

# Ukrainian Politics since Independence

Written by Andrew Wilson

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## Ukrainian Politics since Independence

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ANDREW WILSON, MAR 30 2015

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Ukraine became independent in 1991, but there was no real revolution – which is why the country tried to have two catch-up revolutions in 2004 and 2014. Independence came about when the collapse of central Soviet power in Moscow suddenly gave a hitherto minority nationalist movement the chance to make an alliance with the Communist elite – the deal being they would back independence, but keep their jobs. The costs of that bargain became clearer over the subsequent decades, as the economy stagnated and Ukraine became one of the most corrupt states in Eastern Europe.

### Formal Institutions

Ukraine's neophyte status meant that it was the last post-Soviet state to adopt a new constitution, which took place in 1996. On paper, the document defines 'a democratic, social, law-based state', based on 'the principles of its division into legislative, executive, and judicial power', but in states like Ukraine, the constitution is only a guide to where power lies, not much more than a 'signal' of who the key patrons are and the 'focal points' that shape informal networks (Hale, 2014). The rule of law is weak and so is constitutionalism, defined as respect for the written document as defining the rules of the game, rather than it being the end-product of the game itself. The constitutional order has been radically reshaped three times; in 2004, 2010, and 2014, plus a failed attempt at similar wholesale change in 2000.

Nevertheless, the original document avoids many of the pitfalls of presidentialism. Technically, the system is semi-presidential, though with longer periods of greater presidential power in 1996-2005 and 2010-14, alternating with a premier-presidential system in 2006-10 and after 2014. The state is unitary, with one federal unit of Crimea, which ironically worked well enough as a compromise until 2014 – the local elite were allowed to enrich themselves as long as they did not play with the genie of separatism. An elaborate compromise on language rights ensured the reasonably peaceful coexistence of Ukrainian and Russian speakers before the crisis of 2014.

### Informal Rules

The Constitution was only a guide to the real underlying informal system of power. By the time the commanding heights of the economy had been corruptly privatised under President Leonid Kuchma (1994-2005), Ukraine was really run by a cabal of oligarchs and regional bosses, in which the president was the chief arbiter. The chaotic early 1990s were followed by the recovery of state power under Kuchma, enforced by the use of so-called 'administrative resources' (including both the carrot of state patronage and the stick of a legal and tax system designed to reward friends and punish enemies), and disguised by 'political technology' (facade democracy and partly pluralism manipulated behind-the-scenes by Kuchma's presidential administration).

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Kuchma's arbiter presidency was not followed by a true democratic breakthrough, but by a competitive diarchy or triarchy after the Orange Revolution; with new President Viktor Yushchenko, who had been Prime Minister under Kuchma from 1999 to 2001, constantly clashing with another insider-not-quite-turned-outsider Yuliya Tymoshenko when she was Prime Minister (2005 and 2007-10) and the Party of Regions headed by the leader of the most powerful regional clan from the Donbas, Viktor Yanukovich, which grew powerful in opposition and briefly controlled the government in 2006-7. Yushchenko was the former head of the Central Bank, while Tymoshenko had been a gas oligarch in the 1990s. In the 2004 election, Yushchenko was largely backed by voters in the West and Centre, while Yanukovich by voters in the East and South.

Constitutional reforms were agreed at the height of the Orange Revolution, to smooth Yushchenko's path to power, and introduced in 2006. They achieved a better balance between the president and parliament, but also helped entrench the bitter competition between the triarchy. Yushchenko and Tymoshenko fought each other into the ground, allowing Yanukovich to win the presidency by default in 2010. Yanukovich rapidly restored a traditional presidential monopoly of power, but then over-reached by attempting a hyper-centralisation of power. He broke the rules of the 2004 constitution, initially to win control of the legislature, where Tymoshenko was initially still Prime Minister (in spring 2010), and then the judiciary with a highly centralising 'reform' entrenching executive control in the summer, leading to a string of 'political prosecutions' in 2011, including Tymoshenko. The strong-arming of the Constitutional Court to restore the 1996 Constitution in October only capped the process. But Yanukovich also broke two of the rules of post-Soviet non-democracy: he did not share within the elite and his predatory state made too many enemies outside of it.

## The Worst Political Elite in Europe?

For almost a quarter of a century, Ukraine has been one of worst-governed states in Europe. The poor quality of the political class is because most are former Communists or co-opted opposition. Historical 'brain drain' and the effect of the purges and Holodomor (Stalin's famine in 1932-3) have also contributed to the situation. However, there are also post-independence factors, the most important of which is the difference between a resource state and a rentier state. Independent Ukraine did not have the abundant energy resources of Russia and Azerbaijan; instead, it had energy transit and raw materials, and a model of steel and chemical production based on rents from subsidised state inputs. So Ukraine had enough rent for the corrupt elite, but not enough to pay for a social contract, like in Russia, or even, using Russian money, in Belarus.

Except that was not enough to satisfy the elite. According to Yuliya Mostova, the editor of Ukraine's main opposition paper, *Dzerkalo tyzhnya*, understanding Yanukovich was always easy: 'He wanted to be the richest man in Eastern Europe' (Mostova, 2011). But that led in turn to a problem that was well identified by the leading economic and energy analyst Mykhailo Honchar: 'Yanukovich wanted to be both president and number one oligarch. Like all those other guys – Putin, Nazarbayev and Aliyev. Except they had energy and rents to distribute. Ukraine does not.' (Honchar, 2014).

But Yanukovich and his coterie carried on regardless. Under his rule, Ukraine became a pathologically predatory state, with an alleged 50% cut from all significant business and a tax-and-destroy policy against SMEs, driving the economy into the ground.

## Ineffective Opposition

In the 1960s and 1970s, Ukraine had one of the biggest dissident movements in the USSR. Around 1,000 were in and out of trouble with the authorities, but the broader hinterland of passive supporters was much larger (Krawchenko, 1983). Normally, size would have been thought to be an advantage, but it was actually double-edged. A bigger movement meant more KGB control and more internal agents, and the KGB was always much tougher in Kiev than it was in Moscow. The same generation was still around to block more radical and more competent opposition forces when the Ukrainian Popular Front Rukh was formed in 1989. Rukh was always primed to cooperate with moderate Communists.

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Rukh then split too early in 1992, when it still had some good arguments, and when its popular front function was still potentially intact. Significantly, it was the part of Rukh that cooperated with the new authorities that soon disappeared without trace; but Rukh, with its agenda essentially unfulfilled, was still around to come in second place in the 1998 elections. So the authorities encouraged it to split again in 1999.

The next reinvention of the opposition took place in 2002: Our Ukraine broke through to win almost a quarter of the vote by transcending traditional narrow cultural nationalism, but also by accepting leadership figures who had previously been part of Kuchma's elite, headed by Yushchenko, who saw Our Ukraine as a moderate balancing force. Kuchma was, however, weakened by scandal (the death of the journalist Hryhoriy Gongagdze in 2000), and was unable to stop the Donetsk group imposing Yanukovich as their candidate for the presidency in 2004. Yanukovich's candidacy upset the system of elite balance, and he had too few supporters when his crude attempts to fix the vote and deny Yushchenko the presidency led to the mass protests dubbed the 'Orange Revolution' in 2004.

However, although the protestors expressed a range of frustrations and inchoate demands, the Orange Revolution was really only about electing Yushchenko. He duly took office after a repeat vote and the protestors went home. Our Ukraine promptly re-absorbed itself into the political system. After the 2010 elections, its remnants and successors, including Tymoshenko's party, Fatherland, would only survive if they accepted Yanukovich's new rules of the game. The opposition parties, including Fatherland, took funding from oligarchs in order to survive. This also included the far-right Freedom Party, which provided the big surprise of the 2012 parliamentary elections by winning 10% of the vote, largely because it convinced a sufficient number of voters that it was the most radical opposition to Yanukovich – before a real opposition organised itself in 2014.

### **Underlying Pluralism**

I have deliberately mentioned Ukraine's undoubted underlying pluralism late in the analysis. Ukraine is a new state with many underlying divisions of ethnicity, language, and religion, although the most powerful division of all is regional and regionally-based patronal networks. These well-known internal divisions would have been less of a factor if Ukrainian politicians had been brave enough, or competent enough, to transcend them. Instead, they have exploited and exacerbated them to stay in power. Moreover, it was politicians from East Ukraine who did most of the polarising. Ideology and the idea of European destiny were stronger forces in western Ukraine, so public opinion was harder to manipulate, although there were many nationalist politicians capable of alienating voters in the East. But a post-Soviet culture of paternalism, social atomisation, and Soviet Ukrainian mythology was still strong in the East and South, where politicians were able to win and retain power with a mixture of welfare and patronage and so-called 'political technology' that exploited anti-West Ukrainian stereotypes.

### **The Maidan as a Multiple Revolution**

Yanukovich's presidency could not maintain that mixture. More exactly, its ability to distribute even limited economic benefits was increasingly circumscribed. The economy recovered briefly in 2010-11 from one of the worst recessions in Europe in 2009, when GDP fell by 15%, but Yanukovich's predatory state had destroyed growth by the second half of 2012. Yanukovich and the ruling Party of Regions began to lose support even in their East Ukrainian heartlands, and were increasingly dependent on fraud and political technology to divide and corrupt the opposition to stay in power.

One belated fruit of the Yushchenko Presidency was negotiations on a trade agreement with the European Union, which had only begun belatedly in 2007, and had produced a signable agreement by 2012. However, democratic deterioration, symbolised by the imprisonment of Tymoshenko, kept the agreement on ice. Russia, meanwhile, suddenly discovered an intense hostility to the agreement, driven by Putin's launching of the Eurasian Union project as one of the main themes for his re-election campaign in 2012.

The second 'Maidan' (the name of Kiev's central square where protestors gathered) was therefore about many things. It was triggered by Yanukovich succumbing to Russian pressure and refusing to sign the EU Association

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Agreement on the eve of a crucial EU summit in Vilnius in November 2013. But the real underlying fear was that Yanukovich would now have a free hand to consolidate his regime and undermine all vestiges of democracy. The protests were therefore also against the traditional opposition, which was a corrupted part of that system. The Maidan was an attempt to reinvent opposition politics in Ukraine after Rukh in the 1990s and Our Ukraine in the early 2000s, but this time with a stronger base in civil society.

The Maidan protests in 2013-14 therefore grew more radical, but were also beyond the control of traditional politicians. Yanukovich veered between a mixture of repression and concessions that only swelled protestors' ranks. The notorious 'repression laws', rammed through parliament on 16 January 2014, only created a sense of now-or-never.

## Civil Society versus the System

Other chapters describe in detail the events before and after the February Uprising in Kiev. But several general points can be made. The protests revealed how much stronger Ukrainian civil society was in 2014 compared to 2004. And not just numerically; it was more proactive and much more modern than the political class. Civil society used technology, which the political class did not. New media sources like Hromadske TV tapped new audiences, and new media methods like stopfake.org counteracted Russian propaganda. Civil society groups used innovative crowd-sourcing methods and helped channel funds to the armed forces (the People's Project at narodniy.org.ua, and armyhelp.com.ua), setting a standard of transparency that shamed the Ukrainian state. Activists and journalists did excellent work analysing the incriminating documents left behind by Yanukovich at sites like yanukovichleaks.org and the Anti-Corruption Action Centre at antac.org.ua/en. One of the most effective technologies was the use of drones equipped with cameras to fly over the homes of mysteriously opulent politicians.

Civil society was also strongly motivated to do better this time than after 2004. We will never know, counterfactually, how good an attempt at transformation Ukraine might have made if Russia had not intervened. But once it did, the moment of what Leszek Balcerowicz called 'extraordinary politics' – front-loading radical measures to drive change while you are still popular – was in danger of being lost. The pseudo-patriotic argument that dramatic change was not possible while Ukraine was at war largely carried the day, even though preventing such change was one of the main objectives of Russia's action. The oligarch and political veteran Petro Poroshenko won the Presidency in May 2014, largely because he promised a safe pair of hands. But by the time pre-term parliamentary elections were held in October, a nominal cease-fire had been in place since 5 September and there was a popular mood to return to the reform agenda largely abandoned in February. Poroshenko's new eponymous Bloc failed to win its expected victory, though did well in former Party of Regions areas; voters in the West and Centre backed Prime Minister Yatseniuk's Popular Front and the new party Self-Help. The elections saw a much bigger turnover overall: 56% of all MPs, that is 236 out of 423, were new (27 seats in Crimea and the Donbas remained empty because of annexation or conflict) (Chesno.org, 2014).

## Conclusions

Ukraine restored the 2004 Constitution on 21 February 2014, and the premier-presidential system with it. But unlike in 2006-10, after Yanukovich's flight and the collapse of the Party of Regions, parliament and presidency were in theory now controlled by the same political camp. Super-majorities were briefly possible in Spring 2014, then the old guard recovered its veto power in the summer, but they were much diminished in strength by the October elections. A new government with a healthy majority was then in place by December. Plans for yet another rewrite of the Constitution were much discussed in the summer, however, with so many pressing military and economic issues, they were less prominent in the new government's reform priorities.

But Ukrainian politics would clearly remain a general struggle between old-style politics and new. What is not clear is how much of the old informal politics had changed.

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