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PARLIAMENTARY ELECTIONS IN THE "BLACKMAIL STATE"

By Taras Kuzio

The trend towards an authoritarian, corporatist state in Ukraine has been particularly evident since 1997 with Ukraine (and Russia) regressing democratically.[1] Ukraine's regime has been described by Ukrainian and Western scholars as a "delegative democracy,"[2] with an inactive population's only participation in the political system taking place in elections. The executive organizes and controls society so that the population remains passive in between these elections and defers to them on important matters of governance, making the system remarkably Soviet in the manner in which it operates.

During the second half of the 1990s the presidential administration, an institution not defined in Ukrainian legislation or the constitution, grew into the strongest institution in the country. Progress in political and business affairs is only possible with the blessing of the executive.

"Kompromat" is collected by the executive, the security forces and competing elite groups to ensure compliance and loyalty or, when loyalty is no longer given or asked for, used against as "corruption" charges against foes. This has been referred to as the "blackmail state".[3] Parties that go into outright opposition to the executive see their business partners destroyed--a process which happened to former Prime Minister Pavlo Lazarenko's and Yulia Tymoshenko's Hromada and Oleksandr

Moroz's Socialists.

The executive's method of dealing with civil society is to stunt its growth by ensuring no party or institution (such as parliament) becomes strong and therefore a threat to the dominance of the all-powerful presidential administration. New artificial parties are created and existing ones taken over, while others are co-opted or crushed. This tactic was used successfully to obtain a more pliant Communist Party (CPU) when a pro-executive Ukrainian Communist Party was unveiled in Spring 2000.

UKRAINE ON THE EVE OF ELECTIONS

Leonid Kuchma's victory in the October-November 1999 presidential elections launched his second and final term. A strategic aim of the second term was to complete the process of increasing executive control over society to create a presidential system modeled on Russia. This aim had escaped Kuchma when parliament ratified a parliamentary-presidential constitution in June 1996 making Ukraine one of only two former Soviet republics where parliament still possesses some power (the other being Moldova).

During the first year of his second term his strategic objective was in sight. In winter-spring 2000 the non-left (oligarch centrists and national democrats) united for the first time to achieve a parliamentary majority. The national democrats were induced to join because the former National Bank Governor, Viktor Yushchenko, had been made prime minister in December 1999. Kuchma seemed to be at last following through with his promises to speed up reforms. The non-left (pro-executive) majority undertook a "velvet revolution," removing the left-wing parliamentary leadership in control since early 1994.

Now in control of parliament, the executive initiated a referendum on April 16, 2000 to reduce the power of parliament and thereby increase the influence of the executive over Ukraine's nascent democracy. If implemented, the referendum would grant Kuchma that which he had failed to achieve in the constitutional process of 1994-1996. It asked four questions--on lifting the immunity of deputies, creating a bicameral parliament, reducing the number of deputies from 450 to 300 and the right of the executive to dissolve parliament if no majority is created after one month or a budget is not passed within three. The referendum received suspiciously high, Soviet-like levels of endorsement of 89.7, 81.8, 89.06 and 84.78 percent respectively for all four questions. The results were challenged

by domestic observers, the Council of Europe and by evidence of malpractice by the executive on the "Kuchmagate" tapes.

The oligarchs (the Social Democratic Party-United and the Democratic Union) had backed the collection of the three million signatures required to launch this "popular referendum" at the "people's will." As long as they were in Kuchma's good books they had nothing to fear from the "blackmail state". The national democrats may have also agreed to support the implementation of the referendum results because Kuchma was (at least on the surface) backing Ukraine's first reformist government, led by Yushchenko, and was continuing the pro-Western rhetoric in Ukraine's foreign policy that had been in place since 1995. The stumbling block in achieving Kuchma's strategic objective was that the non-left majority never possessed the necessary 300-plus votes to initiate constitutional changes that require a vote by a minimum of two-thirds of deputies.

By fall 2000 Kuchma's strategic objective was disintegrating. On the domestic front some of the oligarchs were becoming restless as the Yushchenko's government's energy reforms were beginning to bite into their illicit incomes. In early November 2000 Yevhen Marchuk, secretary of the National Security and Defense Council and an ally of a major oligarch group, the Social Democratic Party-United (SDPU-u), which was set to lose the most from energy reforms, unveiled a highly critical report on the government's energy policies.

In the international arena the contradiction between the foreign strategic objective of "re-joining Europe" and a domestic policy that was leading to democratic regression back into Eurasia led to a crisis.[4] Ukraine began to re-orientate its multivector foreign policy from a pro-Western to a pro-Eastern neutrality.[5] The first casualty was pro-Western Foreign Minister Foreign Minister Borys Tarasiuk, who was dismissed in October 2000.

Throughout 2000 Yushchenko's popularity was also soaring, reaching at one stage 50-60 percent, in a country where politicians rarely receive above 10 percent. This popularity became a threat to Kuchma. His government was credited with bringing Ukraine's first economic growth for a decade and re-paying wage and pension arrears. Yushchenko's reforms were beginning to hurt entrenched interests and the oligarch-controlled press began to initiate a critical campaign against him. The "Kuchmagate" tapes reveal that in private President Kuchma was increasingly siding with the oligarchs and

was threatening to "destroy" Yushchenko.

Three months (September-November 2000) sealed the fate of the executive's strategy. On September 16 an opposition journalist, Georgy Gongadze, went missing and his decapitated body was found two months later near Kyiv. Two weeks afterwards Socialist Party (SPU) leader Oleksandr Moroz stunned parliament when he revealed the existence of tapes illegally made with Soviet-era KGB bugging equipment in the president's office over the course of three years by a presidential guard and counter-intelligence specialist, Mykola Melnychenko. (The Presidential Administration is located in the building that housed the central committee of the Communist Party of Ukraine [CPU] until August 1991.)⁶ Melnychenko had already fled to Europe and the following April requested asylum in the United States.

"Kuchmagate" had begun, galvanizing the largest opposition movement since the late Soviet era--Ukraine without Kuchma and the Forum for National Salvation[7]. The non-left majority in parliament slowly disintegrated. Deputy Prime Minister Yulia Tymoshenko, architect of the energy reforms, was arrested, released, arrested and again released from February (her husband had been arrested in August 2000 in an unsuccessful attempt to pressure her into complying with the oligarchs' wishes). The Yushchenko government hung on until April 26, 2001, when the oligarchs initiated a vote of no confidence in it, backed by the CPU. That summer Yushchenko and Tymoshenko began to organize their blocs to fight in the March 2002 elections.

THE COMMUNISTS, MUDDLERS AND REFORMERS

The election campaign is a four-cornered contest between a party that rejects both reform and Ukrainian statehood (CPU), pro-Kuchma oligarchs who have inordinately benefited from statehood, anti-Kuchma groups which have become radicalized by "Kuchmagate" and Yushchenko, who is striving to bridge these pro- and anti-Kuchma camps.

These four groups can be separated into two groups based on their support for democratization and reform. On the one hand, there are those who oppose reform (the CPU) or those who prefer to muddle along (Kuchma and his centrist oligarch allies). The CPU sees Ukraine as a constituent state of a revived Soviet Union. Its commitment to democratization is suspect due to its continued adherence to a pre-Gorbachev hard-line communist ideology. The CPU is the only large Ukrainian party that has openly supported Europe's last remaining dictator in Belarus, President Alyksandr Lukashenka. The oligarchs largely support

Kuchma in his preference for an authoritarian, corporatist state that muddles along in a "Ukrainian Third Way" by neither valiantly striding forward to Europe and a liberal democratic market economy or retreating backwards to Eurasia and communism. The CPU will take part in the Ukrainian elections independently. They were useful to the executive in helping the oligarchs to bring down the government of Yushchenko, who, although he declared his loyalty to the president, was seen by Kuchma as sympathetic to the opposition.

The CPU has been rewarded in three ways. First, the executive has put into hibernation (until required again) the Ukrainian Communist Party, which had the potential to split the CPU. Second, in December 2000 the Constitutional Court ruled that the August 26 and 30, 1991 resolutions of the parliamentary presidium banning the CPU were unlawful, as only the courts have the right to ban parties. (The CPU is a new party created in October 1993 that claims it is the only legitimate successor party to the Soviet-era CPU).

Third, in January 2001 the executive released Mykhaylo Potebenko from his position as General Prosecutor so he could join the CPU election list. Potebenko had shielded Kuchma during the "Kuchmagate" crisis through his inept and incomplete investigation of the Gongadze murder. Attempts by the opposition center-left and center-right to pass a parliamentary vote of no confidence in Potebenko were thwarted by the CPU-oligarch alliance that emerged during the crisis. Kuchma was willing to reluctantly release the heads of the Ministry of Internal Affairs, Security Service and Customs--as demanded by the opposition--but defended Potebenko to the last.

The oligarchs will go into the elections in two groups. The largest--For a United Ukraine (FUU)--is the executive's favorite and includes four main parties--Regions of Ukraine (Donbass), Labor Ukraine (Dnipropetrovsk), the People's Democratic Party (Kharkiv, central and southern Ukraine), and the Agrarians (western Ukraine). It will play a role similar to Unity in the Russian elections--as the kernel of a future presidential party. FUU is led by the head of the presidential administration, Volodymyr Lytvyn, and includes the prime minister, the head of the Tax Administration and many other representatives of the "party of power" (state and government officials, businessmen). Upwards of half of the FUU regional election campaign headquarters are led by deputy oblast governors, which ensures them access to "administrative resources" (they already have

unbridled access to the oligarch-controlled media).

The second oligarch group, the SDPU-u, is the least favorite of the executive. In the "blackmail state," the fortunes of oligarch parties can go up and down depending on the whim of the executive, which has accumulated "kompromat" on them. Its leader, Viktor Medvedchuk, was deposed from his position of deputy parliamentary speaker in a vote of no confidence on December 13.

Two factors are working against the SDPU-u. The first is that there are suspicions that they, of all the oligarchs who possibly have Russian assistance, were behind Melnychenko's tape recordings in Kuchma's office. The second factor is that the threat from the Yushchenko camp in the elections means that all pro-Kuchma votes should go to the FUU and be not divided among competing oligarchs.

In democratic opposition to rejectionists and muddlers are the center-left and center-right--the strongest backers of democratization and reviving Ukraine's national identity. On the center-left these include the SPU and two of Ukraine's three main social democratic parties (the third, the SDPU-u, is an oligarch party). On the center-right national democrats and some centrists are united in the Yushchenko Our Ukraine bloc while Yulia Tymoshenko has inherited the radical anti-Kuchma Forum for National Salvation as her election bloc.

The two radical anti-Kuchma camps--SPU and Tymoshenko--are perceived by Kuchma as his biggest threat because they have openly stated their aim of changing Ukraine into a parliamentary republic and impeaching Kuchma over the allegations found on the "Kuchmagate" tapes. Tymoshenko's bloc includes her Fatherland party (the successor to her and Lazarenko's Hromada) and national democrats.

The SPU has agreed to include Melnychenko on its election list, which, if they pass the four-percent barrier, will mean he will obtain deputy's immunity and return to Ukraine. Although the executive has accused him of "treason" and other crimes, no formal charges have been brought against him and espionage charges cannot be applied against Ukrainian citizens.

Yushchenko's Our Ukraine bloc is the most popular of Ukraine's election blocs, with a popularity rating of 15-20 percent, and Yushchenko has a personal popularity rating of 25-30 percent. For the first time in independent Ukraine, the CPU is second in popularity. Our Ukraine consists of both wings of the mainstream Rukh, other national democratic parties and centrist parties,

such as the Liberals and Solidarity. Roman Bezsmertny, Kuchma's representative in parliament, and Solidarity leader Petro Poroshenko have so far ensured that the executive is neutrally disposed towards Our Ukraine.

There are other smaller parties, but they are "spoilers" deliberately created to take votes away from the Yushchenko, Tymoshenko or Moroz blocs. These include a third extreme-right pro-Kuchma Rukh that is targeting Yushchenko, the Soviet-style Women for the Future (linked to Lyudmila Kuchma) which aims to attract women voters, Greens looking to young voters, Justice which is targeting the SPU and others. Unity, headed by popular Kyiv Mayor Oleksandr Omelchenko, is targeting the SDPU-u with whom they compete for control of Kyiv.

QUO VADIS UKRAINE

Kuchma's dilemma is that a fair election will lead to two outcomes. It will not ensure that he is given a second attempt at achieving his strategic objective of turning Ukraine into a presidential republic and thereby removing the last obstacle to his full control over society and parliament. It may also lead to a large opposition presence in the parliament that may attempt to impeach him or, at a minimum, make it impossible for him to ensure a loyal successor upon his departure from office in October 2004 who will grant him immunity from prosecution. The alternative--a less than free election--will be criticized by the West and international organizations like the OSCE. But, this may be the price Kuchma is willing to pay to ensure he fulfils his strategic objective and is able to go into retirement, like Boris Yeltsin, without charges being leveled against him.

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NOTES

1 See the annual Nations in Transit Reports published by Freedom House on www.freedomhouse.org.

2 Paul Kubicek, "The Limits of Electoral Democracy in Ukraine", *Democratization*, vol. 8, no. 2 (Summer 2001), pp. 117-139.

3 Keith Darden, "Blackmail as a Tool of State Domination: Ukraine under Kuchma", *East European Constitutional Review*, Vol. 10, nos. 2/3 (Spring/Summer 2001), pp. 67-71.

4 Dominique Arel, "Kuchmagate and the Demise of Ukraine's 'Geopolitical Bluff'", *East European Constitutional Review*, Vol. 10, nos. 2/3 (Spring/Summer 2001), pp. 54-59.

5 T. Kuzio, "Ukraine's security policy turns East", *Jane's*

Intelligence Review, vol. 13, no. 12 (December 2001), pp. 444-45.

6 A full investigation into "Kuchmagate" has never been undertaken. The most likely group to have behind the taping of Kuchma's office (the collection of "kompromat" is not unusual in Ukraine) were the SDPU-u. See T. Kuzio, "Ukraine's Oligarchic Social Democrats Suffer Setback", RFE/RL Newslines, vol. 5, no. 236, Part II (December 14, 2001).

7 T. Kuzio, "Ukraine One Year After 'Kuchmagate'", RFE/RL Newslines, vol. 5, no. 224, Part II (28 November 2001).
