

Research project

# Political Development of Ukraine 1989-2022: Administration, Institutions, Rights and Takeaway for Post-war Reconstruction

R.Gerasymov

(a) *State of the art;*

Material published works in the field are neither prolific nor saturating. From analyses by scholars and experts of proven competence (Aslund, Ben, Bortnik, Boyko, D'Anieri, Freedman, Gayday, Horbulin, Konieczna-Salamatin, Kazansky, Kulchytskyi, Kuzio, Magda, Mearsheimer, Menon, Nowosad, Toal, Tvorun, Turanli, Plochy, Reid, Rumer, Snyder, Vasylenko, Wisla, Yermolaev) to first person accounts of Ukrainian leaders (Avakov, Kravchuk, Kuchma, Yushchenko, Yanukovich), their lieutenants (Azarov, Hrynevetsky, Halchynskyi, Kivalov, Kushnaryov, Lozhkyn, Lutsenko, Lytvyn, Medvedchuk, Moroz, Plyushch, Pustovoitenko, Soskin, Stetskiy, Symonenko), runners-up (Chornovil), to works of dissidents (Buzina, Onyshchenko) and other cognizant figures (Bendukidze, Donii, Saakashvili, Zhylytsov). Though some attempt to span all 30 years of Ukrainian state creation *rationale temporae*, they are limited *ratione materiae* and vary in depth of insight. Arguably, fundamentals of Ukrainian situation are ignored, many relevant observations missing, facts omitted or erred on, and certain important interpretations and political variables unattended. A study combining thirty years temporal

span, full extent over key subject areas, while progressing in the aforementioned growth zones is lacking.

*(b) Theoretical and methodological framework*

Theories that I plan to apply consistently are:

- the one elucidated as '[stages of] political development' by Organsky, 'Modernization theory' by Huntington and their (likely) predecessors who informed international development and technical assistance worldwide, the UN trusteeship system and League of Nations mandates system;
- Contemporary political theory, with its Empirical aspect (I shall attempt to, laconically, explain what is actually happening in the field, as to an expert observer), Normative aspect (I view the current Ukrainian nation-building prior to 23/2/2022 as deeply problematic, and will work to propose *what it ought to be*), Historical aspect (historical context will be relied upon), etc.
- Traditional and New institutionalism, whereby nation-building is considered through the prism of political institutions and informal institutions.

Otherwise, I shall occasionally rely on (in alphabetic order), Ethical theory, Feminism, Political Psychology, Post-behavioralism and Systems theory.

My definition of elementary concepts pivot to classical, with modernization only where effectiveness so commands. Essence and criteria of stages of political development of a nation (institutionalization of political organizations and procedures), to be used across the thesis, shall be specified.

Methodology-wise, my toolbox shall include historical-comparative method, deductive method, range of qualitative methods and techniques, featuring holistic perspective, descriptive-inductive method, qualitative and adaptive data collection, empathetic neutrality. Interviews, group discussion, study of texts and original documents. Wary of my non-math background and limited functionality of research object afire in destructive war and catastrophic crisis, traditional lower quality of disclosure and

statistics in Ukraine and on Ukraine, I expect to be sparing and generalized in use of quantitative methods other than observation, questionnaires and ready-made data, tapping my access channels and using those limited working hours of quantitative professionals I could source.

*(c) research objectives and (d) expected results.*

My research objectives is to answer the following research questions:

**1)** What track, in terms of its political development and creation of state, did Ukrainian nation cover from the institution of Narodnyy Rukh in 1989 to the Russian official military invasion in 2022?

**2)** What endogenous factors (institutions, institutional innovations and policies) have led Ukraine towards impermissible degradation of her governance, economy, demography and national security circa 2021, and enabled new level of victimization by Russia in 2022?

**3)** Which ways to contain and stop Russian-Ukrainian hostilities, before they would have laid the groundwork for World War III from Lisboa to Yekaterinburg, hold the highest potential effectiveness in the current setting?

**4)** Which institutions, institutional innovations, policies and politics will be needed to turn a post-war Ukraine into a responsible and sustainable power?

Expected results include answers to the above mentioned questions, in the form of corroborated/defended theses (answering research questions 1, 2) and polity, policy recommendations (answering research questions 3, 4).

*(e) Research design ...*

...shall be a mixed type. Orientation toward 'polity' (rules, institutions, institutional innovations) and 'policy-making' dimensions shall dominate

work on research questions 1, 2 and 4. Orientation toward 'politics' (actors and behaviour) dimension shall dominate work on research question 3 and be present in work on research question 4. For limitations of space, I will have to operate on the basis of abundant presumptions on the 'politics' level; I shall vouch for veracity of those from personal field experience, and provide independent expert confirmation thereto where asked.

Specifically:

Regarding **Stage of political development** of Ukrainian nation, I posit, intend to corroborate and defend the following theses:

- Ukraine is on the lowest, 'Primitive Unification' (Organsky), 'C-level/desirability of external civilized administration to provide defense, respect of basic human rights, public order and prevention of abuses for Ukrainian people and foreign counterparts' (League of Nations) stage of political development and is struggling to progress towards its completion;
- Ukraine's political development is characterized by mutually opposite processes of, on the one hand, post-tumult political decay (Huntington), violent authoritarian institutional mutations symptomatic of Third World environment and, on the other hand, progressive national unification giving hope of future graduation to the next stage, 'Industrialization' (Organsky) or, rather, 'Economic growth by other means' (in contemporary global economy), 'B-level/apt for provisional independence subject to rendering of administrative advice and assistance by external civilized mandatory/trustee' (League of Nations).

Regarding **Form of government**, I posit, intend to corroborate and defend the following thesis:

- Ukraine, post-war just as pre-war, could only function sustainably and responsibly as confederation (Swiss model) or pronounced federation, during decades-long transitional period, with voluntary

option to waive federal subject status in favour of unitary part, on maturity;

- post-war Ukraine would be unable to sustain herself politically and economically, unless administered for prolonged period of time (several decades minimum) by some G-7 nation, or micro-managed by civilized international organization such as the EU, if not as member state, than as trust or mandated territory pursuant to Chapters XI and XII of the UN Charter or its future equivalent.

Regarding **Parliament**, as traditional political institution, I posit and will corroborate, the following theses:

- Ukrainian Parliament can only perform its legislative and legitimizing functions satisfactorily if organized into **dual/two chambers**, with lower chamber elected by general suffrage, and upper chamber, selected by (*optimal*) censors from candidate proposed by regional elites from the pull of former top post holders (Ancient Roman Senate motif) or (*minimal*) appointed by regional elites from the pull of former top post holders, with upper chamber endorsement obligatory for bills by consensus (foreign affairs in peace, minority rights) or qualified majority (the rest);
- for the benefit Parliament's performance on all of its functions, **Official Opposition** has to be instituted in its lower chamber, with serious powers in debate, shadow cabinet, legislative committees and parliamentary control; specifics policies need be be administered to institutionalize tradition of respect thereof;
- for the benefit of cultivation of rules-based order and rights system, quantitative cap on laws to be passed annually, frequency limits on amending codes and laws, other **smart technical limitations** that I am going to posit and corroborate shall be constitutionally **imposed on legislative power** of Parliament, subject to limited exception for war or acute natural emergency;

- for the benefit of legislative and stabilizing functions of Parliament, **Parliamentary Control** has to be reinstated, targeted at improving quality of laws via follow-up and feedback, while being precluded from interference with the powers of the executive branch;
- for the benefit of legislative and stabilizing functions of Parliament, **legislative procedure** shall be revised so that subpar quality bills are not tabled for adoption by plenary Parliament.

Regarding **Head of State**, I posit and will corroborate, the following theses:

- for the sake of preservation of Ukrainian nation, achieving responsible statesmanship and sustainable statehood in Ukraine, popular election of Head of State shall be abolished, its traditional functions and apparatus transferred to the Prime Minister, determined by Parliament or results of parliamentary elections. In essence, for regional elites, popular election of head of state shall be substituted for senatorial prerogative in confirmation of the Prime Minister;
- symbolic and stabilizing functions of the head of state shall be entrusted to the two Censors;
- in view of Ukrainian aggravated and indefinite security predicament, and defense effort experience, institution of **Military Dictator** shall be written into the Constitution: so that in wartime, Prime Minister may be elevated to dictatorial status by Parliament, for a fixed term of up to 6 months, with possibility of prolongation, and hard-and-fast rules in place protecting general principles of law recognized by civilized nations, private property regime and value of human life in a military dictatorship.

For the **Executive branch, Civil Service and Public Administration**, I posit and will corroborate the following theses:

- that Ukrainian Prime-Minister and his Cabinet (as a college) need to be returned legal command and control over individual ministers and heads of agencies;
- that regular national census needs to be reinstated;
- that government planning, featuring many thousand conflicting, overlapping, unrealistic, formally applicable though usually forgotten on adoption, planning documents, - needs to be ordered;
- that post-2014 Ukrainian Civil Service and Public administration reforms [case study], seeking to repel young and experienced ethical professionals from public service, to breed corruption and nepotism, to reward inefficiency and absenteeism while punishing hard work and healthy ambition, to multiply vaguely regulated and unaccountable holders of authority over private sector, were exemplary acts of self-sabotage of Ukrainian State that seriously and visibly harmed functionality of Ukrainian public (including defense) sector, that, inadvertently or not, facilitated and precipitated 2022 Russian invasion of Ukraine;
- that, war-time and postwar, sweeping remedial action needs to be taken to arrest further deterioration in this sphere, including reinstatement of motivation systems, unblocking admission routes and career ladders for younger and qualified cadres, with immediate redirection of tens of thousands of inefficient unaccountable placeholders busy parasitizing on remnants of Ukrainian economy and sucking state coffers thin, to the job market, to feed its gaping defense and humanitarian effort intake.

Regarding the **Judiciary** I posit, intend to corroborate and defend the following theses:

- that, for the sake of political development of Ukrainian nation, Jury Trials in Criminal and Cases need to be *gradually* institutionalized in Ukraine: to decide on “probable cause” to believe the individual has

committed a crime and should be put on trial (Panel of 16-25), and to decide whether the defendant committed the crime as charged (Panel of 12);

- that, for the sake of political development of Ukrainian nation, Jury Trials in Civil Cases need to be *gradually* institutionalized in Ukraine: to decide whether the defendant injured the plaintiff in a civil case (Panel of 6) and to decide on injunction and merit in specific, most sensitive categories of property and contract disputes (Panel of 6 qualified peers);
- that, for efficiency considerations, Right to Jury Trials in Criminal Cases shall be granted to communities that, generally, achieved appropriate level of political development, while Right to Jury Trials in Civil Cases shall be granted to communities that, additionally, shoulder the financial burden of its operation;
- that admissions, testing and rating of candidates to the Supreme Court, Constitutional Court and judicial disciplinary organs (first stage), Appellate Courts (second stage), should be outsourced 'watertight' to foreign professional contractors, reputable in Western states, while admissions regulations be reviewed for liberalization;
- that justices need be ensured stably high salaries, provided military protection and residential compounds for them and immediate family members with shoot-to-kill policy regarding attackers and intruders, to opt in and out at will.

Regarding **Legal System, Rights, and Law Enforcement**, I posit, intend to corroborate and defend the following theses:

- that Ukrainian **Constitution** and crucial part of corpus of general principles of law recognized by the civilized nations are not minimally comprehended, not at all valued or emotionally invested in by Ukrainian upper class (the ruling elite) middle classes, and even legal establishment, which is testament to (so far) insufficient political development of Ukrainian nation;



- that **Legal System of Ukraine**, in order to minimally perform its function, long requires 'Herculean clean-up of King Augeas' stables' type of restructuring and purgation, whereby few quality legal acts such as Civil Code and Court Procedures need to be reinstated to their due relative weight, some especially malicious acts and norms specifically expunged, EU Acquis massively implemented, while over 90% of self-contradictory, obsolete, repetitious or plain unacceptably inferior quality Ukrainian legal norms currently in force (legislative spam produced by less than competent authors and rubber-stamped outside of elementary intellectual scrutiny and civilized parliamentary procedure) need to be reclassified as technical regulations that they really are, otherwise relegated to probationary status of 'soft law' unless and until thoroughly revised or replaced with EU Acquis and quality laws and regulations produced through civilized parliamentary procedure;
- specifically, **overcriminalization** needs to be checked by radical reduction in catalogue of crimes in the Criminal Code, with removal of dozens of socially irrelevant crimes, also crimes whose very prosecution produces more corruption and harm than good to society; introduction and regular operation of civilized crime control policy, whereby police departments and officers are not free in allocation of their working time, limited law enforcement resources and dedicated public funds, but have priorities that are determined in civilized, democratic way, followed through and diligently controlled.

As to other political institutions, I posit, intend to corroborate and defend the following theses:

- **two Censors** have to be institutionalized in place of the college of Central Electoral Commissioners and census officials, in order to civilize governance in Ukraine, with requirements of minimal age of 42, demonstrated wisdom, reserve, higher empathy and tolerance, and tradition to prefer women candidates over men, ensure that

Western region be afforded one but never both offices, and exclude choleric temperaments and violent spirits;

- **ten People's Tribunes** have to be institutionalized in place of Parliamentary Ombudsman, Rights of the child Ombudsman, Educational Ombudsman, Business Ombudsman, co-opting rights advocacy leaders of main trade union associations, in order to civilize governance in Ukraine.

Regarding **Economy, Economic Planning and Business Regulation**, I posit, intend to corroborate and defend the following theses:

- that Ukrainian authorities, starting mid-1990s, effectively blocked business credit for small and medium businesses, industry and start-ups (with brief 2005-2008 remission) purposely arresting nation's economic and social development;
- that Ukrainian authorities and business associations have been miserably failing Ukrainian market access negotiations with foreign states and their associations ever since 1991, producing grossly unfavourable, raw deal import-export conditions;
- that Ukrainian authorities, starting 2014, have been pursuing business and administrative regulation that purposely undermines small and medium businesses;
- that Ukrainian authorities, starting 1991, but most intensely since 2014, have been pursuing de-industrialization of economy shaping it into one-dimensional, primitive, jobs-thin, low value added structure;
- that the aforementioned has been causing devastating harm to Ukrainian economic sustainability, growth, capital, jobs, households, tax revenues, even environment, seriously complicated Ukraine's integration into the EU, undermined Ukrainian defense capability, victimized Ukraine for Russian aggression and continues to bleed thin Ukrainian 2022 defense effort;

- that, post-war, Ukrainian market access and related treaty norms have to be comprehensively reviewed, and mostly renegotiated to reinstate balance of interests, Ukrainian business and banking regulations fundamentally revised in thesis-specified way (to prioritize small and medium enterprise), as necessary condition to Ukrainian reconstruction into sustainable community and creditworthy participant in international trade;
- that, post-war, Ukrainian economy has to be either industrialized, or restructured into higher-value added one, in order to allow Ukrainian nation to proceed to next stage of political development and reinvent itself into tolerable member of, and contributor to, European family, capable of growth towards European standards, sustaining and defending its territory, population, investment and industrial capital.

**Migration**-wise, I posit, intend to corroborate and defend a thesis that, in view of prolonged war and havoc it wreaks on Ukrainian people and jobs, special status has to be negotiated for Ukrainian citizens - war migrants in possibly larger number of receiving (including EU and Schengen area member) states, whereby they could enjoy unlimited exit and entrance rights with no negative effect for their refugee, protection, legal residence, social benefits recipient, worker and other statuses, both to account for their humanitarian needs like picking belongings and attending needy immobilized dependants in Ukraine, and to allow them to more evenly and efficiently redistribute, easing burden on state coffers, public services and workmarkets of individual EU member and other states.

In the field of **Peace and Security**, I posit, intend to corroborate and defend the theses:

- that Ukrainian one-sided unconditional nuclear disarmament of 1989-1996, in the context of then non-aligned status of Ukraine, Russian preservation of its own nuclear triad, and purposeful erasure of Soviet defense-related scientific and technological legacy in Ukraine, has rendered Ukraine strategically indefensible vis-a-vis the

Russian Federation, a de-facto Russian protectorate, reclaimable for annexation by Russia 'on first demand';

- that decision to unconditionally nuclearly disarm and thereby strategically give in on security of Ukrainian nation vis-a-vis Russia and other Great Powers was taken by Ukrainian ruling class in view of insufficient political development of Ukrainian nation to tolerate, let alone struggle for other variables that behove sovereign state, in acknowledgment of own collective lack of patriotism, intellectual wherewithal and strength of character;
- that subsequent (1999) **Ukrainian political U-turn towards military integration with the West**, in disregard of Russian repeated overt warnings of intolerable violation of its vital security interests, was potentially **suicidal for Ukrainian nation** casting it as *agent provocateur*, supplying *casus belli* for Russia against Ukraine and principal cause for 2014-and-counting war, related loss of life, property and territory;
- that Ukrainian **treatment of Russian national minority** in political, educational, scientific, cultural and media spheres, **sparring reaction to Russian war and dehumanization propaganda** (eased by curtailment of republicanism, democracy and rights) have served to near Russian-Ukrainian war and increase its savageness and lethality;
- that Ukraine cannot be left alone in its peacemaking effort, and that sustainable **peace between Russia and Ukraine can only be imposed from the outside, alternatives being** annihilation of either of the two and/or start of **Third World War** aimed at Western Europe and European part of Russia.

In the thesis, I shall elaborate and substantiate **recommendations for the original, effective peacemaking effort.**