

## ON INSTITUTIONAL DETERMINANTS OF DEMOCRATIC VOLATILITY (CASE OF UKRAINE)

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**Introduction.** This paper aims to outline the regime change in Ukraine in frame of its foreign policy choices, geopolitical situation, institutional and cultural heritage. As well as discuss current state of democracy, its perspectives and developments, rationales behind democratic stagnation and erosion. For that purpose, it is essential to unveil the institutional heritage and path dependence that shaped the current institutional environment in Ukraine.

**Scientific novelty.** This paper is worthy as it suggests holistic approach to study Ukraine's rapid regime changes and reasons behind it, which covers historic and civilizational tracking of the problem, institutional heritage and current institutional environment, geopolitical context. Although this research doesn't cover reason current stage of Russian-Ukrainian conflict escalation, it exposes rationales behind the conflict. Moreover, it discusses internal and external factors for regime volatility: institutional environment and foreign policy choices respectively. As a result, paper outlines general principles for conflict mediation and resolution, and eventually sustainable democratic transit.

**Methodology.** Paper exploits qualitative methods to unveil reasons of Ukraine's democratic waves and ebbs. Paper adopted institutional approach to discuss the determinants. Particularly, electoral institution, judicial system are analyzed. Apart from that paper uses historic, comparative methods to study historic effects and current geopolitical shifts, as well as their effect on regime quality. To review certain institutions in the frame of democratic transit content analysis is applied as well.

**Literature review.** Path dependence is not a completely deterministic category and as Levy [Levy, 1997, 78] argues it means that once a country or region has started down a track, the costs of reversal are very high. She prefers comparison with tree rather than path, which has different branches from the same trunk. Even though it is possible to change the branch the climber began with, it is more likely that she will proceed with the initial choice. Ukraine, historically and culturally divided into two parts, has two vital, in many cases mutually intolerant "roots". First, are the Cossack roots, proto-Ukrainian polities, which by the assessment of various experts (Kotovchikhina et al., 2020, p. 283) had democracy and freedom as imperatives in their life. These roots are closely connected with Western/European identity and values. Second, are tsarist, orthodox, hierarchic roots strongly tied with Russia. This division in more conceptualized manner is pre-

sented by Huntington [Huntington, 1993, 35], who puts Ukraine, where western part is dominated by Uniate tradition, while eastern part by Orthodox, in a row of cleft countries. Although some authors [Brudny & Finkel, 2011, 818] find heterogeneity of Ukrainian identity as an advantage and good soil for democracy in contrast to Russian hegemon, imperialist identity, Huntington (1993, p. 38) noted its destructive feature and predicted Ukrainian conflict with Russia long before it occurred.

**Analysis.** Another significant part of Ukraine's institutional heritage derives from its Soviet past, which fuels eastern-tsarist part of national identity. Several scholars suggest specific models of transit for post-Soviet countries different from the other regions (*Eastern Europe, Latin America*) of the third wave. McFaul [McFaul, 2002, 227] illustrates three scenarios of transit: a) resulting democracy due to mass movements and power of democratic challengers; b) resulting autocracy due to power imbalance favoring ancient regime; c) hybrid regime due to equal distribution of power. Karl and Schmitter (1994) disagree with McFaul's exclusive revolutionary model for democratic transit. Moreover, they (1995) emphasize the importance of "defining borders" for successful democratic transit. Data (VDem, Freedom House) shows that post-Soviet countries that had peaceful borders had greater democratic performance. Geopolitics and foreign policy choices had significant impact on regime change in post-Soviets, particularly in Ukraine. After its independence, Ukraine was among those few countries, where communist elites preserved significant influence [Karl and Schmitter, 1994, 972]. In spite of the smooth political transition, privatization and decayed economy created huge inequality and oligarchic class. With the economic crisis and hyperinflation first president was forced to organize snap elections to meet the demands of Donbas strikers (coal-producing region bordering with Russia). Despite the peaceful transit of power, Ukraine faced democratic decline during Kuchma's office, combining it with economic stabilization. In terms of international relations 1990s were times of NATO and EU expansion to the East. US and EU spent \$1.5 billion on democratic promotion [McFaul, 2007, 61]. This triggered Russia's reluctance, however it was weak to resist [Mearsheimer, 2014, 77].

These actions of West saw wave of democratic revolutions in Serbia, Georgia, Ukraine and Kyrgyzstan from 2000 to 2005. Interestingly, relatively pro-Russian president Kuchma's positions were weakened due to the Kuchmagate, tape that leaked president ordering kidnaps and murders. Consequently, whistleblower found asylum in US, while US ambassador to Ukraine revealed that tapes are authentic and suggested that it was a response to Ukraine's arms' sales to Iraq (Materic, n.d.). Based on this McFaul implied that Ukraine's 2004 democratic Orange revolution was imported [McFaul, 2007, p. 57]. After Orange revolution pro-Western regime received significant assistance for democratic reforms, which resulted in increase in democratic score since 2005 [VDem, Freedom House]. Head of Ukraine's NED [Gershman, 2013] argued that US made great effort for democratic regime change in Ukraine and it aims the same result in Russia. He

also added after pro-Russian Yanukovich took the office, further support will receive Ukrainian opposition. Orange revolution failed to consolidate democracy in Ukraine [McFaul 2007]. As a result, Yanukovich came to power, pro-Russian politician, whose organized election frauds provoked the Orange revolution. Ziblatt and Levitsky [2018, 71-73] stress the importance of adhering to unwritten democratic rules. This was definitely not the case with Ukraine. In 2010 the 2004 constitutional changes that were aimed at limiting presidential power and its handover to the parliament were deemed [Constitutional Court decree, 2010] as unconstitutional since several procedural misconducts were made during their approval. And then decision was made to adapt all legal acts to 1996 constitution. This implied the cancellation of six-years' operating constitutional rule, and extension of president Yanukovich's power. Venice Commission [Venice opinion, 2010] considered the situation highly unusual, as the political system change was declared unconstitutional after a period of 6 years and by only Constitutional Court decree. Moreover, during political crisis of 2014 2010's decision was revised [Law, 2014] and Ukraine returned to the constitution of 2004.

After those actions democratic performance saw notable decrease. What's more, after years of negotiations with EU, Yanukovich decided to reject the agreement instead signing one with Russia. As a result, mass demonstrations forced Yanukovich to flee the country. Newly formed government canceled agreement with Russia and declared its pro-Western direction. This time, Russia, much stronger than it was, responded fiercely, which threw Ukraine into war [Mearsheimer, 2014, 81]. With Trump's isolationist foreign policy democracy in Ukraine did not receive notable support and the oligarch Poroshenko's time in office was deemed non-democratic, mainly due to the crisis.

**Conclusion.** Ukrainians exhausted of war, economic hardships elected new figure in Ukrainian politics, Zelensky, former comedian. The peaceful transit of power, due to inability of Poroshenko to misconduct during the elections somewhat signified democratic re-emergence [VDem, Freedom House]. Future of Ukrainian regime highly depends on the macro factors already mentioned: cultural schism between west and east, and how it can be effectively managed, geopolitical situation and ability of West, Russia and Ukraine to negotiate. Huntingtonian explanation of Ukraine has strong influence not only in West, but also in Ukraine, and how they perceive the current crisis. It is evident that Ukraine is culturally closely tied with Russia and normal relations with Russia are vital. To resolve the crisis and install sustainable democracy following actions are required (Brzezinski, 2014) from three main stakeholders: Russia accommodates with Ukraine by terminating the assault on its sovereignty and economic well-being, accepts Ukraine's prolonged journey toward eventual European Union membership with possibility of bilateral trade deal. At the same time, it should be made clear that Ukraine does not seek, and the West does not contemplate, Ukrainian membership in NATO.

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## Tigran MUGHNETSYAN

### On institutional determinants of democratic volatility (case of Ukraine)

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This paper attempts to examine institutional reasons behind democratic ups and downs in Ukraine. From historical, civilizational determinants to foreign policy, judicial, electoral systems are considered as defining factors for regime volatility. Civilizational factor is observed in the paper as a basic determinant upon which modern political institutions and practices are constructed. The paper accordingly discusses Soviet institutional heritage for the current institutional environment. Furthermore, the paper considering afore-mentioned determinants uses diachronic approach to trace regime changes in Post-Soviet Ukraine. What's more, paper outlines several events as critical junctures for institutional development and path dependence: as electoral rule changes, constitutional amendments. Aside from immanent systemic features paper accents external, geopolitical situation as well, linking democratic instability to geopolitical shifts. Eventually the paper forecasts that democratic erosion and volatility can be stopped, and democratic progress guaranteed only through "border defining", both physically and culturally, which is applicable for all Post Soviet states.