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Change, Transition, or Cycle

The Dynamics of Ukraine's Political Regime in 2004–2010

Democratization in Ukraine has followed a zigzag course. The positive results of the change of leadership brought about by the Orange Revolution of 2004 were modest and in some respects temporary and did not amount to a change of political regime. The author considers future scenarios and concludes that neither the consolidation of liberal democracy nor a return to authoritarianism is likely.

The problem of political and social transformation is of considerable theoretical and practical significance for societies undergoing change. One such society is Ukraine.

The dramatic events in Ukraine at the end of 2004 stimulated lively debate about the essence of the Orange Revolution; this debate produced certain predictions concerning possible directions of change in state and society. Today it is interesting to compare the initial conclusions and appraisals of various colleagues. The chief question that prompted this investigation remains relevant even today. Did the political regime in Ukraine change after the Orange Revolution, and should we expect regime change

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after the election of Viktor Yanukovych as the country's president? In the last five years, quite a few works have appeared that offer explanations for the sources of regime competitiveness and for the change of leadership in Ukraine in 2004, as well as comparative analysis of the characteristics that distinguish this institutional system and its evolving regime (D'Anieri 2006; Gel′man 2007, pp. 81–109; Hale 2006, pp. 305–29; Way 2005, pp. 231–61). Nevertheless, the question has as yet no clear answer. In this article, therefore, I focus on the transformation of the political regime in Ukraine during the 2004–8 period. I also take into account events since the 2010 presidential elections. I try to answer several questions:

—What type of political regime took shape in Ukraine during the presidency of Leonid Kuchma?

—Is leadership change in Ukraine evolutionary or revolutionary in nature?

—Why, during the presidency of Viktor Yushchenko, did the Ukrainian elite not start to "play by the rules," as certain researchers anticipated (Gel′man 2007, p. 99), but instead continued to "play with the rules"?

—With the election of Yanukovych as president of Ukraine, could the country slide toward authoritarianism?

In this investigation, I use an institutional approach to explain the trajectory of regime transformation (Fishman 1990, pp. 422–40; Macridis 1986; Munck 1996; O'Donnell and Schmitter 1986). In contrast to the procedural approach of the post-Soviet research tradition and the actor-centered approach of some Western scholars, here a regime is considered an aggregate of formal and informal rules that require, permit, or prohibit various actions. These rules determine who holds power (that is, has the right to make decisions). At the same time—through the separation of powers—the rules determine and constrain interaction at the center of political power (horizontal ties among the branches of power), as well as the relationship between the state and the rest of society (vertical ties). Recognition of the rules by all major political players is a condition of regime consolidation (Skaaning).

In analyzing political regimes, one must bear in mind that a change in leadership or in the identity of the chief power holders does not necessarily lead to regime change. Also, regime change may occur (although this happens much more rarely) without a change of leadership (the shift from parliamentary to prime-ministerial governance under Margaret Thatcher) or a change in the form of governance (the Nazi accession to power in Germany).

In this investigation, I define a political regime as an *institutionalized aggregate of formal and informal rules* that determine horizontal and vertical constraints on methods of exercising power and on interactions among power holders and between them and the rest of society.

Study of the Political Regime in Ukraine in 1994–2004

Under the Kuchma presidency, one topic that the authorities did not like to see analyzed was the type of political regime in Ukraine. Official ideologists actively promoted the idea that Ukraine had been in transition since 1991, moving from totalitarianism toward democracy. Democratization was supposed to end with the formation of a welfare state based on law, a civil society, and a market economy.

In the mid-1990s Ukrainian intellectuals realized that the declared goals diverged from daily political practice, and this understanding later spread to a substantial number of Ukrainian citizens. Only a few researchers directly engaged in study of the political regime did not entertain illusions regarding its democratic nature, but they had important disagreements over how to characterize the type of regime. Some used categories of "neototalitarianism" (Polokhalo 1992, 1996, 1998); others proposed to call it "neopatrimonial" (Fisun 2006, pp. 150–78); and a third group avoided specific labels, preferring the concept "transitional" (Kolodii 1999, pp. 84–96). These divergent appraisals probably reflect the "catch-up" nature of political-science research in Ukraine, which even today suffers from excessive description and normativity.

While Ukrainian researchers have concentrated on determining the degree to which the political regime in Ukraine has moved away from the classical Soviet model, Western theorists have tried to place the Ukrainian case in a broader theoretical and comparative context. As a result, certain concepts have appeared to explain the special features of post-Soviet transformation in Ukraine.

Attempts to extend the model of democratic transition in Latin America to post-Soviet reality have given rise to critical appraisals of the expediency of such an approach. Paul Kubicek, and later Thomas Carothers, criticized the idea that democratic transformation is irreversible in countries with an authoritarian past. Kubicek observed that the special features of the corporate state order in Ukraine under the Kuchma presidency brought it close to Latin American countries. He called Ukraine and Russia in the mid-1990s "delegative democracies," whose populations remain passive in the period between elections.[1]

Taras Kuzio, a British political scientist of Ukrainian origin, clarifies the thesis—popular among transitologists—that Ukraine under the Kuchma presidency was a "delegative democracy." This idea, according to Kuzio, applies only to southern and eastern Ukraine, where the population was politically active mainly during electoral campaigns. Inhabitants of the western and central regions of Ukraine maintained civic and political activism between elections (Kuzio 2005, p. 270).

Kuzio, following Carothers and some other Western researchers, called Ukraine a "hybrid state" with a competitive authoritarian regime. A hybrid state combines remnants of the old Soviet system with new economic and political institutions. A regime of competitive authoritarianism (according to Kuzio) is defined by the presence of two tendencies: the dominance of oligarchs under the cover of centrist parties in parliament; and the activity of an opposition that prevents oligarchic groups from establishing a completely authoritarian regime. Disunity among the pro-regime political elite under Kuchma, combined with a relatively strong opposition, prevented the establishment of a full-fledged authoritarian regime.

In Kuzio's opinion, the unstable equilibrium that emerged in Ukraine during the Kuchma presidency could shift toward authoritarian consolidation if Yanukovych won the presidential elections or toward democratic consolidation if Yushchenko won. What happened in Ukraine after the Orange Revolution, however, showed that the latter expectation was erroneous.

In addition to Kuzio's view, let us note the idea of Ukraine as a hybrid state with electoral authoritarianism put forward by Paul D'Anieri, which focuses on the influence that Soviet institutions exert on the political system, the practice of governance, and the reform process.

Keith Darden, an American, has proposed a cogent explanation of the mechanism of authoritarian state control in Ukraine and other post-Soviet republics. He describes Ukraine under the Kuchma presidency as a "blackmail state." The mechanism of state blackmail consisted of three elements: the state leaders' tolerant attitude toward corruption; the leaders' use of the apparatus of state surveillance to gather "compromising material" [*kompromat*] against middle- and lower-ranking officials; and selective application of the law. The payment for the authorities' indulgence was political loyalty to the regime, while the reward for loyalty was inclusion in corrupt arrangements. Officials or even ordinary citizens who did not agree with the regime could be crushed at any moment with the aid of the tax administration or other state structures (Darden

2001, pp. 67–71). The Ukrainian journalist Mykola Riabchuk (2004) used Darden's model to illustrate the mechanisms by which power was exercised during the Kuchma presidency.

Ukraine, like most post-Soviet states, clearly exhibits the neopatrimonial type of power, as distinct from the rational-bureaucratic Western type. Several researchers point to this circumstance (Fisun 2006, pp. 150–78; Fisun 2007, pp. 123–37; Shevchuk 2000, pp. 7–12). Hans van Zon (2005, pp. 12–22) calls the Kuchma regime "bureaucratic" but the state neopatrimonial: "Ukraine does not have a consolidated, modern state apparatus but, rather, is a neo-patrimonial state in which each civil servant has his own fief. The state apparatus resembles a mosaic of separate institutions more concerned with safeguarding their own privileges than with serving society" (ibid., p. 15).

As we see, most scholars define the political regime in Ukraine during the Kuchma presidency as undemocratic, using terms ranging from neototalitarian (Vladimir Polokhalo) to competitive semiauthoritarian (Kuzio). This diversity of appraisals reflects fluctuations in the essence of the regime itself, which over ten years passed through several evolutionary stages. Informal rules of the "political game" predominated in Ukraine under Kuchma and throughout the Yushchenko presidency. But even these rules were and are broken by the chief political players. This throws light on the reasons why there have been several political crises in Ukraine following changes in leadership.

In my view, the political regime in Ukraine during the last years of the Kuchma presidency may be regarded as a pyramid of informal, institutionalized rules for exercising power. At the top of this pyramid sat the president, who himself set the rules although he did not succeed in fully subordinating the "oligarchs" and preventing a coordinated opposition, as Putin did in Russia. Those who remained with Kuchma—his immediate entourage (the presidential administration) and certain members of his family—"played by the rules," supported them, and therefore constituted the second level of influence. The third and final level of influence comprised certain competing financial–industrial groups. Those who supported the informal rules and power of the president received regional privileges in exchange. By contrast, those who tried to create a coordinated alternative—that is, who violated, opposed, or tried to change the rules—were either discredited by the authorities (Pavlo Lazarenko) or repudiated and subjected to direct (Yulia Tymoshenko) or indirect (Yushchenko) persecution. This kind of regime may be characterized

as weak patrimonial–oligarchic authoritarianism or as unconsolidated patrimonial oligopoly.

Revolution or Protest?

Most Ukrainian researchers and some Western scholars describe the events of November–December 2004 as a revolution.[2] The most thorough attempts to substantiate the revolutionary nature of these events in political-science terms are, in my view, those of Antonina Kolodii (2005) and Valentin Yakushik (2006, pp. 19–36). In brief, they argue that what took place in Ukraine was not a social but a political revolution. Unlike a social revolution, which is accompanied by violence, a political revolution is possible without it. In Ukraine, however, the revolutionary character of events manifested itself in forcible mass action (Yakushik) or in coercive removal from power (Kolodii). As a result of the revolution, Ukraine underwent a change in political regime.

In my view, it is incorrect to divide revolutions into social and political. Karl Marx first employed the concept of political revolution to denote the initial stage of social revolution (Marks 1959, p. 94). According to Marx, each social revolution results from a political revolution that overthrows the old state power through an uprising. For Marx as a dialectical thinker, political revolution and social revolution were stages in a single process. Ukrainian scholars have ignored this thesis, dividing the unified concept of revolution into two types—social and political.

I think the use of "political revolution" arose from a felt need to substantiate the revolutionary nature of the events of late 2004 despite the absence of violence. A political revolution as understood by Yakushik and Kolodii sounds like a euphemism for a political coup. In Ukraine, however, there was neither a revolution nor a coup. *It would be more accurate to call the events of November–December 2004 in Ukraine a wide-ranging political protest, planned by opposition leaders and supported by a large number of Ukrainian citizens, that led to Kuchma's removal from power.*

Statements about the "extralegal nature of forcible mass action" or "coercive removal from power" are also vulnerable to criticism. The blocking by protestors of the government building, the closing of roads, Yushchenko's "taking of the oath," the promulgation of decrees by the "Committee of National Salvation"—actions that Yakushik calls "systematic direct pressure by the broad revolutionary masses" on various

branches and bodies of government—really aimed at exerting pressure on the authorities, nothing more.

Yakushik and Kolodii do not explain what, in their opinion, constitutes the essence of forcible actions or coercion. In Yakushik's interpretation, "forcible actions" and "pressure" are phenomena of the same order. I, however, disagree. Forcible actions presuppose the use of coercion and find expression through physical confrontation. The essence of political pressure, by contrast, is an attempt to influence political decision making to ensure results desired by the initiator of the pressure. Thus, pressure cannot be direct; only coercion in the form of physical violence can be direct.

The above-cited actions, as Yakushik admits, "are specific indicators not only of a revolution. They are indicators common to a revolution, a rebellion, an uprising, and a coup" (2006, p. 27). In my opinion, such actions should be regarded as characteristics of *political protest* rather than indicators of revolution or of forcible actions, for they were not. After all, the decision to annul the results of the second round of the presidential elections was taken not on Independence Square but in the Supreme Court. However political the nature of this decision, the ruling made it possible to exit the crisis without the use of force. The fact of Yanukovych's participation in the third round of elections, despite political declarations concerning its illegitimacy, shows that he and the members of his team accepted the verdict of the Supreme Court. In addition, the "round tables" at which the presidential candidates and the acting president reached a political compromise were an example of political crisis resolution and not of coercive removal from power.

Finally, the new team that came to power did not succeed in changing the fundamental "rules of the game" that determine the principles guiding the exercise of power or the political regime (the latter thesis will be developed below)—which confirms the inaccuracy of calling the events of late 2004 in Ukraine a revolution (even a political revolution)

What kinds of events can be considered a revolution? Samuel Huntington, considering revolutions in the context of modernization, lists several characteristics: (1) the use of force; (2) profound, fundamental change in the existing system and social structure; and (3) radical change in political institutions and in the entire political system (1986, p. 39).[3] Theda Skocpol and Ellen Trimberger, adherents of the structural theory of revolution, specify three necessary and sufficient conditions of revolution: (1) international pressure from more developed states;

(2) conflict between traditional elites and the state; and (3) organized mass mobilization from below, directed against local representatives of the central authorities (1986, pp. 59–65). Jack Goldstone, the most authoritative contemporary investigator of revolution, summing up the achievements of the fourth generation of researchers into revolution, lists five requirements: (1) a crisis of the state; (2) sharp polarization among the elite; (3) a crisis of popular welfare; (4) emergence of a coalition between part of the elite and the popular masses; and (5) existence of some opposition ideology that unites elite and masses in their struggle against the authorities (2003, pp. 81–82).

Of Goldstone's five conditions, only two were present in Ukraine—a split within the elite and extensive (ideological) mobilization by the opposition, primarily of inhabitants of western and central Ukraine. Concurrently, supporters of presidential candidate Yanukovych engaged in the intensive (administrative) mobilization of inhabitants of eastern and southern Ukraine. The virtual lines of division that emerged within the elite during the struggle for power in anticipation of President Kuchma's departure did not coincide with the technology of civilizational schism created by Yanukovych's Russian political technologists. Revolutions do not happen in individual regions. A revolution presupposes mass mobilization on the basis of class, religion, ideology, ethnicity, or some combination thereof. The worst to which the technology of cultural and ethnic confrontation might have led is civil war—not revolution.

Moreover, the social architecture and the quality and structure of the elite remained unchanged with the change of leadership in Ukraine. The imbalances in society have been preserved: the size of the middle class has never exceeded 15 percent of the population, and the elite is replenished through reproduction, not circulation (Matsievs′kii 2010, pp. 38–55). If to this we add that revolutions are usually processes that last from a few months to several years and activate all social strata (that is, macro events), then it becomes clearly problematic to recognize the events of late 2004 in Ukraine as a revolution. At the same time, these events did have certain revolutionary features: a political crisis, beginning with the announced results of the second round of elections and ending with the Supreme Court ruling that invalidated the results and mandated a new vote; political mobilization of a considerable number of citizens; confrontation between the authorities and the opposition; and political polarization in society. Nevertheless, these are not sufficient grounds to define the given events as a revolution, rebellion, putsch, or coup. The Orange Revolution may

be regarded as an event and as part of a broader process. It is better, in my view, to conduct separate analyses through the prism of political sociology at the micro and macro levels. The micro level indicates the trend among the elite, the macro level the trend in social structure. This approach enables us to conclude that *Ukraine underwent a nonviolent change in the ruling elite with the participation of the population in mass political protest during the presidential election campaign. A rotation of the elite took place, which at first glance looked like the fall of the regime*. The initial impression of a change in the Ukrainian ruling elite prompted even attentive Western researchers to conclude that the regime had fallen (Aslund).

We can analyze the events of November–December 2004 in Ukraine from a broader perspective through the prism of transition. If we use the classical three-stage model of transition proposed by Philippe Schmitter and Guillermo O'Donnell (1986, pp. 6–14) and adapt it somewhat to local conditions, the explanatory potential of the model remains quite high. This model regards the liberalization of the old regime as the beginning of the transition. In Ukraine, as in the Soviet Union as a whole, liberalization began at the end of the 1980s. True, Ukraine lagged somewhat behind Moscow in starting perestroika; this was typical in relations between the imperial center and the republics. The failure of the putsch in August 1991 and the declaration of the sovereignty of Russia, Ukraine, and other republics of the former Soviet Union marked the beginning of democratization, the second stage of the transition.

From then on, reforms evolved differently in each republic. The Baltic republics effected the transition in a more continuous and linear manner, whereas in Ukraine, Belarus, and Russia continuity and linearity did not always apply. In Belarus democratization came to a halt when Aleksandr Lukashenko took power. In Ukraine and Russia reforms began to slow at approximately the same time—when Presidents Kuchma and Yeltsin were reelected for a second term. Some Western researchers find in this delay reason to speak of "hybrid" states that are inextricably mired in a so-called "gray zone." Behind the façade of weakly marked democratic institutions, authoritarian regimes have emerged in the three Slavic republics, each with its own special features. The Caucasus and Central Asia have also seen democratization stop and patrimonial domination and sultanism return (Eke and Kuzio 2000, pp. 523–47). Thus, the ruling elites in most post-Soviet states have put a stop to democratization.

The nonviolent change of leadership in Georgia (2003) and Ukraine (2004) laid a foundation for renewed democratization in these countries.

The not altogether peaceful change of leadership in 2005 in Kyrgyzstan and the failure of the opposition in the 2005 parliamentary elections in Azerbaijan and in the 2006 presidential elections in Belarus, however, indicate the arrest of the democratic impulse in the post-Soviet space (Silitski).

Transition theorists have worked out several models of transition. These models can be grouped into two general types: radical and moderate (or protest and tactical maneuver) (Bans 2007, pp. 102–3). Regime change has taken a radical path in countries where the old elite has completely lost legitimacy. In this case, regime change takes place either through abdication (the renunciation of power), as occurred in 1989 in Czechoslovakia and East Germany and in 2003 in Georgia, or as a consequence of mass protest and/or violence, as in 1989 in Romania and in 2005 in Kyrgyzstan.

The moderate variant of transition requires an electoral victory by the opposition, which either negotiates with the old elite ways and means of conducting reforms or permits representatives of the old elite to enter the government. The latter route is quite long. Moreover, if the old elite retains its official positions, it may delay or derail democratization—as happened in Ukraine after 1991. The failure of the attempt to create a democratic coalition in 2006 and the formation of a government that included representatives of the preceding regime indicate the continuation of the aforementioned tendency and yet another postponement of democratization.

Special Features of the Ukrainian Variant of Transition

First, the transition in Ukraine is more prolonged and uncertain than the transitions in the East European or Baltic states and therefore belongs to the fourth, inverse wave of democratization (Fisun 2006, pp. 134–50; McFaul 2002).

Second, the transformation of the political regime zigzags, with more marked pauses and deviations than in Eastern Europe or the Baltic region. Thus, according to the international nongovernmental organization Freedom House, the collapse of the "Orange coalition" after the 2006 elections and the formation of a coalition headed by the Party of Regions demonstrated a decline in indicators of democratic change in Ukraine. The same trend continued in 2007–10 (*Nations in Transit* 2010).

Third, the opportunity to initiate real reform in all areas of social life, which followed the change of leadership in 2004, was subsequently lost because of the fragmentation and ineffectiveness of the elite. The "forced pluralism" of the Kuchma period led to intense rivalry not only between the opposition and the government elite but also within the latter. Instead of compromise and cooperation, the chief political players preferred to "play to a victorious finish"—that is, a "zero-sum game" that ended in everyone losing. The elite's paradoxical behavior follows the logic of conflict escalation: the reward of victory (the post of president with expanded powers) appears greater than the cost of participation in conflict. No formal or informal rules limit the scope for using resources (national wealth) in this struggle. The results of intense elite rivalry became manifest when the global recession began in late 2008 and Ukraine found itself among the countries worst hit by the crisis.

The country's political elites demonstrated extreme egocentrism, irresponsibility, and lack of professionalism, which halted democratic reforms and in essence threw Ukraine back to the level of 2004.

The presidential elections of 2010, although on the whole open and competitive, did not (and, indeed, could not) bring qualitative changes, since the candidates competing in the second round were the leaders of the two largest business and political coalitions—the Party of Regions and the Yulia Tymoshenko bloc. The hasty actions of President-elect Yanukovych's team in foreign policy (the refusal to join the North Atlantic Treaty Organization [NATO]), security policy (the declaration of nonaligned status), and cultural policy (the campaign to revise history according to the Russian model) indicate that Ukraine is increasingly deviating from the vector of democratic development and falling under Russian influence.

The periodization of transition (political and social transformation) in Ukraine can be provisionally defined as follows. The first stage—liberalization—lasted from the late 1980s to 1991. The second stage—"demoligarchization," or the power of financial–industrial groups behind a façade of formal democratic institutions—lasted from 1991 to the end of 2004. During this period, Soviet nomenklatura authoritarianism was transformed in Ukraine into contemporary clan–oligarchic authoritarianism.[4] Several political–economic groups arose, grew stronger, and in fact captured the state.[5] The third stage (2005–10) may be described as the "postrevolutionary crisis," exacerbated in 2008 by the global economic crisis. The defining feature of this stage is a change in the elite—the

second since 1991 but an incomplete one—that resulted from the Orange Revolution; its essence is rivalry among business–political groups combined with a desire to remain in power while maintaining a positive image among citizens. The democratic impulse of the Orange Revolution produced a few substitutions in the highest echelons of power—that is, in the composition of the ruling elite—but did not bring the anticipated change in its quality. We should note, however, an increase in political competition and pluralism, an expansion of media freedom, and the emergence of a civic political orientation among the inhabitants of most regions of the country (*Materialy*).

The fourth stage began in 2010 with the election of Yanukovych as president of Ukraine. The president's first steps in domestic policy demonstrate a desire to restore political stability and improve state control of the country—from above, by administrative means. As a result, we may call this stage "bureaucratic stabilization." Although these initiatives will probably rationalize the mechanism of state administration, they will not bring about qualitative change, because post-Soviet bureaucrats are implementing them using the old administrative methods.

It is hard to predict with confidence how the transformation will end and how many more stages there will be. Taking into account the negative factors that appeared in 2008–10, both domestic (the political and financial–economic crisis) and foreign (the global recession), we should not count on a rapid restoration of stability or on the continuation of democratic reforms.

Change of Leadership or Change of Regime?

Before the Orange Revolution Ukraine had a weak oligarchic authoritarianism, but the Yushchenko presidency transformed the regime into a "defective democracy," which differs from a liberal democracy in three respects: political participation, political competition, and constitutionalism (observance of the Constitution by all the chief political players and guarantees of citizens' rights and freedoms [Merkel′ and Kruassan 2002]). Under Yushchenko democratic rules of the game were not generally accepted, and defective democracy did not turn into liberal democracy.

To substantiate this thesis, I propose to compare formal and informal institutions (rules for exercising power)—that is, what I regard as the key characteristic of the political regime—under the Kuchma and Yushchenko presidencies. The constitutional separation of powers among the main

representatives of the state is customarily regarded as a formal institution, whereas informal institutions (political traditions and practices manifest in the style of political decision making, in the political accountability of the authorities, and in the recognition and observance of rules) evolve in response to cultural and historical factors and are specific to a given country.

What Has Changed

On 1 January 2006 amendments to the Ukrainian Constitution of 12 August 2004 substantially limited the powers of the president, as indicated by the Index of Presidential Power, and strengthened those of the prime minister.[6] In fact, the prime minister became the key player in the political system. The redistribution of powers intensified rivalry between the president and the prime minister and between the Cabinet of Ministers and the parliament. The ineffectiveness of this political reform led to a serious institutional crisis in April–June 2007, to a legally dubious dissolution of parliament, and to another political compromise, the essential provision of which was the decision of the leading political players to conduct unscheduled parliamentary elections in September 2007.

Political intrigues in Yushchenko's entourage came to the surface, showing that the president's team did not wish or was unable to keep all internal processes under control. Nevertheless, these intrigues do attest to the greater openness of the then-current leadership by comparison with the Kuchma presidency.

The official rhetoric has changed: the idea of stability has given way to that of reform.

The authorities' attitude toward the mass media has changed, and their position in the country has improved.

The beginning of the Yushchenko presidency brought improved cooperation between governmental and nongovernmental organizations. Soon, however, the authorities' interest in civil society noticeably cooled.

What Has Not Been Done

The government has not completed a single investigation into the involvement of highly placed officials in falsifying the results of the presidential elections. It has not prosecuted any highly placed official for acts of corruption. It has not completed its investigation into the murder of Georgii Gongadze.

It has not reformed the law-enforcement agencies and has overhauled the judicial system only in part. Citizens in detention and under pretrial investigation continue to have their rights violated.

It has not set up the public broadcasting system that "Orange" representatives touted so often.

The list of promises made but not fulfilled under President Yushchenko could be extended. Here I highlight only points that, if implemented, would have affirmed the "values of Independence Square" and thereby demonstrated changes in the principles guiding the exercise of power.

What Remains Unchanged

The style of political decision making remains as opaque as before. Yevhen Zakharov, chair of the board of the Ukrainian Helsinki Group and co-chair of the Kharkov Group for the Protection of Human Rights notes that over ten months in 2005 President Yushchenko issued forty-two decrees stamped "For Official Use (FOU)" [*dlia sluzhebnogo pol´zovaniia*]. The president issued five of these decrees after 1 April 2005, when he publicly promised to abandon this practice. In the same period, the Cabinet of Ministers adopted thirteen resolutions and instructions with the "FOU" stamp (Zakharov 2005, p. 17). Hence, as Zakharov notes, the use of illegal stamps continues, although on a smaller scale than under President Kuchma. Other striking examples of the opaqueness of decision making are the agreement of 4 January 2006 on deliveries of gas to Ukraine and the election results for the Speaker of the Supreme Rada on 6 July 2006.

The practice of noncompetitive appointment of candidates to official posts at various levels continues. This marks a failure of the personnel policy of the new leadership, in contrast to the successful reform of personnel policy undertaken after the change of leadership in Georgia.[7]

The regime has not brought corruption, as a systemic phenomenon, under control. On the whole, ties between state representatives and citizens continue to be those of patron and client. According to the assessments of Transparency International, in 2005 Ukraine came in 107th of 158 countries in level of corruption. With an index of 2.6 on a scale of 1 to 10 (the lower the index, the higher the level of corruption), Ukraine found itself grouped with Nicaragua, Palestine, Vietnam, Zambia, and Zimbabwe. In 2006 and 2007 the level of corruption declined, but by an insignificant margin. In 2006 Ukraine took 99th place with an index

of 2.8, but by 2009 it had already fallen to 146th place with an index of 2.2—the worst since 2004, placing the country in the company of Russia, Sierra Leone, and Zimbabwe (*Report* 2009). The public accusation by Prime Minister Tymoshenko that President Yushchenko covered up actions of the National Bank that led to a 50-percent fall in the value of the national currency relative to the U.S. dollar during the last three months of 2008 has less to do with the personal confrontation between Tymoshenko and Yushchenko than with the prevalence of corruption among the highest echelons of power (*Transcript* 2008).

The regime has not disbanded agencies that monitor the telephone conversations of state employees, politicians, and individual citizens. According to Volodymyr Sivkovich (a Supreme Rada deputy representing the Party of Regions), in the first year of Yushchenko's presidency about thirty agencies continued to extract information from communications channels (Program 2006). For comparison, the regime issued forty thousand permits for the extraction of information in 2002, and eleven thousand in nine months of 2005 (Zakharov 2005, p. 7). One example of this practice was the scandal when agents of the Ukrainian Security Service bugged the office of former Justice Minister Roman Zvarich.

The state did not alter its fiscal policy, including its chief institution—the tax police.

Thus, the new leadership did not succeed in overcoming the "Kuchma legacy." This result may indicate both the depth to which political corruption has penetrated all pores of society and the infection of the "Orange" authorities with this disease. Yushchenko and Tymoshenko's inability to correct the defects of the Kuchma regime shows that *they belong to the class of rent-oriented political entrepreneurs*.

Due to the deteriorating moral foundations of the political class, ongoing political corruption, the secrecy of political decision making, and the emerging confrontation between Yushchenko and Tymoshenko and their teams, a considerable number of citizens grew disillusioned with the "accidental democrats," and the "Donetsk people" came to power.

I would argue that in addition to the constant indicators of a political regime mentioned above, an investigation of transitional regimes should include certain variables that offer a clearer explanation of such regimes' nature. These variables include the structure of dominant groups (the elite) in the society; the status and condition of the opposition; and the political influence of noninstitutionalized interest groups. Both the governing and

the oppositional segments of the political class exhibited fragmentation, factionalism, internal conflict, and the absence of common values that might have provided a basis for developing a national consensus. The split within the "Orange" team made it impossible to form not only a unified campaign coalition for the 2006 elections but even a democratic majority in the Supreme Rada. In the impromptu parliamentary elections of 2007, the Yulia Tymoshenko bloc and the Our Ukraine—Popular Self-Defense bloc together obtained over half of the seats in the Supreme Rada and with great difficulty created a "democratic coalition." In many respects, however, the personal, tactical, and strategic interests of Yushchenko and Tymoshenko and of their teams did not coincide, and this led to serious confrontation and disagreements on key issues of domestic and foreign policy and the collapse of the coalition in September 2008. This collapse in turn ushered in political chaos and economic crisis.

The status of the opposition remained unregulated, although its position had markedly improved by comparison with Kuchma's second presidential term. The complaints from representatives of the Party of Regions and the Communist Party of Ukraine regarding political repression by the new leadership after the 2006 elections should be taken as a sign of change in the position of the opposition rather than as evidence of political revenge (although this possibility cannot be excluded in individual cases).

The influence of noninstitutionalized interest groups on Ukrainian politics and decision making diminished somewhat by comparison with the period before 2004. The interest groups themselves continued to exist, however, and new ones appeared.[8] The most powerful of them—namely, the political and business empire of Rinat Akhmetov—is today the financial motor of the Party of Regions, which in the elections of 2006 and 2007 received more votes than other parties and blocs. Viktor Yanukovych, the leader of the Party of Regions, consolidated this success in the 2010 presidential elections.

It is obvious that in "Orange" Ukraine, the fundamental rules of the "political game" did not change after the replacement of the highest state officials and many second-tier members of the power elite (chairs of oblast and raion administrations). Only one component of the regime changed—those exercising power.

The horizontal constraints on the regime weakened (interactions among the branches of government deteriorated). Whereas Kuchma exerted substantial influence on the legislative and judicial branches and

thereby dominated the political space, under Yushchenko relations among the branches became competitive, even conflictual in nature. At the same time, the opposition's influence on politics markedly increased. The competitive or "forced" pluralism existing in Ukraine did not, however, turn into organic democratic pluralism.

Vertical constraints remained almost unchanged. After the mass political protest in late 2004, civil society's influence on the state considerably weakened. At the same time, both government and opposition forces used populist actions to manipulate public consciousness. Examples of such actions were the Tymoshenko government's campaign to repay the savings of former Soviet Sberbank depositors and the anti-NATO rhetoric used by the parliamentary factions of the Party of Regions and Communist Party of Ukraine and injected into society through the Russian and Russian-controlled Ukrainian mass media.

One can argue, therefore, that the political regime changed only in terms of its participants, which in turn transformed it from weak patrimonial-oligarchic authoritarianism to defective democracy. The institutions that govern interactions among participants have not undergone fundamental change.

To verify the thesis of the inertial nature of the regime, I use the indicators of regime change developed by the British nongovernmental organization Policy Exchange (*Regime Change*). Specialists at this center have proposed seven indicators of regime change. These indicators, formulated as questions, make it possible to verify the extent of change, if any, of a given political regime. A regime is considered to have changed if it has broken sharply with personnel, structures, and policy of the previous system.

Indicators of Regime Change

(1) How successfully and unequivocally did the process remove the senior leadership of the old regime? *Answer:* Successfully.

(2) What kind of qualitative change was brought about within the original support structure (senior bureaucracy, armed forces, judiciary)? *Answer:* Some, at the middle level.

(3) Was there an effort to deal with the social, political, and economic remnants of the past? *Answer:* No.

(4) Did a new elite structure emerge, and how did this marry with the objectives of the initial regime change? *Answer:* About a third of the political elite has been replaced.

Table [1]

Indicators of the State of Freedom and Democracy in Ukraine

Indicators	1997	2004	2005	2006	2007	2008	2009	2010
Electoral process	3.25	4.25	3.50	3.25	3.00	3.00	3.50	3.50
Civil society	4.00	3.75	3.00	2.75	2.75	2.75	2.75	2.75
Independence of mass media	4.50	5.50	4.75	3.75	3.75	3.50	3.50	3.50
State administration	4.50	5.25	5.00	4.50	4.75	4.75	5.00	5.00
Local government	—	—	5.25	5.25	5.25	5.25	5.25	5.25
Constitutional order, laws, judicial system	3.75	4.75	4.25	4.25	4.50	4.75	5.00	5.00
Corruption	—	5.75	5.75	5.75	5.75	5.75	5.75	5.75
Scale of democratization	4.00	4.88	4.50	4.21	4.25	4.25	4.39	4.39

(5) Did the process affect a change and dispersion of economic power? *Answer:* No.

(6) Was there a measurable growth in civil society? *Answer:* Yes.

(7) Did the process establish free and fair elections/a new constitution/an independent and effective system of governance? *Answer:* Yes, but the old problems remain.

General appraisal: The leadership changed, but serious changes in the methods of exercising power did not occur.

The inertial influence of the institutions of the old Soviet regime shaped Ukraine under President Kuchma. Throughout the Yushchenko presidency we observed use of the same methods and rules for exercising power. Previous practices and institutions retained their influence, while new ones—lustration, tax reform, administrative-territorial reform, reform of local self-government—were not introduced. An analysis of constant and variable indicators of the political regime in Ukraine and of indicators of regime change yields grounds to define the regime as a *weakly institutionalized (defective) democracy in which informal rules prevailed over formal institutions*.

We encounter a similar definition of the contemporary political regime in Ukraine in the appraisals of Freedom House experts (*Nations in Transit* 2010) (see Table [1]).

Table [1] was compiled from periodic assessments conducted as part of a special Freedom House program in twenty-seven postcommunist countries. In the methodology of the assessments, Table [1]

indicates full compliance with standards of democratic governance, while higher values describe increasing levels of noncompliance. A political regime whose summary indicator (on the scale of democratization) lies within the 1–2 range is defined as a "consolidated democracy"; a score around 3 is a "semiconsolidated democracy"; a score near 4 corresponds to a "transitional government or hybrid regime"; a score close to 5 indicates a "semiconsolidated authoritarian regime"; and an indicator in the 6–7 range suggests a "consolidated authoritarian regime."

On the whole, the transformation that has taken place in Ukraine should not be considered in linear terms. In my view, it would be more correct to speak of a zigzag pattern of political transformation. In this regard we can discern two divergent processes. The first involves changes in political institutions that lead to democracy. The second indicates movement in the opposite direction—toward the preservation and development of authoritarian institutions. In other words, the trajectory of the political regime in Ukraine over the 1991–2008 period should be viewed through the prism of democratization and oligarchization. This trajectory can be presented schematically as a series of zigzags between poles that may be labeled provisionally "democracy" and "authoritarianism" (see Figure [1]).

Figure [1] presents Robert Dahl's model of the transformation of political systems in the form of a diagram (Dal′ 2002, pp. 9–13). The diagram shows that when political competition and political participation increased, the Ukrainian political regime drew closer to democracy. When these processes halted, both the formal and the informal rules for exercising power (the regime) acquired an authoritarian character.

Special Features of Politics in Ukraine in 2005–9

The leadership change in November–December 2004 initiated a new stage of social and political transformation, but it slowed and gradually gave way to a crisis. At the same time, a decade of authoritarian stability ended. The political trend markedly accelerated. Using the terminology of David Easton, we may say that the political system was not ready to react to the numerous challenges emanating from the domestic and foreign environment. The governmental crisis of September 2005, the parliamentary and governmental crisis of January 2006, the parliamentary crisis of July 2006, the institutional crisis of April–June 2007, the systemic

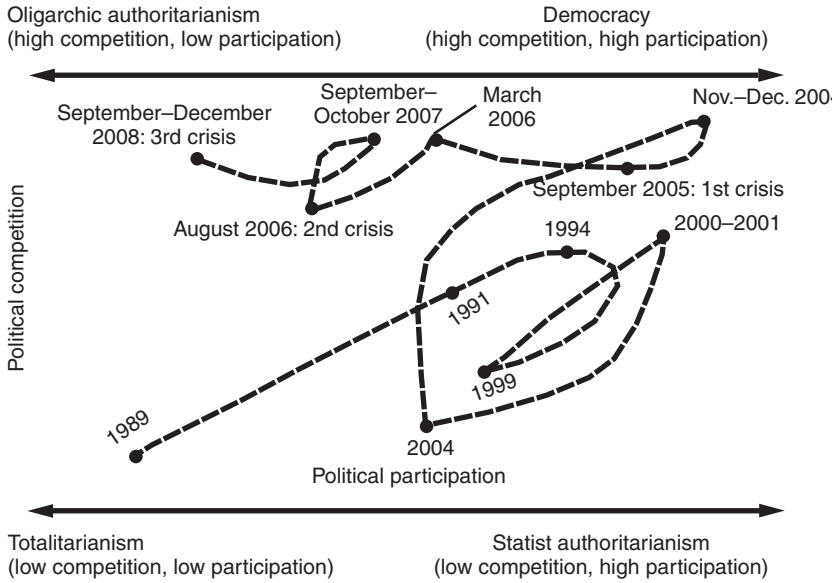

Figure [1]. **Evolution of the Political Regime in Ukraine**

crisis of September–December 2008, and the numerous episodes of tension with Russia—these are the main political upheavals that Ukraine has undergone in recent years.

The Orange Revolution was one factor upsetting the geopolitical equilibrium in Eurasia, previously maintained by Russian domination. Moscow perceived the leadership changes in Georgia and Ukraine as a threat to its ambition to restore its former power by implementing the model of a "liberal empire" and transforming Russia into the key supplier of energy resources for many European and most post-Soviet states.

On the eve of the 2010 presidential elections, I examined two possible scenarios for political events. Each of them presupposed the introduction of constitutional amendments—that is, changes in the formal rules of the political game.

The first scenario presupposed the election of an opposition politician as president and the further strengthening of presidential powers to overcome the recession and ensure political stabilization. Depending on the identity of the elected president, this scenario envisioned a transition either to a presidential–parliamentary or to a presidential form of governance. If the political and economic crises were overcome, it might become possible to strengthen democratic rules and procedures and later

abolished. It would then be possible to form a prime ministerial ("chancellor's") government in a parliamentary–presidential or parliamentary republic. Again, overcoming political chaos and economic crisis would open up a real opportunity to consolidate democracy. Both scenarios envisioned a stronger executive power vertical, which allowed for a "slide" toward authoritarianism. This development of events, however, seemed to me less likely.

Today, a year after elaborating these scenarios, I realize that I made an important error. It was difficult to imagine that anyone would make systemic political decisions (the means of forming a parliamentary coalition, the signing and ratification of agreements for prolonging the presence of Russia's Black Sea Fleet in Sevastopol) in open violation of operating rules and procedures. It is now clear that the competing oligarchic groups united in the Party of Regions, having acquired control over key institutions and branches of government, will act without formal, constitutional, and moral constraints to maximize their short-term profits. The state, increasingly regarded as an instrument for the extraction of profit, is losing its purpose as a political entity. All the talk about resetting the system through compromise and an agreement to "play by the rules" has become meaningless. The reset is occurring by illegal means, compelling us to consider other scenarios. I referred to one of them above as a "slide" toward authoritarianism.

The possibility of this scenario stems not from formal amendments to the constitution or from an enhancement of presidential powers, but from actions by Yanukovych aimed at creating a unified power vertical under the control of a single political force. In fact, Ukraine has already reverted to a presidential republic even though the powers of the president have not changed. Is it possible that in the absence of a united opposition, control of the parliament, the Cabinet of Ministers, and the Constitutional Court will reintroduce authoritarianism?

Despite the numerous warnings that have appeared recently in the Ukrainian mass media, a reversion to authoritarianism still seems to me unlikely. Most of the structural and procedural constraints that have slowed movement toward democracy will also impede a slide toward authoritarianism.

First, Yanukovych no longer possesses Kuchma's presidential powers. Even if he manages to regain such powers by means of a referendum, he will find it quite difficult to achieve full control over the oligarchs and the opposition.

Second, even if he does regain such powers and establishes control over key state institutions, the oligarchs, and the opposition, this will not guarantee control of the information space and the public mood. Freedom of expression and the conditions under which the mass media operate have not attained the standards of a liberal democracy, but they ensure incomparably greater access to information than in Belarus or Russia. In this sense, the Yushchenko presidency did not live in vain. Although democratic institutions have not struck deep roots in Ukraine, most Ukrainian citizens would object to restrictions on freedom of expression and on political participation and competition, and therefore the likelihood of mass protest will hang like a sword of Damocles over the president's head.

Third, the state has neither an effective apparatus of compulsion nor a professional bureaucracy. Without these two institutions an authoritarian regime cannot exist, as it is impossible to ensure full control over the state. Training and reform of the bureaucratic apparatus and security agencies cannot be accomplished quickly: this requires time, a unified political space, and a consolidated society and elite. If there were a desire to conduct reforms, the experience of Georgia might prove useful. The first hundred days of the Yanukovych presidency, however, suggest that it has no such desire.

Fourth, Ukraine's traditional schisms impede any return to authoritarianism. These schisms are civilizational—between European and Eurasian identities; religious—among several faiths and churches; ideological—between nation-state and postcolonial status for Ukraine; geopolitical—between the European and Russian centers of gravity; and, finally, political—among competing segments of the elite and noninstitutionalized interest groups. The deep fragmentation within the elite made it difficult for its members to "play by the rules" during the Kuchma and Yushchenko presidencies. The same problem will prevent Yanukovych from creating a unified political space, which is a necessary condition for establishing an authoritarian regime. So the absence of national unity, which slowed Ukraine's progress toward democracy, will impede its imposition of authoritarianism.

Fifth, neither the West nor Russia wants to see an authoritarian regime in Ukraine. The European Union (EU) pays lip service to the spread of democracy and liberal values, but in practice it cooperates with dictators to ensure its supply of oil and gas. Even so, the EU does not want another authoritarian country on its borders. Although the EU and the United States have "grown tired of Ukraine," they know what awaits them if

Ukraine turns into "another Belarus." The Kremlin, for its part, also has no interest in seeing a second Lukashenko emerge in Kiev. The Russian leadership benefits if Ukraine slides ever deeper into Russia's shadow while embroiled in constant crises and problems. It can always offer assistance to such a country and advise its leadership on what to do. Finally, a "failed state" is an instructive example and a sort of "lesson" for mobilizing and manipulating Russia's own population.

Which scenario seems most likely? In my opinion, the threat to Ukraine is not authoritarianism but bureaucratic–administrative arbitrariness, which manifests itself in state employees of various ranks ignoring the law and abusing their official positions, in increasing corruption and a contracting public sphere. The rational strategy for the population in this situation is adaptation, not resistance. This kind of gradual "Zaireization" (a term borrowed from Alexander Motyl) may reduce the state to performing only fiscal, oversight, and repressive functions and eventually to Ukraine becoming a failed state. If the new president and prime minister fail in the fight against the political and economic crisis, we may see even worse consequences: the development of political pathologies—that is, deeper crises, more intense political conflicts, the erasure of all rules of the political game, and the resulting collapse of the system.

At the end of the Yushchenko presidency, we asked how the elite could be compelled to play by the rules. After the first hundred days of the Yanukovych presidency, this question sounds irrelevant. The team that has come to power will not and does not wish to play by the rules. Now we have to think about how we can avoid the loss of our state and its descent into the black hole of lawlessness. What can we do to prevent this? The tried-and-true method in the fight against arbitrariness is civic self-organization, the development of horizontal networks, and the defense of political and civil rights along the whole "front line." The experience gained during the decade of the Kuchma presidency is not yet lost. Let us make good use of it!

Notes

1. For a more detailed account of the discussions among Western researchers concerning the essence of the political regime in Ukraine, see Kuzio 2005, pp. 167–90.

2. I survey publications on this theme and propose an alternative explanation for the events leading up to 2004 in Ukraine using the category of transition in Matsievs′kii 2005a, pp. 7–22; and Matsievs′kii 2005b, pp. 29–39.

3. For a more detailed treatment of theoretical explanations of revolution, see Matsievs′kii 2005b, pp. 29–39; and Fisun 2006, pp. 179–207.

4. An explanation of the special features of political transformation in Ukraine that is close but not identical to mine has been undertaken by Aleksandr Fisun (2006).

5. The thesis that Ukraine may be considered a "captured state" is well established in the literature. See, for example, Omelyanchuk 2001.

6. The Index of Presidential Power, calculated by the method of Lars Johannsen and Ole Nørgaard, stood at 40.4 points, as compared with 47.7 points before the constitutional amendments. The maximum number of points is 60 (Mozol′ 2010).

7. See the articles by Iu. Mostovaia, S. Rakhmanin, and N. Pestriakovaia in the Ukrainian weekly *Zerkalo nedeli*, 2005, nos. 1, 3, and 17.

8. See *Zerkalo nedeli* (www.zn.ua/1000/1550/60724), and the articles by N. Guzenko and E. Struk in *Kontrakty* (http://kontrakty.com.ua/show/ukr/full_main/402008.html). [URLs accessed 2 June 2011.—Ed.]

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