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N. Amelchenko

DEMOCRATIZATION IN UKRAINE: THE RELATIONSHIP OF VALUE AND INSTITUTIONAL CHANGES

The article is devoted to the problem of value and institutional relation in democratization of the Ukrainian society. Basing on the micro sociological theories and empirical researches of the values by R. Inglehart and Sh. Schwartz author is arguing that democratic values are the reasons for promoting the development and effectiveness of the democratic institutions and arrives at the conclusion that law has to become the value for the democratic institutions work efficiently in Ukraine.

Keywords: value, democratization, law.

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WHAT WENT WRONG WITH THE ORANGE REVOLUTION?

This article analyses why the promises made by the leaders of the Orange Revolution regarding reforms in Ukraine were not realized. Stressing the influence of the relations in the triangle EU – Ukraine – Russia, the author at the same time underlines that the main factors appeared to be the domestic ones.

Keywords: the Orange Revolution, democratization, EU – Ukraine, Ukraine – Russia.

The Orange Revolution in late 2004 attracted attention of the whole world to Ukraine. It created a lot of expectations and hopes for Ukraine's future moving towards the EU. Ukraine enjoyed political freedom. But the Orange government appeared to be ineffective. What went wrong and why?

Compromises and “pluralism by default”

Since *perestroika*, political development in Ukraine has evolved so that the country's most important decisions were reached by compromise. In fact, Ukraine stands in contrast to many other former

Soviet republics in that it gained its independence peacefully and without interethnic conflict. This was a result of a compromise between the national-democratic opposition and national-communists. Ukraine also became the first country of the CIS where democratic elections in 1994 altered both the composition of the parliament and president. Ukraine's new 1996 Constitution was the result of a compromise between the president and the parliament, as opposed to Yeltsin's "revolutionary" approach, which involved an armed assault on the Russian parliament.

Compromise was also a necessity. Ukraine is to build democracy, market, state institutions, and modern nation simultaneously ("quadruple transition") [7; 11]. None of this could be achieved overnight, and it demanded compromises with the country's post-Communist nomenclature. Under constant Russian threats, the logic for many national-democrats was "not to undermine stability". The drawback to Ukraine's system of power-sharing and political compromise was that it preserved the influence of the Communist past, which, compared to Poland, Hungary, and the Baltic countries, was not radically restricted.

Ukraine is also too regionally and politically diverse to allow one force to monopolize power (also known as "pluralism by default" [13; 14]). Even when President Leonid Kuchma grew increasingly authoritarian, he was never able to implement the results of the 2000 referendum, which would have given him more power. Kuchma submitted six questions to voters, but the Constitutional Court deemed two of them unconstitutional (a situation which was difficult to imagine in Yeltsin's or Putin's Russia). Moreover, the Constitutional Court stipulated that the results of the 2000 referendum should be implemented through proper constitutional procedure, that is, by approval of two-thirds of MPs, which Kuchma failed to achieve.

Another difference in Ukraine's political culture, compared to Russia's, is a stronger tradition of individualism, private ownership of land, and the absence of broad public support for an authoritarian leader.

Independence transformed the status of previously provincial republic's elite. The country's political and business elites wanted to prevent further polarization of the country, which could lead to destabilization and thus threaten their interests. They also did not want concentration of power in the hands of one leader.

As a result, the 2004 Orange Revolution, with its slogan "bandits to prison", also ended in compromise. The repeat run-off (or so called "third round") resulted in Orange leader Viktor Yushchenko's

victory in exchange for the constitutional reform, which shifted power from the president to the parliament [9]. In 2006, as a result of a new coalition in the parliament, Yushchenko had to appoint Viktor Yanukovich, his rival in the 2004 elections, as prime minister. The next year Yanukovich had to agree to early parliamentary elections and accept the results, which again placed him in opposition.

The flip side of all these compromises (especially when they were not open to the public) was that they caused gridlock and postpone radical reforms.

What Went Wrong?

The main accomplishments of the revolution were political freedoms (including freedom of the press) and free and fair elections¹. Elections in Ukraine did matter, and no political force has managed (until recently) to monopolize power.

On the other hand, most aspirations of the Orange Revolution had not been realized, including strengthening the rule of law and judicial reform (contrary to Georgia, the struggle against corruption never started). This led to the frustration of the Orange electorate, especially those who voted for Yushchenko in 2004 and his political bloc, Our Ukraine, in 2006 and 2007.

Orange governments appeared to be ineffective. It created background for "thermidor": the 2010 election of president Viktor Yanukovich (who did not manage to win by falsifying elections in 2004). He quickly managed to cancel the constitutional reform of 2004 and returned to the constitutional model of president Kuchma. Therefore, it can be concluded that the Orange Revolution has not led to creation of effective democratic checks and balances. What went wrong with the Orange Revolution?

Like in other post-Communist societies that have undergone democratization, broad opposition to the *ancien regime* after the Orange Revolution differentiated and split. This referred not only to the differences between the Orange leaders, the styles of president Viktor Yushchenko and prime minister Yulia Tymoshenko, or their approaches to economy and governance. It also referred to the institutional competition between the presidency and the cabinet that was caused by rushed and unbalanced constitutional reform in 2004: as more power moved to the parliament, the value of victory in the 2006 parliamentary elections increased dramatically, and the whole campaign turned into a "fourth" round of the 2004 presidential election. Politics in Ukraine

¹ The country was recognized by the U.S.-based nongovernmental organization "Freedom House" as the only free country in the CIS (Georgia remained "partially free") [3].

became populist, and the Orange forces became hostages to electoral democracy.

The “*timing issue*” contributed to failures of the Orange team. It is evident that some of the changes are to be done at the peak of the popularity. When Yushchenko’s rating was up to 70 %, it was possible to dissolve the parliament and have early elections in spring 2005 to create parliamentary majority for painful and unpopular reforms. In this case, it was not necessary to wait until elections of 2006 and play the populist games.

Even if reforms are not popular, it is important to show that leaders in power are fighting corruption at the highest levels and within their own “inner circle”. This gives them the moral authority to call the people to “tighten the belts”; the anti-corruption struggle, however, remained on paper.

If reforms are successful, it would be possible to raise the issues, which otherwise do not receive enough support in the country. On the contrary, when in 2008 Yushchenko’s ratings went down to 3–5 %, raising the issue of receiving NATO’s Membership Action Plan appeared counterproductive – it played into the hands of opposition, which continued to use anti-Western slogans.

Victorious revolutionaries are to put the emphasis, first of all, on domestic transformations which would have a “demonstrational effect” on other countries. But after the Orange Revolution, both new Ukrainian authorities and the West put too much emphasis on the propaganda that Ukraine would bring democracy to other countries of the CIS, instead of concentrating on domestic transformations.

Another paradox is that after the Orange Revolution Party of Regions benefitted from democratic freedoms, especially free access to media. Yanukovich strengthened his position by exploiting the populist opposition niche, which was particularly convenient at a time of economic crisis of 2008–2009. Prime minister Tymoshenko suffered from attacks from both the oppositional Party of Regions and president Yushchenko, who viewed her as the main competitor in the future 2009–2010 presidential election.

Failure to Institutionalize Democratic Changes

There are steps that every country, which is in the process of democratic transformation, desperately needs: prevention of the monopolization of power, administrative reform, judicial reform, anti-corruption campaign, local self-government, creation of the public TV etc.

As mentioned above, the 2004 constitutional reform in Ukraine created a new design: the prime minister would rely on a parliamentary majority and

the president could not remove him/her, unlike before. This was something that had been demanded by democratic forces for many years. On the other hand, the reform appeared to be hectic and inconsistent. The president and prime minister, whether it was Yanukovich or Tymoshenko, were trying to secure separate, and sometimes parallel, structures of power.

There was a debate as to whether the 2004 reform should be cancelled, since the Constitutional Court (CC) had not approved several constitutional changes in advance. Although, there were formal grounds to cancel the 2004 reform, Yushchenko did not go ahead with it. He also lost time to introduce his own plan for reforming the Constitution.

Judicial reform was not implemented. The judges of the CC were appointed, not on the basis of professional criteria, but on presidential and parliamentary quotas depending on their political affiliation. Instead of suggested balance, it led to extreme politicization and splits within the CC, even causing the work of the Court to come to a halt [4].

Under Yushchenko, elections were free and fair, but the electoral system was left unmodernized. Until 1998, Ukraine had an electoral system with single-mandate districts. Because the country’s political parties were weak, 50 % of MPs were non-party deputies. This led to unstable parliamentary factions. Deputies were subject to pressure from the president and could easily move from one faction to another, so by the end of every term there were about a dozen factions. In 2003, Ukraine switched to a purely proportional system with a 3 % threshold. It resulted in five political forces in the parliament. This outcome structured the Ukrainian parliament more along party lines.

However, voters were made to choose between *closed all-national party lists*. This system also concentrated power in the hands of party leaders who composed the list. Most analysts agree that the best way to support party development is to introduce *open and regional* party slates. This would help to create European-style political parties, based not on a single leader, but rather on a specific set of programs and values.

The chance for all these reforms under the Orange governments was lost. It had dramatic consequences after the Orange forces lost the 2010 presidential elections.

Russian Pressure, Western Reservations

Domestic reforms need favorable international environment. In the meantime, Kyiv does not feel itself secure. In 1994, Ukraine got rid of its arsenal

of nuclear weapons, the third largest in the world. But the 1994 Budapest Memorandum provided only “security assurances”, not “guarantees” to Ukraine², and ongoing territorial claims and provocative statements by Russian politicians did not contribute to Ukraine’s sense of security [1]. Ukraine appeared in the so called “grey zone of (in)security” or “vacuum zone”. Compared to most of its neighbors which first joined NATO, and then it eased joining the EU, Ukraine has not received even NATO’s Membership Action Plan for which it applied in 2008.

The Western policy did not counteract the increasing Russian pressure. If before 2004 Russia was determined to discredit the independent Ukrainian state, since 2004 it was a matter of principle for Putin to discredit Ukrainian democracy both for his Russian and Western audience. Russia has attempted to persuade key European states that Ukraine is a ‘divided country’ with an unpredictable future.

Whatever are the reasons, president Obama’s “reset policy” proclaimed at July 2009 Moscow summit was misread in Moscow as a sign of “Russia-first approach” and a possibility for Russia to re-gain its sphere of influence in the CIS. Next month, president Medvedev made his notorious video statement to Ukrainian people blaming Ukrainian authorities for “anti-Russian” actions [8]. It was direct interference into Ukrainian domestic affairs but the Western countries mostly remained silent.

In the 2010 presidential campaign Yanukovich propaganda played on West’s passivity: “if EU does not want us, let us have a look to Russia”. Yanukovich used also Yushchenko’s mistakes who eloquently spoke about European and Euroatlantic integration, Ukrainian history and culture, equal partnership with Russia but whose policies turned out to be counterproductive. Contrary to the lessons of the 2004 campaign when Yushchenko avoided polarizing issues, in the 2010 presidential campaign he split society³.

² On December 5, 1994, the Budapest memorandum was signed by Russia, the United Kingdom and the USA (France and China joined later). The parties agreed to respect Ukraine’s borders, to abstain from the use or threat of force against Ukraine, to support Ukraine where an attempt is made to place pressure on it by economic coercion and to bring any incident of aggression by a nuclear power before the UN Security Council.

³ Paradoxically, support for Ukrainian membership in NATO was higher under Kuchma than under Yushchenko. Polls by the Kyiv-based Razumkov Center showed that in June 2002 the numbers of those who supported joining NATO and those against were nearly equal – approximately 32 percent each. In July 2009, at the end of Yushchenko’s term, only 20 percent supported NATO membership while 59 percent rejected it [10].

Under Yushchenko, agreement on Ukraine’s access to WTO was finalized and ratified in 2008. But as there were no economic successes within the country, this step was used by opposition to blame Orange forces “for selling Ukraine to the West”.

The most critical issue remained Ukraine’s dependency on Russia for energy, first of all, gas, which resulted in the Russia-Ukraine “gas war” in winter 2009. At first, EU countries portrayed it as a commercial dispute between two countries and were not going to intervene. Some Ukrainian analysts likened this position to a “new Munich”. Only when Europe faced a serious energy threat, the EU sent in groups to monitor the gas metering stations between Russia and Ukraine and started to act as a mediator. But the time was lost, and new gas agreement with Russia appeared to be very unfavorable for Ukraine.

The agreement on association which Ukraine and the EU started to negotiate in 2008 will not resemble the “European association agreements” that the EU signed with many Central and East European states (from Poland to Romania in the first half of 1990s to the Western Balkans by the end of the 1990s), which offered an EU perspective for these states. Romania and Bulgaria at that stage, not to mention the turbulent Western Balkans, were in no better shape than Ukraine after the Orange Revolution. But the EU limited itself to formulations that it “hails Ukraine’s European choice.”

Therefore, the EU did not utilize its most powerful foreign policy instrument to influence developments in Ukraine – the conditionality of the accession process.

Let us compare the EU attitude towards Ukraine and Romania. The start of post-Communist transformation in Romania was to certain extent even more difficult than for Ukraine, as Ceaușescu regime was even more repressive than in the USSR. However, now Romania is a member of both NATO and the EU because of: 1) geopolitical consistency of Romanian elites whoever was in power: post-Communist Iliescu or anti-Communist Constantinescu; 2) even under communism, the West considered Romania as part of Europe, while even for independent Ukraine it is still necessary to explain that “it is not Russia” [5], but historically part of Europe.

One of the tests for the EU’s good will was visa issue. After the Orange Revolution, visas to Ukraine for EU citizens were abolished. At the same time, Hungary, Slovakia and Poland joined the Schengen zone and introduced Schengen entry requirements for Ukrainian citizens in December 2007 that made it more difficult for Ukrainians to gain entry into those countries.

In January 2008, two EU – Ukraine agreements, one on visa facilitation and one on readmission, took effect. It was a kind of “package deal”. Ukrainian critics of the readmission agreement blamed the Orange leadership that it would make Ukraine a “dumping ground for illegal migrants” (although the agreement provided for special financial assistance and a two-year postponement for the return of third-country nationals.). As for the visa facilitation agreement, it was supposed to make it easier for Ukrainian citizens to get short-stay visas and simplify the criteria for multiple-entry visas for students, businessmen, journalists, and close relatives. However, common people continued to feel the West is still discrediting Ukraine⁴.

The paradox is that negotiations over association agreement and visa-free regime were boosted *after* Orange forces lost the 2010 presidential elections and Ukraine under Yanukovich started to backslide from democracy. So, if they finish successfully, it would be the new anti-Orange regime which capitalizes on these successes in its propaganda campaign within Ukraine.

⁴ According to monitoring by the Center for Peace, Conversion and Foreign Policy of Ukraine in 2009, 55 % of respondents had the potential right to obtain long-term visas, but only 20 % received visas for more than 5 months. Only 0,5 % of respondents received visas with a term of more than one year (for 2–3 years), and most of them were issued by Poland. About 15 % of the respondents waited for a consular decision for more than 10 days (as defined by the agreement) [12].

Conclusion

Ukrainian opposition in 2004 was united, it used non-violent, peaceful methods, demonstrated ethnic and inter-confessional tolerance. Also, it used splits among ruling elite, within security forces and army’s non-interference. International support to civil society, independent media outlets (first of all, Internet), small and medium business, independent exit polls contributed to its victory.

However, results of the revolutions which brought freedoms should be institutionalized. Instead of talking much about the values of democracy as an example for neighboring countries, new authorities are to demonstrate to electorate at least small successes in everyday life. Not even economic successes, but social justice is a key word to make an effective appeal to the public. But in Ukraine judicial reform and anti-corruption campaign were not implemented.

Also, compared to its Western neighbors, Ukraine have not received clear signal from the EU about its European perspective. It reflected natural frustration with chaos created by incompetence of Orange leaders and highlighted again the importance of general principle: to support not persons but their policies, programmatic values, and institutional changes. Along with direct, high-level interaction, international support to local civil society organizations could play a critical role “”in preserving the fragile democracies.

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Гарань О. В.

У ЧОМУ ПРИЧИНИ НЕВДАЧ ПОМАРАНЧЕВОЇ РЕВОЛЮЦІЇ?

У статті аналізуються причини невиконання обіцянок лідерів Помаранчевої революції щодо реформ в Україні. Підкреслюючи вплив стосунків у трикутнику ЄС – Україна – Росія, автор у той же час наголошує на первинності впливу внутрішніх чинників.

Ключові слова: Помаранчева революція, демократизація, ЄС – Україна, Україна – Росія.

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I. Gomza

CONTENTIOUS POLITICS AND REPERTOIRE OF CONTENTION IN UKRAINE: THE CASE OF EUROMAIDAN

The article introduces the paradigm of contentious politics to study the Euromaidan events in Ukraine, describing the mechanisms of contention politics in the events of November 2013 – February 2014. Special attention is paid to the repertoire of contention, which remained rigid during 1991–2013, but has evolved after January 19, 2014 due to structural reasons.

Keywords: contention, collective action, protest, Euromaidan.

The political turmoil quivering Ukraine in November 2013 – February 2014 is defined by observers and participants in different ways: as a “protest” [2; 23], a “revolution” [5; 22], a “riot” [4; 6], an “insurgency” [1; 3; 10] etc. All those qualifications tend to be misleading, because application of a particular notion depends on political partisanship of its author. Moreover, conceptions like “revolution” or “insurgency” imply that political process they describe is highly abnormal. Both propensity to define the events in Ukraine subjectively and their perceived anomalous features contribute to dramatic interpretations. Society considers the situation in Ukraine as exceptional, catastrophic, and cataclysmic: there are numerous predictions of upcoming civil war,

intervention, or even suggesting Ukraine to be a “failed state” [2].

In this article, I argue that a coherent comprehension of the events in Ukraine in November 2013 – February 2014, also known as the “Euromaidan”, requires introducing of a value-free notion. Hereafter I argue that introducing the notion of “contentious politics” will provide a more accurate explanation of the events.

The article begins by exploring the theoretical foundations of the contentious politics’ paradigm. Secondly, preference of this paradigm in analysis the Euromaidan events is demonstrated. Thirdly, I study the repertoire of contention in Ukraine in historical perspective in order to explain its evolution in January 2014.