

# Electoral Laws and Patronage Politics in Ukraine

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Ukraine's current political system can be considered a classic case of patronage politics. The persistence of patronage politics in Ukraine can be attributed not only to structural, historical, and cultural factors, but also to particular decisions regarding constitutional design, electoral rules in particular. In particular, the 2010 rollback of Ukraine's 2004 constitutional reforms have strengthened President Viktor Yanukovich's ability to wield both formal and informal tools of governance, including by broadening the patron-client foundations of his regime. At the same time, however, this process also has appeared to lead to a weakening of the ruling party itself while spurring consolidation of the opposition. Ironically, Ukraine's new bout of patronage politics may in the end promote rather than hinder the country's ongoing political transformation.

## **Resetting the Rules of Game**

The transformation of Ukraine's political system from a premier-presidential system with a dual executive (2005-2010) to a super-presidential regime began with the 2010 restoration of the 1996 constitution. This involved a rollback of the 2004 constitutional reforms, which had led to the formalization of electoral competition between patron-client networks via a party list system and the expansive growth of major networks, such as the Party of Regions (PR), led by Yanukovich, and the Yulia Tymoshenko Bloc (BYuT), both of which formed effective political machines for the accumulation of votes and the nationwide redistribution of patronage.

After winning the presidential election in 2010, Yanukovich commanded a relative party majority in the parliament, which his predecessors Leonid Kuchma and Viktor Yushchenko never had. This was also the first time that a parliamentary majority was bound by the leashes of tight party discipline. Meanwhile, Tymoshenko's imprisonment in 2011 left the BYuT's regional organizations without the support of

rent-seeking tycoons or political investors, who either defected to the party of power or adopted a fence-sitting stance.

The new November 2011 electoral law is based on a mixed electoral system, used earlier in Kuchma's super-presidential system. The law should be considered in the wider context of the "dual spiral" of Ukrainian politics that is based on the transformation of the dominant party through patronage politics and the use of bureaucratic resources (both carrots and sticks) to secure support.<sup>1</sup> Under the new electoral law, 50 percent of MPs (225 out of 450) will be elected on party lists via proportional representation, and 50 percent will be elected by a plurality vote in 225 single-member constituencies. The electoral threshold in the party list vote is now five percent (from 3 percent), and political party blocs are denied participation. How have the new rules shaped the behavior of key party players?

### **Broadening Patron-Client Networks**

Yanukovych's super-presidential regime has become trapped in a winner-takes-all political system that requires from the party of power the permanent reassertion of its dominance in parliament. In most cases, this is impossible without coalition partners (in other words, compromises with "hidden" patrons from alternative patron-client networks). One example of this is the PR's relationship with Volodymyr Lytvyn's People's Party and the Communist Party of Ukraine. These allies not only control the offices of the speaker and vice-speaker, but they are also important for passing many laws.

At the same time, the expansive growth of the PR's formal political dominance (incorporating different segments of informal patron-client networks into a centralized formal organization) appears to have come to an end. After the incorporation of the RosUkrEnergo group (Dmytro Firtash and Yuri Boyko) patron-client network in 2007-2010 and the absorption of Strong Ukraine (Serhiy Tyhypko) in March 2012, the estimated ceiling for the PR's party list results is likely no higher than 35 percent. This might make an excellent result in a premier-presidential system, but it is insufficient for the super-presidential system of today, which requires an absolute majority—not a relative one—to function effectively.

The constitutional change thus has led to a clear shift not only toward extra-party sources of support based on informal patronage but also a substantial formal extension of the elite support base outside the PR. Three vivid examples of the incorporation of such "outside" patron-client networks are:

1. The formation of Ihor Rybakov's Reforms for the Future faction. The 19-person faction was established in February 2011 mostly on the basis of some BYuT deputies and the Our Ukraine-People's Self-Defense bloc of former president Viktor Yushchenko.

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<sup>1</sup> "The Dual Spiral of Ukrainian Politics after 2010," PONARS Eurasia [Policy Memo No. 165](#), George Washington University (September 2011).

2. The co-optation of the former head of the president's secretariat, Viktor Baloga, as Minister of Emergency Situations in November 2010 and the *Yedyny Tsent*r party's support of the ruling coalition.
3. The co-optation of Petro Poroshenko, one of the key actors in the Orange Revolution, as Minister of Economic Development and Trade in March 2012.

Characteristically, all three groups have branching regional patron-client support networks that are able to secure victory in single-member constituencies and are thus additional resources for forming a pro-presidential majority after the October 2012 parliamentary elections. In particular, Victor Baloga will run for parliament in his fiefdom of Zakarpattia (Transcarpathia), where he plans to shepherd through four representatives of his clan (himself, his brothers Ivan and Pavlo, and his cousin Vasyl Petevka). Petro Poroshenko will run for parliament together with his father Oleksiy and his sub-partners in the Vinnytsia region, which is their business base.

Two important consequences of the changes were the general decline of the role of the PR as a formal machine for national organization and discipline of elites, and the expansion of the sphere of direct presidential patronage as a channel for the co-optation of new elite allies that seek protection for their businesses.

### **Electoral Rules: Breaking Down the Ruling Party, Uniting the Opposition?**

New electoral rules have greatly modified the strategy of party players, who were given the possibility to distribute their forces and resources via both party lists and single-member constituencies. The effect of the new electoral system has varied for the party of power and the opposition. It has facilitated *segmentation* of the former and *unification* of the latter.

The new electoral law has had several consequences for pro-presidential forces. First, it has led to greater competition among different interest groups within the PR for the right to nominate their candidates to single-member constituencies. Attachments to different patrons and centers of influence within the PR have allowed aspiring candidates to bandwagon on the controversies among them and appeal to the availability of their own local resources, high ratings, and popularity in single-member constituencies. In some regions, candidates have enlisted the support of different patrons such as the formal leader of the election campaign headquarters, Andriy Kluyev, or the presidential chief of staff, Serhiy Lyovochkin, to contest the same district.

Second, many candidates in the party of power, especially in the central and western regions, are campaigning as independent candidates so as not to draw attention to their connection to the PR. Moreover, even in many eastern and southern regions, ruling party candidates virtually abstain from using the white-and-blue symbols of the PR and hide behind the support of newly established public organizations with amorphous names.

Third, one unanticipated consequence of the new electoral law has been an open competition between several pro-presidential candidates in one electoral district. These candidates rely on their own autonomous informal patron-client networks and are not

especially dependent on central PR headquarters. For example, the previously-mentioned clans of Viktor Baloga and Petro Poroshenko are competing with other pro-presidential patron-client networks for the support of the center, the Baloga clan against the patron-client network of the local PR head, Zakarpattia governor Oleksandr Ledida, and the Poroshenko clan against that of State Customs Service head Ihor Kaletnik.

On the other side, one completely unexpected aspect of the new electoral law has been its effect on the opposition's campaign and coalition-building strategies. The rather high 5 percent electoral threshold has generated incentives for opposition parties to coalesce around their most potent representative—in this case the *Batkivshchina* party, which lies at the core of the BYuT. Efforts to unite the opposition, spearheaded by the Front for Change (Arseniy Yatseniuk), have resulted in the United Opposition "Za Batkivshchiny" candidate list. This list also includes representatives of small opposition parties that have no hope of clearing the 5 percent threshold by themselves, including the Civil Position Party (Anatoliy Hrytsenko); the People's Self-Defense Party (Yuriy Lutsenko's party that merged with *Batkivshchina* in 2011); For Ukraine! (Vyacheslav Kyrylenko); Reforms and Order (Serhiy Sobolev); and *Rukh* (Borys Tarasyuk).

The opposition camp has also been successful in coordinating the nominations of candidates for single-member constituencies. "Za Batkivshchiny" is contesting seats in 190 constituencies while the nationalist *Svoboda* party (Oleh Tyahnybok) is contesting 35. Although these opposition groups can only be certain of victory in three regions of Halychyna (Galicia) (24 majoritarian seats) and several districts of Kyiv, the agreement between them is an important precedent for future parliamentary campaigns.

At the same time, the election campaign has proven that new electoral rules do not always create incentives to coordinate opposition efforts. This especially applies to parties that are *de facto* centrist, even if they employ aggressive opposition rhetoric. The UDAR party (Vitaliy Klichko) is one such example. UDAR has a high chance of clearing the 5 percent threshold on its own. Given their rating boost which, among other things, is due to Front for Change supporters, UDAR saw no particular benefit in joining "Za Batkivshchiny," or even coordinating nominations in single-member constituencies.

Another case is Ukraine Forward! (Nataliya Korolevska), a puppet party that is trying to occupy the former niche of Strong Ukraine and win the youth protest vote, particularly in the east and south of the country. Opinion polls show that Ukraine Forward! is hovering around the 5 percent threshold, although an unlimited election budget, an aggressive television advertising campaign, and the allure of iconic football player Andriy Shevchenko may facilitate the party's successful entrance into parliament.

Current surveys suggest that only the PR, "Za Batkivshchiny," the Communists (KPU), and UDAR will unconditionally make it into parliament. *Svoboda* and Ukraine Forward! also have decent prospects for clearing the parliamentary threshold. The party of power intends to get 70-80 seats via party lists and 150-170 seats via single-member constituencies. This means securing at least a stable absolute majority (over 225 seats) if not a constitutional majority, which would be necessary to introduce constitutional changes (300 seats). The United Opposition optimistically forecasts that it will win 80-90 seats on the party list, while KPU and UDAR win 20-30 seats each.

## Conclusion

In using a mixed electoral system, the party of power is trying to create additional sources of support for its super-presidential winner-takes-all regime. Additionally, the party of power is attempting to compensate for an insufficient number of party-list seats by including in the pro-presidential coalition most rent-seeking regional barons, local oligarchs, and ambitious local government politicians via mechanisms of patronage.

To what extent will the party of power's expectations of forming an absolute, and possibly constitutional, majority come true? Will the Ukraine Forward! party or UDAR enter into a new pro-presidential grand coalition? To a large extent, the answers to these questions will lie in actors' calculations concerning the next presidential election in 2015.

The experience of Leonid Kuchma's second presidential term shows that the crumbling of an incumbent's patron-client network begins with majoritarian MPs, whose behavior tends to be defined by their need to seek protection for businesses and to find the most effective points of rent extraction. They are thus constantly on the move from one patron to another, have some resource autonomy, and are willing to collectively defect for the sake of their own survival. In fact, it was Ukraine's majoritarian deputies that facilitated a rapid shift of the inter-elite power balance in the Orange Revolution and, in some cases, the relatively painless integration of old elites into the new governing team. Meanwhile, a diversity of interests inside the PR may lead to the development of new cleavages and diverse opinions concerning the best candidate to succeed Yanukovich. In this sense, the October 2012 parliamentary elections will be a pivotal point for Ukraine's super-presidential regime while demonstrating how the mixed electoral system may yet be an important factor for regime change.