make it more resistant to authoritarianism than some of its neighbors, but there is little reason to believe that it is somehow immune. A central question is whether there can be sustained in Ukraine a coalition of actors with both the interest in resisting the dominance of a single group and the means of resisting. By 2003, it looked like such a coalition did not exist, but it emerged in 2004. From 2004 to 2010, Ukraine has seen a chaotic balance of power, with actors switching sides constantly. This has not been pretty, but it maintained a high degree of competitiveness in the system, and this competitiveness created accountability, in the narrow sense that voters were able to unseat the incumbents who had disappointed them.

It is important to distinguish between the distribution of power in the system and the normative commitments and institutions that govern it. Ukraine after 2004 had a rough balance between three primary political groups, but there was no agreement either on the rules of competition or on what the goal of politics was—each side strived to rule, not to produce some particular form of government. In other words, Ukraine had “pluralism by default,” to use Lucan Way's term.<sup>26</sup> That is a long way from liberal democracy, which entails normative commitments and institutional rules, but it is also

a long way from authoritarianism, which eliminates competition and accountability. There probably cannot be democracy without democrats, but there also cannot be authoritarianism with a plurality of powers.

In this respect, it might help to rethink some basic conceptions. We tend to view nondemocratic governments in negative terms: “undemocratic” or “unfree.” It might be useful to reverse the formula, viewing democratic systems as those that are “nonauthoritarian.” It may well be that there is a normative as well as a balance-of-power component to liberal democracy. But it might also be that what defines “nonauthoritarian” systems is their resistance to efforts to unbalance them. Only when the most powerful actors are convinced that unbalancing the system is impossible do they have an incentive to establish rules of competition and play by them.

## Notes

1. This assumption is applied to elections and party systems, two important issues in Ukraine, in Peter C. Ordeshook and Olga V. Shvetsova, “Ethnic Heterogeneity, District Magnitude, and the Number of Parties,” *American Journal of Political Science* 38:1(1994): 100–124.

2. Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (New York, NY: Columbia University Press, 1977).

3. Paul D’Anieri, “Ethnic Tensions and State Strategies: Understanding the Survival of the Ukrainian State,” *Journal of Communist Studies and Transition Politics* 23:1(2007): 4–29.

4. Dominique Arel, “Ukraine: The Temptation of the Nationalizing State,” in Vladimir Tismaneanu, ed., *Political Culture and Civil Society in Russia and the New States of Eurasia* (Armonk, NY: M. E. Sharpe, 1995); Dominique Arel, “Language Politics in Independent Ukraine: Towards One or Two State Languages?” *Nationalities Papers* 23:3(1995); Dominique Arel and Valery Khmelko, “The Russian Factor and Territorial Polarization in Ukraine,” *Harriman Review* 9:1–2(1996); Lowell W. Barrington, “The Geographic Component of Mass Attitudes in Ukraine,” *Post-Soviet Geography and Economics* 38:10(1997): 601–14; Sarah Birch, “Interpreting the Regional Effect in Ukrainian Politics,” *Europe-Asia Studies* 52:6(2000): 1017–41; Peter R. Craumer and James I. Clem, “Ukraine’s Emerging Electoral Geography: A Regional Analysis of the 1998 Parliamentary Elections,” *Post-Soviet Geography and Economics* 40:1(1999); Vicki L. Hesli, “Public Support for the Devolution of Power in Ukraine: Regional Patterns,” *Europe-Asia Studies* 47:1(1995): 91–121; Valeri Khmelko and Andrew Wilson, “Regionalism and Ethnic and Linguistic Cleavages in Ukraine,” in Taras Kuzio, ed., *Contemporary Ukraine: Dynamics of Post-Soviet Transformation* (Armonk, NY: M. E. Sharpe, 1998); Paul Kubicek, “Post-Soviet Ukraine: In Search of a Constituency for Reform,” *Journal of Communist Studies and Transition Politics* 13:3(1997): 103–26; Taras Kuzio, *Ukraine: State and Nation Building* (London: Routledge, 1998); Taras Kuzio and Paul D’Anieri, eds., *Dilemmas of State-Led Nation Building in Ukraine* (Westport, CT: Praeger, 2003); George Liber, “Imagined Ukraine: Regional Differences and the Emergence of an Integrated State Identity,” *Nations and Nationalism* 4:2(1998): 187–206; David Saunders, “What Makes a Nation a Nation? Ukrainians since 1600,” *Ethnic Groups* 10 (1993): 101–24; Zenovia A. Sochor, “No Middle Ground? On the Difficulties of Crafting a Consensus in Ukraine,” *The Harriman Review* 9:1–2(1996): 57–61; Roman Solchanyk, “The Politics of State Building: Center-Periphery Relations in Post-Soviet Ukraine,” *Europe-Asia Studies* 46:1(1994): 47–68; Stephen Shulman, “International and National Integration in Multiethnic States: The Sources of Ukrainian (Dis)Unity” (PhD dissertation, University of Michigan, Ann Arbor, 1996); Catherine Wanner, *Burden of Dreams. History and Identity in Post-Soviet Ukraine* (University Park: Pennsylvania State University Press, 1998); Andrew Wilson, *Ukrainian Nationalism in the 1990s, a Minority Faith* (Cambridge, UK: Cambridge University Press, 1997);

Sharon L. Wolchik and Volodymyr Zvygnyanich, *Ukraine: The Search for National Identity* (Lanham, MD: Rowman & Littlefield, 2001); and William Zimmerman, "Is Ukraine a Political Community?" *Communist and Post-Communist Studies* 31:1(1998): 43–55.

5. For examples see the map at for 2010 at [http://en.wikipedia.org/wiki/Ukrainian\\_presidential\\_election\\_2010](http://en.wikipedia.org/wiki/Ukrainian_presidential_election_2010) and that for 2004 at [http://en.wikipedia.org/wiki/Media:Ukraine\\_ElectionsMap\\_Nov2004.png](http://en.wikipedia.org/wiki/Media:Ukraine_ElectionsMap_Nov2004.png).

6. On the relationship between the number of cleavages and the number of parties, see Octavio Amorim Neto and Gary Cox, "Electoral Institutions, Cleavage Structures, and the Number of Parties," *American Journal of Political Science* 41:1(1999): 149, especially footnote 2.

7. See Andrew Wilson and Sarah Birch, "Voting Stability, Political Gridlock: Ukraine's 1998 Parliamentary Elections," *Europe-Asia Studies* 51:6(1999): 1039–68; Sarah Birch, "Party System Formation and Voting Behaviour in the Ukrainian Parliamentary Elections of 1994," in Taras Kuzio, ed., *Contemporary Ukraine: Dynamics of Post-Soviet Transformation* (London: M. E. Sharpe, 1998), 138–160; and Paul Kubicek, "Regional Polarisation in Ukraine: Public Opinion, Voting and Legislative Behavior," *Europe-Asia Studies* 52:2(2000): 273–94.

8. This is one way that Ukraine differs from Russia, where region plays a less important role. See Viatcheslav Avsioutskii, "Analysis of the Centers of Power in Russia and Ukraine: a Managerial Perspective" (Paper presented at the annual meeting of the Association for the Study of Nationalities, New York, NY, April 2010). On regional effects on organizing, see also Martin Aberg, "Putnam's Social Capital Theory Goes East: A Case Study of Western Ukraine and L'viv," *Europe-Asia Studies* 52:2(2000): 295–317; and Kimitaka Matsuzato, "'Elites and the Party System of Zakarpattia Oblast': Relations among Levels of Party Systems in Ukraine," *Europe-Asia Studies* 54:8(2002): 1267–99.

9. See, for example, Arkady Moshes, "Ukraine between a Multivector Foreign Policy and Euro-Atlantic Integration: Has It Made Its Choice?" (PONARS Policy Memo no. 426, December 2006); and Taras Kuzio, "Ukraine's Multi-vector Energy Policy," *Eurasia Daily Monitor* 1:55(19 July 2004). For an examination of different ways to understand President Yanukovich's early foreign policy moves, see Andrew Wilson, "What Are the Ukrainians Playing At" (European Council on Foreign Relations, 30 Apr. 2010), [http://ecfr.eu/content/entry/commentary\\_what\\_are\\_the\\_ukrainians\\_playing\\_at/](http://ecfr.eu/content/entry/commentary_what_are_the_ukrainians_playing_at/).

10. The "Rally around the Flag" effect was first analyzed in the U.S. case in John Mueller, *Presidents, Wars, and Public Opinion* (New York, NY: John Wiley, 1973). For a more recent assessment, see Alistair Smith, "Diversionary Foreign Policy in Democratic Systems," *International Studies Quarterly* 40 (1996): 133–53.

11. Tabachnyk was quoted in Taras Kuzio, "Counter-revolution in Ukraine," *KyivPost.com*, 12 Mar. 2010.

12. See Paul D'Anieri, *Understanding Ukrainian Politics: Power, Politics, and Institutional Design* (Armonk, NY: M. E. Sharpe, 2007), chapter 8, for a fuller discussion.

13. M. Steven Fish, *Democracy Derailed in Russia* (New York, NY: Cambridge University Press, 2005).

14. *Ibid.*

15. On clans in the Orange Revolution, see Andrew Wilson, *Ukraine's Orange Revolution* (New Haven, CT: Yale University Press, 2005).

16. Fish, *Democracy Derailed in Russia*.

17. These battles are detailed nicely in Jakob Hedenskog, "The Ukrainian Law-Enforcement Agencies—Political and Regional Preferences in Times of Uncertainty" (Paper presented at the annual conference of the Association for the Study of Nationalities, New York, NY, April 2010).

18. *Ibid.*, 9–11.

19. *Ibid.*, 11–12.

20. Paul D'Anieri "The Last Hurrah: The 2004 Ukrainian Presidential Elections and the Limits of Machine Politics," *Communist and Post-Communist Studies* 38:2(2005): 231–49.

21. These are detailed in D'Anieri, *Understanding Ukrainian Politics*, chapter 9. For a different conceptualization of the same phenomenon, see Steven Levitsky and Lucan A. Way, "Why Democracy Needs a Level Playing Field," *Journal of Democracy* 21:1(2010): 57–68.

22. Two neglected classics on the topic are James Scott, "Corruption, Machine Politics, and Political Change," *American Political Science Review* 63 (December 1969): 1142–58; and James Scott, "Patron-Client Politics and Political Change in Southeast Asia," *American Political Science Review* 66 (March 1972).

23. D'Anieri, *Understanding Ukrainian Politics*, 203.

24. The arguments for and against term limits as supportive of democracy are discussed in James D. Fearon, "Electoral Accountability and the Control of Politicians: Selecting Good Types versus Sanctioning Poor Performance," in Adam Przeworski, Susan Stokes, and Bernard Manin, eds., *Democracy, Accountability and Representation* (New York, NY: Cambridge University Press, 1999). Note that it is important to distinguish between legislative and executive term limits.

25. See Reporters without Borders, "Open Letter to the Ukrainian President," 28 Apr. 2010, at <http://en.rsf.org/ukraine-open-letter-to-the-ukrainian-28-04-2010,37218.html>; and "Disturbing Deterioration in Press Freedom Situation since New President Took Over," 16 Apr. 2010, at <http://en.rsf.org/ukraine-disturbing-deterioration-in-press-15-04-2010,37027.html>.

26. Lucan Way, "Pluralism by Default in Moldova," *Journal of Democracy* 13:4(2002): 127–41.

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