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PARLIAMENTARIZATION WITHOUT FOUNDATIONS: WHY CONSTITUTIONAL REFORM FAILED IN UKRAINE?

This article argues that parliamentarization in contemporary Ukraine is barely more than an elite strategy, lacking essential mechanisms and preconditions on the institutional level and habitual capabilities on the individual one. This contribution scrutinizes origins and consequences of this incongruity by analyzing parliamentarians' social background, patterns of political career and the structure of 'personal integrity'. Currently, these factors do not 'add up' with the internal logic of a parliamentary-presidential Republic.

Introduction

Ukraine used to be examined by scholars of political transition theory as a hybrid regime. Hitherto, much attention has been paid to a deep rooted democracy gap in Eastern European political culture to explain peculiarities of the transition path. The Orange Revolution, as well as the parliamentary revolutions in Georgia (Rose Revolution) and in Kyrgyzstan (Tulip Revolution), particularly disproved the suggestion of a *pathologic democracy gap* in this region which cannot be caught-up by these nations.

Political Elites and Prospects of Transition

Many classification models of Ukraine's political and institutional system directly correspond to the characterization of the country's elite configuration. The predominance of elite theory in explaining political transition has recently been illustrated by several concepts, for example *centralised caciquismo* [12], *superpresidentialism* [8], *nomenclatura-oligarchy* [18], and *blackmail-state* [4]. Moreover, the concepts of *electoral clientelism* [2] and *competitive authoritarianism* [3] demonstrate that pluralistic elections do not necessarily guarantee political democratization.

Since gaining independence in 1991, Ukraine's political elite underwent different stages of metamorphosis. Elite continuity, i.e. the conservation of ritualized behaviour, mainly stemming from Soviet rule and authorities, is still a basic feature of elite

formation in Ukraine. Therefore, the radical shift from semi-presidentialism to a parliamentary Republic entails enormous consequences for the configuration of Ukraine's political elite. The disproportion between on the one hand a sudden institutional change and creeping elite change on the other cause vehement dysfunctions for the political system. To which extent the Orange Revolution could be traced to be evidence of an essential paradigm shift among the political elite?

Analyzing Political Elites: The Case of Ukrainian People's Deputies

The argumentation of the article draws on the concept of collective biography. Analyzing data on Ukrainian parliamentarians of the convocation 2002-2006, the author depicts a social profile of the deputies, their basic orientations and patterns of professionalization. It consists of the following three elements:

1. Social Background Analysis reveals patterns of social stratification among Ukrainian parliamentarians, drawing upon criteria such as age, gender, profession, occupation, thus tracing similarities and distinctions in comparison to established parliamentary democracies.

2. Political Socialization focuses on the party system, stages of political career, professionalization of the parliamentary mandate, mechanisms of political recruitment, and linkages between politics and society. The Ukrainian *politreform*, i.e. the transition from *superpresidentialism* into a parlia-

mentary democracy, has fundamental implications for political socialization of people's deputies of the Verkhovna Rada.

3. Personality and Loyalty Structure plays a crucial role, as sustainable institutional change requires a shift of attitudes, orientations and personal preferences of parliamentarians, examined in this section.

Social Background Analysis

In general, the decreasing relevance of social background categories as a basic precondition for access to political positions is a key element of modern democracies. This aspect particularly relates to parliamentary systems which often are supposed to represent all sections of population. Nevertheless, parliamentary democracies face significant inequalities and segmentation tendencies among the political elite. Despite of democratic elections and political pluralism, selective mechanisms lead to limited access opportunities and social exclusion of the elected people's deputies.

Age structure used to be a very characteristic issue, concerning the composition of the highest legislative organ. In the Soviet era standardization of political advancement generated a homogeneous age structure on all levels of the political system. The average age of the highest legislative organ of the USSR (Verkhovnyj Soviet on the union-level) during the Brezhnev administration almost permanently was about 42 years. In comparison with European legislatures this is an extreme low outcome and, first of all, testifies a lack of attractiveness of the parliamentary mandate. Indeed, the Verkhovna Rada of the Ukrainian Socialist Soviet Republic (republic-level) fulfilled the function of a 'pool for retired functionaries'. Therefore the average age was significantly higher than at the Union level [10: 10-14].

Table 1: Age Structure of the Verkhovna Rada 1998-2002 and 2002-2006 (Central Election Commission: <http://www.cvk.gov.ua>)

Age	1998	2002
Male 21-30	19	14
Female	1	
Male 31-40	96	97
Female	11	6
Male 41-50	183	146
Female	18	12
Male 51-60	87	114
Female	6	5
Male 61-70	19	45
Female		
Male 71-80	4	10
Female	1	
TOTAL	445	449

After a significant regeneration among the legislators (of the **II.** and **III.** convocations), the average age rose again in 2002, due to the increasing rate of incumbents (193 deputies re-elected). 1994 merely 56 deputies of the Verkhovna Rada succeeded in re-election, 1998 a third were confirmed in office.

In this regard, gender proved to be a more serious source of political inequality. According to a recommendation of the *UN Committee on the Elimination of Discrimination against Women*, their share in the political sphere on the national level should be at least amount to 30 per cent. A monitoring of the *Interparliamentary Union* in 179 countries showed that women in parliaments around the world account for 14.3 per cent of all mandates. **It** is noteworthy, that in the transition context the fulfilment of this criterion allows to make conclusions for the level of democratization with certain reservations. Socio-economic factors, persistence of traditional gender roles, restriction of professional self-determination, economic dependency, and the nature of political conflict are most likely to hamper women's political participation. Among Ukrainian parliamentarians of the IV Convocation (2002-2006), women hardly made up five per cent (23 women, 12 of them incumbents). After the mixed electoral system was implemented in 1997, women's share of power in parliament nearly doubled in 1998 (37) compared to the prior convocations (1994: 19; 1990: 13).

Another aspect of segmentation refers to ethnic diversity. According to the last national census in 2001, Ukrainians account for 77.8 per cent of the population. Ethnic diversity, especially the interrelations of Ukrainians and Russians, is still exploited for electoral mobilization. In 1990 and 1994 approximately 75 per cent of the parliamentarians identified themselves Ukrainians, some 20 per cent were Russians. Furthermore, the majority electoral system allowed the representation of another eleven ethnic groups in the Verkhovna Rada. A special kind of multi-level-self-identification and the variability of ethnic identity complicate the unambiguous determination of ethnic affiliation. With regard to language, this issue has been considered by many scholars of Ukrainian studies as a crucial problem by stating that the possible implementation of Russian language as second official state language may jeopardize the existence of the Ukrainian state in general. According to observations of parliamentary debates, some estimated 80 per cent of speeches in plenary sessions are held in Ukrainian. In sum, it could be generalized that the higher the political position, the less important

becomes Russian language. Unless Western Ukrainian deputies predominantly belong to the Greek-Catholic Church and Eastern deputies to the Orthodox Church respectively, religious affiliation bears a strong declarative connotation and therefore does not imply an element of political cleavage structure in parliament.

A strong impact on the outcome of parliamentary work derives from the professional and occupational structure. Similar to legislative bodies of many post-Soviet states, the Verkhovna Rada could be described as 'assembly of engineers'. Nevertheless, the dropping of engineers and the increase of lawyers, economists and social scientists respectively corresponds with convergent tendencies among Western European parliamentarians.

Table 2: Profession of Parliamentarians 1998 and 2002 in comparative analysis (Central Election Commission: <http://www.cvk.gov.ua>)

Profession	1998	2002
Engineers	127	106
Economists, Accountants	51	67
Lawyers	48	64
Educational Sector	78	42
Agricultural Sector	36	26
Sociologists, Historians, Psychologists, Political Scientists	6	26
Military	10	15
Machinists, Steel and Energy Industry	1	15
Chemists, Mathematicians, Physicists	18	15
Architects, Construction Engineers		13
Mass Media	15	12
Health Personal	7	10
Art and Culture	9	9
Mining Sector	8	8
Managers	2	7
Transport	7	4
Trade and Commerce		3
Forest Manager	2	2
Geologists, Hydrologists, Meteorologists	3	1
Communication Engineering Technicians	1	1
Biologists, Ecologists	3	1
Technicians	7	1
Priests	-	1
Electrical Engineering Technicians		1
Craftsmen	3	
No Profession	3	
TOTAL	445	450

Undoubtedly, Ukraine can refer back to an immense human capital. According to the *World Development Report*, Ukraine had the highest proportion of researchers, graduates and scientists worldwide between 1981-1992. 443 out of 450 deputies of the IV convocation graduated from universities. However, the beneficial consequences of the system of education for the political transition have to be assessed with some reservation, as human

capital did not prove to accelerate political transition in Ukraine.

The 'academization' of the parliamentary mandate had its peak level in 2002 (151 people's deputies with at least on scientific degree). Nowhere else in the world one can find a national legislative organ with more academic and scientific degrees. In sum, we find the following branches (in brackets 1998) among *Candidates and Doctors of Sciences* in parliament: economists: 53 (32 in 1998), engineers: 24 (15), lawyers: 20 (14), historians: 16 (15), natural scientists: 8 (9), philosophers: 9 (6), medics: 5 (4), pedagogues: 4 (3), political scientists: 4 (4) und sociologists: 3 (1). Many parliamentarians acquired scientific degrees *ex post*, thus devaluing these attributes into a 'necessary decoration'. Former premier-minister Yanukovich surprisingly proved to be a *Doctor of Economics* and *Professor*. The case of former Minister of Justice Roman Zvarych who has pretended to have graduated from Columbia University harms the image and high moral pretensions of the new 'clean position holders' and exemplifies the behavioral dimension of elite continuity after the Orange Revolution.

Transitional societies often bare a phenomenon of sharp contrast between occupation and profession. Professional education does not allow reliable conclusions for the occupational structure of a given collective.

Table 3: Occupation of Parliamentarians before Mandate (Central Election Commission: <http://www.cvk.gov.ua>)

Occupation	1998	2002
Deputies	144	182
Entrepreneurs, Businessmen	96	58
Managers in Private Companies	24	57
Staff Members of Organizations/Associations	24	28
Education	25	14
State Administration	10	13
Consultants of Deputies	-	10
Ministries and Authorities	3	8
Staff of State Companies	4	7
Mass Media	12	6
Administrative Authorities of Oblast or Local Autonomy	1	5
Staff Member Administration of the President	5	5
Revenue Authorities	2	5
Deputy Chairman of Ministries/Authorities	8	5
Staff Members of Research Institutes	9	4
Deputies/Staff Members of District and Local Parliaments	14	4
Prosecution Authorities	1	4
Chairmen of District and Local parliaments	3	3
Chairmen of Parties and their Regional Offices	7	3

Occupation	1998	2002
State Security	2	3
Staff of Workers Unions	3	3
Fanner	11	3
Military	2	2
Mayors	3	2
Professional Sportsmen		2
Artists	1	2
Staff Members Verkhovna Rada	9	2
Pensioners	4	2
Health Care	2	1
Agronomists		3
Workers	6	
Students, Postgraduates	2	
Priests		1
Gouverneurs	2	1
Consultants Faction of the Verkhovna Rada	-	1
Unemployed	4	1
TOTAL	443	450

Even in established Western democracies the persistent common notion about enriching professional politicians is preserved. Many scholars have stressed that the political system *de facto* moved towards a plutocracy, i.e. the rule of the rich and personal assets as a basic precondition of political success since independence resulting from the fusion of economic and political elite segments. Political decision-making processes directly affect personal (business) interests of parliamentarians who feel impelled to evolve political activity to ensure economic prosperity. According to data submitted by the *Committee for Fighting Organized Crime and Corruption*, 364 deputies of the convocation 1998-2002 drew their income from commercial structures [77]. Notwithstanding several legal acts, aiming at the enhancement of transparency, the property structure, nevertheless, remains dubious. As an example could be provided the presidential elections 2004: among the candidates of the first ballot five out of 26 declared to have an income that fell below the monthly average income of 462 Hryvnia (70 Euro). However, all contenders had to deposit 500.000 Hryvnja (ca. 80.000 Euro) which had to be returned by the *Central Election Commission* in case the candidates gain at least seven per cent of the vote [7]. According to a survey conducted by the magazine *Investgazeta*, six deputies of the IV convocation were 'spotted' among the top-100 manager in Ukraine 2005.¹

Political Socialization

Whereas the social background analysis focused on the period before gaining parliamentary mandate, this chapter examines aspects of professionalization of the parliamentary mandate. 'Professional' does not imply any qualitative estimation, but is meant to be contrary to 'part time' or 'complementary'. Thereby, with regard to their financial income from political activity parliamentarians become professional. Which career paths lead to parliament and what are the criteria of eligibility for potential deputies? Do we have to view the parliamentary mandate as a profession and which convergences could be elaborated by a comparing analysis?

The following preconditions have to be fulfilled to characterize professional occupation:

1. Standing orders and exact professional field of activity;
2. *Esprit de corps* and ethical norms;
3. Special education and exclusive criteria of eligibility [5: 32-35].

Even established representative democracies face an ambiguous correlation between democratization (inclusion) and professionalization (exclusion). Dietrich Herzog points out three career paths among parliamentarians of the German Bundestag that could be applied to the Ukrainian case as well:

1. Some 60 per cent of German parliamentarians pass a standard-career, becoming committed to professional politics gradually and simultaneously to their original profession.
2. In presidential systems many deputies enter the parliament 'by chance'. While the cross-over-career in parliamentary democracies generally does not exceed ten per cent, in Ukraine this career path is the most common one.

3. The main feature of exclusive political career is that profession and political career can not be separated any more. In comparative analysis this career path will prove paradigmatic in modern parliamentary democracies [20].

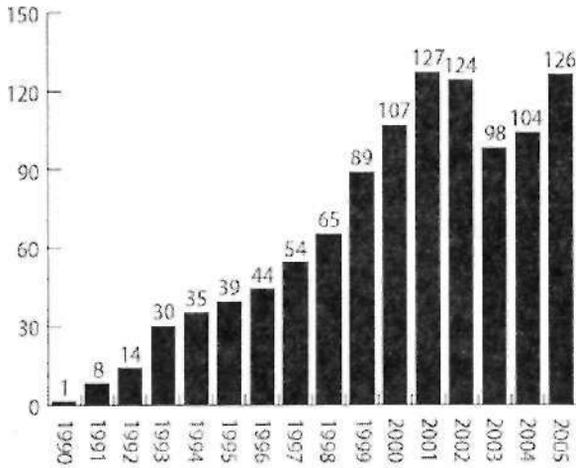
By adapting this framework to the Ukrainian context, certain incompatibilities occur for establishing a parliamentary democracy in Ukraine. First of all, party affiliation has only little impact on the pre-selection and nomination process of candidates.

28 parties were represented in parliament 2002-2006, although they increasingly merge together in election blocs. The new election law applied since

¹ Valentyn Landyk - Regions of Ukraine (*NORD*, mechanical engineering, Doncc'k), Olcksandr Slobodjan - Our Ukraine (*Obalon*, brewery, Kyiv), Volodymyr Boyko - Regions of Ukraine (*Metallurgie Enterprise Iliche*, Mariupol'), Pavlo Matvyenko - no faction (*Prominvestbank*, Kyiv), Ihor Franchuk - no faction (*Cornomornaftegaz*, Simferopol), Mykola Jankovskiy - Regions of Ukraine (*Stirol*, Chemical Industry, Horlivka/Doncc'k).

2006 (proportional elections with 3-percent threshold), lays down the exclusive role of parties in the nomination process, though the stabilizing effect on the parliamentary structure is rather doubtful. In the run-up to parliamentary elections the number of registered parties almost reached its maximum amount of 1997: 126 parties. Single issue parties, personal project parties, and so-called 'taxi-parties' are dominating the political landscape.

Figure 1: Registered Parties in Ukraine



By generalizing the results of the analysis, we may conclude that the type of 'free political entrepreneur' is most likely to fit to the realities of Ukrainian politics. 'Free political entrepreneurs' emerge from a system based on informal caucuses and networks with weak institutional consolidation, a 'fuzzy' party system, and a restrictive electoral system [1]. It seems evident that the dominance of the political style of 'free political entrepreneurs' hampers the institutionalisation of a parliamentary political system in Ukraine.

In parliamentary democracies deputies recommend themselves for government positions. In this regard, the formation of the new governments after the Orange Revolution marks a new turning point in Ukrainian politics: Only two ministers of the Tymoshenko cabinet did not have any experi-

ence in parliamentary decision making processes.

Modern democracies are representative democracies. Who and what is represented? What are the basic attitudes of people's deputies towards representation roles, professional ethics, and which preference structure has an impact on the fulfillment of their professional duties? To what kind of reference framework parliamentarians feel constrained to? In which manner the exchange of interests between legislators and represented citizens is carried out [11, 14]? Theory of political representation, in general, distinguishes two concepts: 'standing for' and 'acting for representation' [16: 113]. The first approach is based on the assumption that the collective of representatives is equivalent to the profile of the whole electorate. The Standing Orders of the Verkhovna Rada specifies the imperative mandate in article 4.2.1, which correlates with the static 'standing for representation'-approach. Contrary to this, the German *Grundgesetz* (Art. 38), and most parliamentary democracies, posit that legislators should not be bound by instructions, thus following the concept of 'acting for representation'. The successive establishment of parliamentary democracy in Ukraine faces serious incompatibilities deriving from a representation model that does not correspond to this political system.

Unless allocation and access to political elite is carried out by elections, elites lean towards preserving a privilege structure, thus bypassing functional processes of differentiation and working out pertinence towards rational criteria. Armin Nassehi generalizes this tendency and labels all types of elites as *differentiation parasites* [13]. Following Maria Piren, affiliation to the political elite, despite of democratic elections, predominantly depends on dysfunctional principles and contrary to rational criteria of objective eligibility. 30 per cent of politicians occupy positions owing to their relationship to 'political teams' with a regional 'power base'.

Figure 2: Types of Parliamentary Elites (Best/Cotta, 2000)

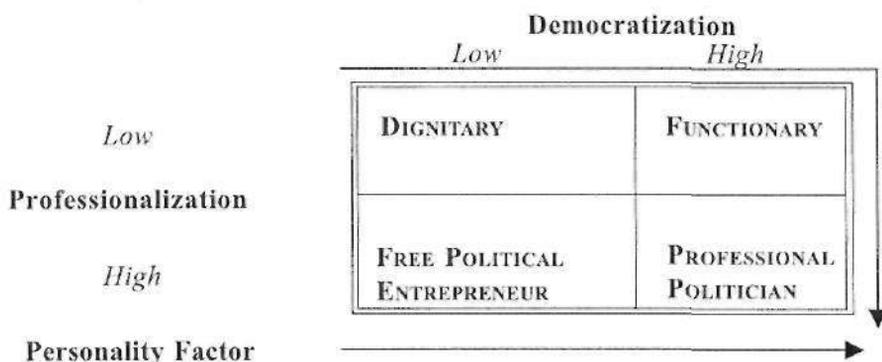


Table 4: Taxonomy of Representation Roles of Parliamentarians [19]

REPRESENTATION			
	Delegate (imperative mandate)	Trustee (free mandate)	
FOCUS	Nation	French National Assembly	
	Party	German Bundestag	
	Constituency	U.S. House of Representatives	British House of Representatives
	Interest Groups	Deputies of the Verkhovna Rada	

Family ties have an effect up to approximately 25 per cent of the political elite.² To 15 per cent regional provenance and the network of personal associates both play a significant role. Some ten per cent hold a position thanks to outstanding abilities and skills; five per cent entered politics 'at random' [15]. Clientelism and patrimonialism undermine democratic decision making processes and promote expedient interests.

Concluding Remarks

Despite of noticeable political change, the proceedings of the *politreform* give evidence to view parliamentarization as an elite strategy. In particular, the 'reform' is entailed by a penetration crisis and mental elite continuity. Already the first months after the Orange Revolution made clear that there is no consensus on criteria for a lustration law to 'oust' those persons from the political landscape who discredited themselves during the Kuchma era and before. This issue concerns Ukrainian parlia-

mentarians insofar, as former allies of the Kuchma-regime relatively unhindered and pragmatically change political fronts to their wish. The elections in March 2006 did not result in a considerable exchange of people's deputies. By applying a pure proportional electoral system for the first time, voter preferences' affected the composition of Ukraine's highest legislative organ even to a lesser extent. Thus, parliamentarization does not promote democratization of Ukraine's political system, but aggravates the isolation of the 'political class' from the people.

Ukrainian citizens trust parliamentarians least of all representatives of the political elite [6]. Ukrainians tend to blame, first of all, deputies for political deadlock and attribute to them exclusively pragmatic elements of elitism. As a consequence 'virtual parliamentarization' or pure diversification of the elitist regime may pose a serious threat to the achievements of the Orange Revolution and cause functional shortcomings of the political system [21].

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² This tendency became obvious in case of the by-clections 2002-2004. After Hennadyj Vasylycv was appointed prosecutor-general, his brother replaced him in the 46. constituency (Donceck oblast) in February 2004. When Serhij Kivalov was appointed chairman of the Central Election Commission, the candidacy of his daughter Tctjana in the 136. constituency (Odcsa) was prevented after heavy protests several days before the by-election. The deceased deputy Chctvcrikov was replaced by his nephew Lcljuk in Poltava oblast in June 2004.

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ПАРЛАМЕНТАРИЗАЦІЯ БЕЗ ПІДСТАВ: ЧОМУ КОНСТИТУЦІЙНА РЕФОРМА ЗАЗНАЛА НЕВДАЧІ?

У статті стверджується, що парламентаризація політичної системи є, насамперед, стратегією політичної еліти. Для її впровадження бракує необхідних інституційних механізмів та індивідуальних здібностей політичних акторів. Розглянуто причини та наслідки даних розбіжностей із урахуванням соціального середовища, певних зразків політичної кар'єри та політичних пріоритетів народних депутатів Верховної Ради. На даний момент ці чинники не узгоджуються з логікою парламентсько-президентської республіки.