

Kuchma does not deserve peace

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The former Ukrainian president should be investigated for abuses in office, not enjoying retirement.

Peru and Ukraine are separated by thousands of kilometers, but have two factors in common. First, the New York-based Freedom House ranks them both as “free” because their political and civil liberties are graded between 2 and 3 on a scale of 7, with 1 being the best score. Secondly, both had tape scandals eight years ago. But the similarities end there.

The anniversary of journalist Georgiy Gongadze’s abduction on Sept. 16 led to Ukraine’s tape scandal two months later, when Socialist Party leader Oleksandr Moroz revealed tape recordings to a stunned Ukrainian parliament. The recordings implicated President Leonid Kuchma in Gongadze’s disappearance.

The significance of the ensuing Kuchmagate crisis for Ukrainian politics cannot be underestimated. Without Kuchmagate, there would have been no Orange Revolution four years later. Without Kuchmagate, Victor Yushchenko would not have been pushed into the opposition from where he launched his candidacy and was elected president.

Yushchenko, therefore, to a certain extent owes his presidency to Gongadze. Though you would not think this was the case after the president broke his solemn promise to investigate the organizers of Gongadze’s murder.

But where Ukraine failed, Peru came out a victor. Unlike Ukraine, Peru has faced its past and, as a consequence, has consolidated its democracy. Ukraine has dodged its past and has had periodic crises since Yushchenko was elected, the current one still unfolding.

Tapes made by the chairman of Peru’s Servicio de Inteligencia Nacional (SIN) Vladimoro Montesinos, and by presidential guard Mykola Melnychenko were leaked and led to similar political crises. President Alberto Fujimoro fled abroad in 2001

and did not finish his term in office. Meanwhile, Kuchma completed his presidential term and remained in Ukraine after having been given, most likely, verbal immunity during the December 2004 roundtables. The tape recordings in the Fujimoro scandal were used in court, whereas in Ukraine, the prosecutor's office has refused to use the Melnychenko tapes.

Working for President Fujimoro, SIN chairman Montesinos secretly videotaped the numerous bribes he gave to politicians, businessmen, journalists and judges. Montesinos was himself very corrupt with an unexplainable \$600,000 annual salary and \$48 million in Swiss bank accounts. Kuchma's assets are unknown but allegedly huge after a decade in office.

Peru's "tapegate" began after video footage of a \$15,000 bribe to a Peruvian congressman was leaked to Channel N television. The broadcast of the video on television led to mass protests, similar to what unfurled in Ukraine following the public revelation of the Melnychenko tapes in parliament.

Fujimoro escaped justice by fleeing to Japan. A public trial in his absence charged him with 67 counts of embezzlement, human rights abuses, organizing a death squad and drug smuggling. Twenty-one congressmen, ministers, businessmen, journalists and military officers were jailed and indicted for corruption and abuse of office. By these actions, interim President Valentin Paniagua, who succeeded Fujimoro, restored democracy in Peru.

Fujimoro spent five years in exile in Japan. Montesinos fled to Venezuela, but it extradited him to Peru where he stood trial and was convicted. Fujimoro attempted a political comeback in Peru and landed in Chile in November 2005. Peru requested his extradition on 12 charges, including ordering violence against opponents, illegal telephone tapping, diverting state funds, bribing officials for their loyalty, corrupting and controlling the judiciary and the media.

In September 2007, the Chilean Supreme Court upheld the decision to extradite Fujimoro to Peru. His Peruvian trial was broadcast live on television and in December 2007 he was sentenced to six years imprisonment for some of the charges. His trial on other charges is pending.

Accusations of involvement in the same six counts of abuse of office made against Fujimoro have been also made at different times against Kuchma. But – unlike in Peru – no criminal charges have ever been made against Kuchma and he has not gone on trial. SIN chairman Montesinos was convicted. Former State Security Service chairman Leonid Derkach peacefully lives out his retirement, Interior Minister Yuriy Kravchenko committed ‘suicide’ before he could give evidence and General Oleksandr Pukach, a key player in the scandal, mysteriously disappeared.

Yushchenko failed to follow up on his promises of bringing the organizers of Gongadze’s murder to justice. Yushchenko also never raised other cases of abuse of office under President Kuchma, even though the Melnychenko tapes and many other pieces of evidence point to multiple cases of abuse committed by senior officials during Kuchma’s decade in office.

Yushchenko did not follow in President Paniagua’s footsteps in bringing justice to his country by cleaning out Peru’s elites and justice system. Not a single senior official involved in abuses of office has ever been convicted in Ukraine, unlike in Peru.

Under both the 1996 and 2006 constitutions, Yushchenko’s choice of prosecutors, whether Sviatoslav Piskun, one of the three prosecutors who had covered up the organizers of the Gongadze murder during the Kuchma era, or Oleksandr Medvedko, showed no commitment to finding the ‘organizers’ of Gongadze’s murder or improving the rule of law. Prosecutor Mykhailo Potebenko, who covered up Kuchma’s involvement the most, was given a state medal by the president in February of last year.

In the first months after being elected, Yushchenko gave grounds for optimism that the Gongadze murder would be laid to rest. A week after he was elected, Yushchenko promised to bring to trial the organizers of the murder by May 2005. “In Ukraine, we will uncover those who shot journalists and murdered politicians. And these will be very big figures. It is important to get at the truth,” Yushchenko said. For Yushchenko, it was a matter of honor that the organizers be brought to justice and, “without a doubt, this was a high-ranking official.”

Yushchenko broke his word made to Ukrainian voters and to the Council of Europe. Not a single organizer of Gongadze’s murder (nor of other numerous abuses of office under Kuchma) have been convicted. Yushchenko has continued the practice of his

two predecessors of not putting any member of the elite on trial. Ukraine's elites can continue to fear prosecution abroad, but not at home.

Peru's democracy stood the test of its tape scandal far better and Fujimoro and many other officials were imprisoned. In marked contrast, Kuchma continues to sit in his foundation, only a five minute walk from parliament and Bankova, writing books, giving interviews and fearing nothing for his deeds in the past.

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