

Ukrainian Politics, Energy and Corruption under Kuchma and Yushchenko

Dr.Taras Kuzio

How the Gas Issue Plays in Ukrainian Politics and How Ukrainian Politicians Play the Gas Issue

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Energy and corruption in the energy sector has been at the centre of most political crises in Ukraine. The high energy rents that are available from corruption mean the stakes are high. Energy corruption also negatively influences Ukraine's foreign and security policy by dividing the country's elites. When energy rents become a priority the country's national interests are forsaken.

During President Leonid Kuchma's decade in office Ukraine's oligarchs made their greatest capital accumulation through the re-sale of Russian energy, particularly during the 1990s when it was imported at below 'market' prices. Former Prime Minister Pavlo Lazarenko and his then associate, United Energy Systems CEO Yulia Tymoshenko, were involved in the energy sector in the 1990s. Entering parliament in 1998 in the Hromada party they became Ukraine's only dissident oligarchs. Tymoshenko is still the only member of Ukraine's elites who has been imprisoned in Ukraine when she was Deputy Prime Minister in charge of energy in the Viktor Yushchenko government (2000-2001).

The imprisonment of Tymoshenko transformed her from a dissident oligarch into a radical opposition leader who led opposition protests in 2000-2003 through the Ukraine without Kuchma, Front for National Salvation and Arise Ukraine! protests culminating in the 2004 Orange Revolution. Russia's support for Tymoshenko's arrest, by providing an alleged link to a corrupt Russian Defence Ministry official, provided the ground for

Russia's massive intervention in Ukraine's 2004 presidential elections. One aspect of Russia's intervention was the five year contract to supply gas at \$50 per 1,000 cubic metres of gas for the Viktor Yanukovich government. As Yanukovich lost the 2004 elections the contract was torn up by Russia in 2006.

In the 1990s Ukraine's Soviet era senior *nomenklatura* transformed their political influence into economic power. This became apparent during the 1998 elections when the former 'sovereign communist' *nomenklatura* re-entered Ukrainian politics in centrist parties. Ukrainian oligarchs, and corruption from the energy sector through the then newly established Naftohaz Ukrainy, provided crucial resources for Kuchma to win the 1999 elections. The oligarchs played the same role as their Russian counterparts had in ensuring Borys Yeltsin's re-election in 1996. Naftohaz Ukrainy CEO Ihor Bakay and business ally Oleksandr Volkov (head of the Democratic Union) were political satellites of the Social Democratic United Party (SDPUo) led by Viktor Medvedchuk. The SDPUo was at the centre of the most important crises in Kuchma's second term, the Kuchmagate crisis of 2000-2001 and the political crises between the 2002 parliamentary and 2004 presidential elections when the SDPUo led and dominated the presidential administration.

The use of energy rents continued through the development of gas middlemen. First, Eural Trans Gas in 2002-2003 and then Rosukrenergo from 2004. Rosukrenergo became a source of conflict within the orange camp in January 2006, when the Tymoshenko bloc (BYuT) voted for a parliamentary no confidence motion in the Yuriy Yekhanurov government (Yekhanurov then headed the pro-presidential Our Ukraine bloc), and in January-February 2008 when Yushchenko supported and Tymoshenko opposed the continued use of Rosukrenergo.

These developments paved the way for the attempted monopolisation of power by centrist oligarchs during Kuchma's second term (1999-2004). This drive towards monopolisation of power culminated in the attempt at imposing Prime Minister and Party of Regions leader Viktor Yanukovich as Kuchma's successor in 2004. The Party of Regions are the only pro-Kuchma party to have remained influential in Ukrainian politics in the post-Orange Revolution era, going on to win first place in the 2006 and 2007 elections. The political culture of the Party of Regions could be seen in its second attempt at monopolising power in the 2006-2007 Anti-Crisis government which was stopped in its tracks by the 2 April 2007 decree dissolving parliament.

The issue of what to do with oligarchs and their place in Ukrainian society and politics has continued to bedevil Ukraine since the Orange Revolution. Democratic revolutions, such as Ukraine, were fuelled by anti-oligarch and anti-corruption sentiment that had built up over the previous years under corrupt leaders, whether Slobodan Milosevic, Eduard Shevardnadze or Kuchma. How to deal with the oligarchs have been at the centre of the divisions between Yushchenko and Tymoshenko. Imprisoning or exiling oligarchs, which was autocratic Russia's policy under President Vladimir Putin, could not be applied in democratic Ukraine.

Ukrainian oligarchs were also not a united group. Three oligarchic groups – Pryvat, Industrial Union of Donbas and the exiled Russian oligarch Boris Berezovskiy – had provided funds for the Orange Revolution. Others had sat on the fence (parliamentary speaker Volodymyr Lytvyn). Following the Orange Revolution some oligarchs had opted to leave politics most notably the Dnipropetrovsk clan's Serhiy Tyhipko, Viktor Pinchuk), others (Donetsk clan's Systems Capital Management Renat Akhmetov) had entered

politics while others (Pryvat group) continued to remain outside politics. The Dnipropetrovsk clans Trudova Ukrayina (Labour Ukraine) party merged with the Party of Regions in April 2008, the NDP (Peoples Democratic Party) is to merge with the pro-presidential Yedyny Tsentr (United Centre) party while the SDPUo has become completely marginalised as a political force.

The separation of business and politics, which was one of the demands of the Orange Revolution, has not taken place under Yushchenko. There are a greater number of businessmen in the Ukrainian parliament today than there were under Kuchma.

Lack of progress in the separation of business and politics is coupled with weak progress in establishing the rule of law and battling high level corruption. The Ukrainian elites continue to remain above the law. Presidential control over the Prosecutor-General's office under both the 1996 and 2006 constitutions has not brought any improvement in the rule of law, not surprising considering the choice of candidates, Svyatoslav Piskun and Oleksandr Medvedko. The award of state medals to former Prosecutor-General Mykhailo Potebenko, former Central Election Commission chairman Sergei Kivalov or Party of Regions campaign manager Boris Kolesnikov sent the wrong signal on the rule of law that the elites – as in the Kuchma – era continue to remain beyond prosecution. Former Naftohaz Ukrainy CEO under Kuchma, Yuriy Boyko, was to be arrested for abuse of office in summer 2005 but this was halted by the direct intervention of the President's office.

Transparency is central to changing the manner in which business and politics is undertaken. The Byzantine nature in which power is exercised and business is undertaken has not fundamentally changed since the Orange Revolution. During three presidential

meetings with oligarchs they have been embraced by Yushchenko and Yekhanurov as Ukraine's 'national bourgeoisie' and the elite of the nation upon which Ukraine's economy and independence is dependent.

The lack of breakthrough in the separation of business and politics, rule of law and corruption has led to four important ramifications.

First, public trust in state institutions, particularly the judiciary and parliament, continues to remain very low. Over two thirds of Ukrainians do not believe the authorities professed anti-corruption policies are effective; in effect, Ukrainians are saying that the orange President is continuing Kuchma's virtual campaign against corruption.

Second, dramatically low support for the President in his first term in office, making it unlikely he could win a second term, and static or declining support for Our Ukraine.

Third, *kompromat* continues to play a role in Ukrainian politics. The Party of Regions threatened to unveil energy corruption in the Yushchenko family if he did not propose Yanukovich as Prime Minister on 4 August 2006. The unexpected return of Yanukovich to government sparked a political and constitutional crisis that led to parliament's dissolution and pre-term elections.

Fourth, energy corruption has continued to play central stage in the Yushchenko-Tymoshenko conflict. Tymoshenko and BYuT have been the only Ukrainian political force that has consistently opposed the use of gas intermediaries. President Yushchenko has insisted on maintaining Rosukrenergo in place and has publicly attacked Tymoshenko on these issues. The Yushchenko-Tymoshenko conflict moved from cold to hot war in spring

2008 with BYuT supporting constitutional reforms that would transform Ukraine into a parliamentary republic and the President into a German Chancellor with limited powers.

A 2007 report by the US Atlantic Council on 'Corruption, Democracy and Investment in Ukraine' concluded that:

Ukraine has three levers that give it a potentially strong position in energy negotiations with Russia: WTO membership, gas pipelines that transport 80 percent of Russian gas to Europe (a figure that will only drop to 60 after the completion of the Baltic-German pipeline) and gas storage facilities. Ukraine has not used these three levers because Russia has successfully divided Ukraine's elites through energy corruption. Elite corruption has triumphed over Ukrainian national interests.