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TRANSITION, SECURITY AND STABILITY IN THE WIDER-BLACK SEA REGION

Transition in Ukraine: A Critical Assessment and Current Challenges

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1. POLITICAL ASPECTS

When the communist bloc disintegrated between 1989 and 1991, Western understanding of transition had been largely influenced by authoritarian transitions in Latin America and Southern Europe since the 1960s. Few scholars of post-communist transition have sought to develop a theoretical framework that encapsulates all four aspects of the quadruple transition: political and economic reform, state and nation building. Few scholars have grappled with the added complication of newly independent states, such as Ukraine, not only introducing political and economic reform simultaneously but also building institutions and a state while forging a unified nation-state. [2]

Ukraine's post-Soviet political evolution has been slow and painful. The early years of independence were marked by the prominent role played by former Soviet *apparatchiks* and the persistence of governmental structures, practices and elite attitudes that were antithetical to the development of a modern democracy. For example, [...] the persistence of undemocratic practices including pervasive corruption, uncontrolled security forces and the use of intimidation and even violence against government opponents [1] were at the core of the political transition in Ukraine.

The Orange Revolution clearly marked a seismic shift in Ukrainian politics and a fundamental democratic breakthrough. The administration that emerged from these events promised a broad new agenda focused on macroeconomic stabilization, institutional transition, greater integration with the EU and the global marketplace. In 2006, a new constitutional order shifted some domestic powers away from the presidency by offering a stronger political role to the parliament. Consequently, the cabinet of ministers became accountable to the parliament rather than to the president. This aligned Ukraine with the constitutional norms of a number of Central European states, but the sudden change sowed a measure of institutional confusion and almost immediately changed the dynamics of the Orange Revolution. Those changes have actually raised the stakes of the political struggle in Ukraine, a country which is so clearly split between forces that want deeper integration with the West and rather liberal economic reform, and those who look to Russia as Ukraine's most important interlocutor and as a potential political, social and economic model. [1]

National identity, reform, and civil society are therefore closely linked in Ukraine, as they are in other post-communist states. Ukraine's regional and linguistic divisions inhibit national integration and a civil society encompassing the entire country. Meanwhile, the more pervasive Soviet legacy in Eastern and Southern Ukraine has led to a passive population and a weak civil society. Nationalism and identity play a pivotal role in promoting reform while blocking the re-emergence of *Sovietophile* regimes. The drive to modernity through creating a democracy, market economy, state institutions, and united civic nation is forward-looking and seeks to emulate Western liberal democracies [2]

Democracies can be created in societies where the titular nation is divided, as in Ukraine, but these may require the construction of social arrangements that lead to "centrist" consensus politics, as has happened in Ukraine. This negatively affected the political and economic transition by reducing the possibility for societal mobilization in support of post-Soviet change. Consensus politics has led to muddled "third way" domestic and "multi-vector" foreign policies in Ukraine. [...] Societal mobilization only took place in Western-Central Ukraine in the late Soviet era. [...] In Eastern-Southern Ukraine, societal mobilization has been hampered because of a weak national identity. [2]

The relationship between Ukraine's democracy score and the development of Ukraine's foreign policy may be understood in two ways. First, political institutions may be characterized as semi-reformed. They are neither entirely Soviet nor entirely Western, which makes implementation of any coherent integrationist strategy difficult. Second, such institutions may be diverted easily from the goals of NATO and EU accession to the task of integration into CIS based organizations such as the Single Economic Space (SES) [12].

2. SOCIO-ECONOMIC ASPECTS

Like many transition economies, Ukraine underwent a serious economic contraction in the early years of its transition. This contraction finally halted in 1999 and was followed by a five-year economic recovery during which growth averaged 8.4%, although admittedly this increase began from a low base after years of economic contraction. The introduction of a range of economic reforms was clearly instrumental to reviving economic growth. These first generation reforms ended the system of barter payments and arrears in the energy sector that had greatly facilitated corrupt business practices within the very heart of the state. They fostered a modicum of financial transparency and resulted in more efficient resource allocation. Capital and labor have since moved from less to more productive factors of production, although Ukraine's gradualist and partial approach to reform has slowed down this essential reallocation process.

Ukraine has often been characterized as an economy of great potential and failed expectations. It boasts a skilled, well-educated and relatively low cost though not highly productive labor force; it is certainly well endowed with a range of raw materials; and, it is situated in a strategically important crossroads bordering Russia, the Black Sea, and Central and South-Eastern Europe. Ukraine's extraordinary fertile farmlands could theoretically serve as a "breadbasket" for Europe if Europe were to open its food markets to Ukrainian grains, and if Ukrainian farmers had access to investment capital and know-how and were encouraged through government policy to engage in best practices. There is, of course, a range of barriers to exploiting Ukraine's myriad potentialities. Most of these relate to institutional and regulatory problems, which have been evident since the early years of Ukraine's transition. The country is hampered by the absence of strong market-reinforcing institutions such as the rule of law, secure property rights,

enforceable contracts and a transparent state capable of mediating conflicting interests in a judicious manner.

The persistence of clan-like networks coursing through the public and private sectors in regions like Donetsk also hinder the transition process. The fact that the party of Viktor Yanukovych is a key player in the Donetsk political-industrial complex points to the persistence and power of these structures and could, in itself, act as a break on reform. Personalized networks linking the region's vertically integrated coal, electricity, steel and financial sectors to the regional and national government are hardly ideal for building a more transparent and competitive market.

Privatizations undertaken during the Kuchma period were characterized by a lack of transparency and, in a number of notable cases, extraordinarily blatant cronyism and outright corruption. This was hardly unique to Ukraine, and similar problems have been evident in a number of CIS countries. The desire to correct past mistakes was thus strong and in many ways perfectly justifiable. The problem, however, was that by calling a broad range of privatizations into question, the Tymoshenko government triggered an alarming degree of uncertainty in the economy and a crisis of confidence in property rights. Doing so is particularly dangerous in a transition economy. While poorly executed privatizations are highly lamentable, seeking to reverse them can have even worse consequences. Doing so opens the entire private sector to doubts about the legal foundations upon which their businesses rely.

Other structural problems that are impeding Ukraine's economic development: corruption remains endemic and imposes a very high burden on the business sector; Ukraine's legal and judicial system is still unreliable, and legal transparency and reliable court systems are needed. Their absence weakens contract enforcement, undermines property rights and thus leaves investors very wary; the police and secret services have also been a burden on Ukraine's business climate, while tax collection remains arbitrary and highly inefficient - a condition that infuses the business climate with uncertainties that discourage investment. [1]

3. CORRUPTION

Ukraine’s extended political stalemate, a corrupt judicial system, and a failure in political leadership on all sides have allowed a widespread “culture of corruption” in Ukraine to persist. This has been exacerbated by a rise in international organized crime, which, paired with corruption in all branches of power, has the potential to make the Ukrainian government vulnerable to foreign political and economic influences, potentially endangering Ukraine’s national security.

Corruption is a nationwide phenomenon in Ukraine. [...] Yet, research demonstrated that regional variations do exist, as corruption is more likely to occur in settings in which civil society is weak and media pluralism is absent. In Ukraine, such weaknesses occur along a geographic divide and an

urban rural divide, with civic groups and independent media most developed in major urban centers. [6]

Despite widespread cynicism about the will of Ukraine's current leaders to tackle corruption, it is clear that there are significant societal forces interested in good and transparent governance. Among these are the independent media, the civic sector, significant portions of Ukraine's dynamically growing private sector, a middle-class chafing under petty corruption, and a growing number of foreign corporations and investors who are attracted by Ukraine's economic growth. Even with public support, anti-corruption efforts will not succeed unless there is strong, committed, and sustained leadership from the top, from the president, the prime minister, and the speaker of parliament. [5]

In addition to the corrosive effect corruption can have on competition, economic efficiency, effective policymaking, and foreign economic investment, corruption has the potential to pose an existential threat to Ukraine's sovereignty and democracy. That existential threat has two dimensions. First, corruption at the highest levels threatens Ukraine's emerging democracy as leaders engaging in corruption perceive the democratic rotation of power as a threat to their impunity and economic position. Round the world, corrupt leaders have resorted to many means to maintain their place at the apex of power, including restrictions on democratic practices and election fraud. Second, corruption has the potential of threatening Ukraine's sovereignty. High-ranking officials who engage in corrupt practices can leave themselves vulnerable to blackmail by foreign intelligence services and thus subject to pressure from foreign powers. [6]

4. ENERGY SECURITY

After the collapse of the Soviet Union, the planning and decision-making part of the Union-wide fuel and energy complex remained in Russia, although some of the major enterprises and facilities were actually in Ukraine. With privatization—which was supposed to be aimed at attracting foreign investors— the most profitable energy companies went into the hands of Ukrainian oligarchs, while the unprofitable and even loss-making ones remained with the state. The basic problems in Ukraine's energy sector are corruption, a disconnect between stated policy priorities and real actions, political games with utility rates during election campaigns, a flawed exchange rate policy, the lack of foreign investment, and energy sector statistics that do not reflect the real situation. Ukraine's energy sector has changed from an economic factor to a political one, which gets in the way of its becoming commercially competitive on international markets. The European Union is very interested in Ukraine as an energy partner but, so far, Ukraine has only signed memoranda and joint statements that have no binding power with the Union. In contrast to Russia, Ukraine has been signing binding agreements and Ukrainian companies have been signing proper contracts with Russian ones, although these reflect Russia's Electricity Strategy, not Ukraine's. Thus, the country is becoming even more dependent on Russia from an energy standpoint. [15]

There is no question that Ukraine's dependence on Russian energy constitutes a strategic Achilles heel. While Ukrainian leaders have long asserted that a good working relationship with Russia is highly important to them, they also do not want terms dictated to them from Moscow. This position is certainly weakened by the fact that Russia is the sole supplier of most of Ukraine's energy. The problem is rendered even more complex by the fact that Russia had long subsidized the price of gas it sold to Ukraine, as it did in several other CIS countries. Ukraine has had a degree of leverage as well, insofar as it hosts several important pipelines through which Russian gas is exported to Europe. Russia, however, is looking to diversify its own pipeline options; the new pipeline to Germany, for example, will lessen its dependence on the Ukrainian network, and by extension, will further erode Ukraine's bargaining leverage. [1]

Reforming Ukraine's energy sector is vital for the future of Ukraine's economy and security. Ukraine's economic recovery largely depends on energy sector reform, which has suffered severe politicization since the 1990s and led to non-transparent business operations and mega-corruption. European concerns about secure gas supplies from Russia, via Ukraine, have become the overarching policy matter on the current EU-Ukraine agenda. To strengthen Ukraine's energy sector, Ukraine should start abandoning domestic subsidies for oil and gas prices and let the price reach global market levels. The energy sector must also improve its business transparency significantly if it is to encourage foreign investment. [17]

After having accepted Ukraine into its Energy Community in 2011, the EU is rightly making further financial and diplomatic support conditional on Ukraine liberalizing its domestic gas market. Those reforms, however, run counter the interests of well-connected local business magnates. Coupled, with EU concerns over the jailing of Ukrainian opposition leader Yuliya Timoshenko, Ukraine's resistance to reforms is cornering it into a difficult negotiating position with Russian Gazprom, which may well gain a stake in Ukraine's gas transportation system in exchange for a gas price discount. [16]

5. FOREIGN POLICY AND SECURITY

Since declaring independence, in 1991, Ukraine has been repeatedly described as a country at the crossroads between East and West. It is deemed to have potential to play a stabilizing role in the European and Eurasian regions, assuming that comprehensive domestic reform will be pursued in the country, that rapprochement with the West will continue, and that maintenance of good relations with its neighbors, first of all, Russia, will be kept. In practice, however, hindered democratization and interrupted reforms have always lent an East-West dichotomy to Kyiv's foreign policy, suspending realization of its declared intent to "join Europe." [...] Kyiv's declarations to join Western democratic organizations have not become a driving force of transformation, and the idea of Europeanization through European and Euro-Atlantic integration had little impact on Ukraine's politics. Lack of elite

consensus over integrationist priorities has caused uncertainty regarding foreign policy. [12]

Ukraine has always attempted to gain the status of a regional leader to play its own role in the region. Yet in the beginning of the 1990s Ukraine offered a so-called Central European Initiative (CEI) to the Central East European (CEE) states. CEI was a hypothetical framework, the aim of which would have been to achieve integration levels approaching those of Western Europe. Predictably, the idea of CEI did not find support among the CEE states. The CEE states also did not respond positively to Kyiv's rhetoric about creating a Baltic-Black Sea bloc, or about joining the Visegrad group[...]. At the same time, Ukraine's independence from Russia changed the geopolitical landscape in Europe, shielding the region from Russia and enabling most of its countries to join NATO and the European Union without fear of Russian countermeasures. [12]

The Orange Revolution ushered in a significant shift in Ukraine's foreign policy. This was quickly reflected in its increasingly friendly relationship with the EU and North America, mounting tensions with Russia and unambiguous pronouncements by government leaders on their commitment to full integration in Euro-Atlantic institutions[...]. Europe's dilemma is that it has a strong interest in fostering serious reform in Ukraine. The EU's own *acquis* has played a critical role in the transition of other former Communist countries. Central European leaders used the concrete prospect of accession to discipline their political systems to undertake an array of difficult reforms. This tactic has worked extremely well in most cases. [1]

Ukrainian diplomats believe that Ukraine is more deeply integrated into the EU security space than Russia. They welcome EU-Russian convergence but they are fearful of it becoming an obstacle in EU-Ukraine relations. Ukrainian authorities say that they will voice concern if the EU-Russia security dialogue deepens too much. [...] The EU should make it clear to Ukraine that its security is not a matter for bargaining with Russia. Given the ongoing cooperation with Ukraine within the CSDP over many years, the EU should do more to welcome and encourage a deepening of such commitment from Kiev. This would be a cost effective way for the EU to boost its own attractiveness in Ukraine whilst also demonstrating that, despite its 'non-bloc' status, Ukraine is actively engaged in European security projects. The Common Security and Defence Policy represents an excellent chance for the EU to spread its influence in the region, while for Ukraine it is an opportunity to solidify its geopolitical orientation without compromising its 'non-bloc status'. [21]

Russia is not practicing "reunification" with Ukraine. Great power does not equal empire. Russia's success or failure in Ukraine will affect the realization of the Kremlin's ambition to construct a new power center, but it will not single-handedly determine its fate. In other words, Ukraine is important but not critical to this project.

Ukraine's current importance to Russia is primarily determined by several key factors. Top among them is

Ukraine's position as a transit corridor for Russian oil and gas en-route to customers in the European Union. Just a notch below that come various economic assets in Ukraine, from metals to telecommunications, that are of interest to Russian business groups. Further, Ukraine is home to the largest Russian-speaking population outside of the Russian Federation, who comprise the east and the south of the country, including Crimea, as well as the capital Kyiv, which are all predominantly Russophone. Finally, the Russian Orthodox Church regards Ukraine as an inviolable part of its "canonical territory."

Russia does not really need Ukraine as a military ally. It is unlikely to integrate Ukraine into the Collective Security Treaty Organization, which it dominates, but it would continue to work to further undermine the prospects of Ukraine ever joining NATO. Kyiv, on the other hand, aspires to preserve its current military neutrality as a means of maintaining a security policy balanced between East and West.

Moscow has profited from the [EU] enlargement fatigue and the overall crisis of the European Union. Brussels' refusal to give Ukraine an EU perspective pushes Kyiv back to its former position of a neutral ground between Europe and Russia. The new Ukraine fatigue in the United States, which has become disillusioned and confused with post-Orange developments in Ukraine, opens the field even wider for the Russian Federation.[12]

Ukraine finds itself at the crossroads of major geopolitical integration processes. The uncertainty of the situation magnifies the current crisis in relations between Ukraine and the EU caused by domestic political processes in Ukraine. It casts doubts on the prospects of Ukraine's European integration in general, and, in particular on the signing and coming into force of the Association Agreement with the EU, which envisages creation of an important integration vehicle — the Deep and Comprehensive Free Trade Area. On the other hand, Russia has stepped up pressure on Ukraine to re-engage in projects aimed at the reintegration of former Soviet space: the Customs Union, the Single Economic Space, and, in the future, the Eurasian Union. Ukraine remains a prisoner of this stark choice, a choice the current government has only made rhetorically. [23]

As Ukraine nears the completion of three years of the presidency of Victor Yanukovych, Kyiv's foreign policy finds itself in difficult straits. Ukraine's relations with the European Union and the West in general are deteriorating. To the east, there is no sign that Moscow will pursue anything other than a hard-nosed bargaining approach, which is unlikely to change as we enter the Putin presidency. At the root of the problem lies a combination of democratic regression in Ukraine and two assumptions that President Yanukovych has apparently made regarding foreign policy: first, that Russia would adopt a more charitable approach toward Ukraine, and second, that the European Union attaches such geopolitical importance to Ukraine that it would overlook Kyiv's turn away from democratic values. Both assumptions have turned out to be miscalculations and are leading Ukraine's foreign policy to lose its balance.[...] As Ukraine's relations with the European Union and the

broader West deteriorate, Yanukovych will find his isolation growing and Kyiv's position vis-à-vis Moscow weaker.[22]

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