

The Orange Revolution at the Crossroads

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Abstract: The November–December 2004 Orange Revolution led to the election of Viktor Yushchenko as Ukraine’s third president. Yushchenko’s presidency has been associated with a number of important democratic gains, such as the holding of free and fair elections, a free media, an active civil society, the dissociation of oligarchs from a corrupt relationship with the authorities, and a more robust commitment to Euro-Atlantic integration. The Orange Revolution went into crisis in September 2005, when the Tymoshenko government was removed, culminating in the victory of the Party of Regions, led by Viktor Yanukovych, in the March 2006 elections. Following five months of coalition negotiations, a revived Orange coalition was replaced by first an Anti-Crisis and then a National Unity coalition, with a government led by Prime Minister Yanukovych. The signing of a “Universal” agreement by President Yushchenko, Prime Minister Yanukovych, and three other parliamentary parties, aims to maintain Ukraine’s democratic gains through the continued pursuit of Yushchenko’s domestic and foreign policies. The Orange Revolution has reached a crossroads, with either the consolidation of further reforms begun by the Orange Revolution, or a return to the policies pursued in the Kuchma era.

Key words: democratization, Orange Revolution, Our Ukraine, PR, Prime Minister Viktor Yanukovych, Universal Crisis, Viktor Yushchenko, Yulia Tymoshenko

Ukraine is in the second year of an Orange coalition following the election of Viktor Yushchenko as president in January 2005. President Yushchenko came to power on the back of the Orange Revolution, ostensibly the fifth democratic revolution in a postcommunist state.¹ The Orange Revolution and Yushchenko’s electoral victory have brought a number of positive developments, such as media freedom, greater civil society activity, free and fair elections, the breaking of ties between oligarchs and organized crime, and lower levels of corruption and rent seeking at the senior levels.² These developments led to the New York-based Freedom House to upgrade Ukraine from “semi-free” to “free” in 2006, the first CIS

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state to be moved into this category. These positive developments, which place Ukraine on a different trajectory than Russia and the bulk of the CIS,³ are not in doubt. What is potentially in doubt is to what degree these positive developments could be rolled back after the return of Viktor Yanukovich as prime minister in August 2006, following six months of crisis that placed a dark shadow over Ukraine's first free and fair election on March 26, 2006.

Ukraine's Orange coalition fell into crisis in September 2005 and has not reunited; Yanukovich's return to the government in August 2006 has led to an irreversible split in the Orange coalition. Negotiations to rebuild an Orange parliamentary coalition took place over three months following the March 2006 parliamentary elections. However, following the defection of the smallest of the three political parties that created the coalition, the Socialist Party (SPU), the Orange coalition disintegrated before proposing its government.

During the coalition negotiations and parliamentary crisis following the March 2006 elections, acting secretary of the National Security and Defense Council (NRBO), Volodymyr Horbulin, stated that Ukraine is in the midst of a "crisis of constitutional reform." The head of the presidential secretariat, Oleh Rybachuk, also believes that Ukraine has slipped "into a political and constitutional crisis." The "crisis" was fuelled by a fully proportional election⁴ and the introduction of constitutional reforms, which transformed Ukraine from a semipresidential to a parliamentary-presidential republic. Some of the "crisis" is therefore attributable to the switch to a new political system that will be beneficial to Ukraine's democratization in the medium term. Postcommunist countries that have adopted parliamentary systems are better at democratizing than those in the CIS who have superpresidential systems.

The origins of Ukraine's crisis lie in Yushchenko's failure to take advantage of the wide range of powers he inherited from the July 1996 semipresidential constitution during his first year in power. These powers were never used to break with the Leonid Kuchma era, push through a government program of radical reforms, or press charges against senior members of the Kuchma regime for abuse of office, corruption, election fraud, and violence against journalists and politicians. Since the majority of those who could have been charged following the Orange Revolution are now inside the Party of Regions (PR) parliamentary faction, where they have immunity, there is no discussion of charges being pressed during the current Parliament's term.

President Yushchenko's indecisiveness in 2005–06 included four strategic mistakes:

1. Removal of the Yulia Tymoshenko government in September 2005, dividing the Orange coalition only seven months before the elections;
2. Signing a memorandum with defeated presidential candidate Viktor Yanukovich that included proposals such as amnesty for election fraud committed during the 2004 elections. The perception of Yushchenko backtracking from the values of the Orange Revolution was reinforced by Prime Minister Yuriy Yekhanurov, who supported a cooperative relationship with the oligarchs, whom he positively described as Ukraine's "national bourgeoisie";

3. Divisions in the Orange coalition caused the PR's support to grow from 15–20 percent of the electorate in 2005 to 32 percent during the 2006 elections. The PR obtained the largest parliamentary faction with 186 deputies; and

4. The January 2006 gas agreement with Russia reinforced divisions in the Orange Revolution camp. The Tymoshenko bloc (BYuT) voted together with the PR in a no-confidence vote on the Yekhanurov government. It also furthered public perceptions of Yushchenko's lack of strategy and being beholden to corrupt business interests. The inclusion of the nontransparent Rosukrenergo in the gas deal was either due to incompetence on the part of the executive and the government, a continuation of corruption schemes from the Kuchma era, or a mixture of the two.

Weak strategy continued to plague the Orange Revolution camp during the March 2006 elections and throughout the prolonged coalition negotiations. An informal agreement within the Orange Revolution camp stated that whatever party garnered the most votes would have the right to appoint the prime minister. The election results came as a shock to Our Ukraine, which had expected to come in second (i.e., first in the Orange Revolution camp). Until the September 2005 crisis, Our Ukraine had every opportunity to receive the most votes in the 2006 elections, as Yushchenko is Our Ukraine's honorary chairman. Instead, Our Ukraine dropped to third place and received 9 percent fewer votes than in the 2002 elections, when it had come in first with 23 percent.⁵

The 2006 elections radically changed Ukraine's political landscape, laying the basis for the spring–summer 2006 crisis and Yanukovich's return to the government:

- The Our Ukraine that entered the 2006 Parliament is more centrist and less nation-democratic than the Our Ukraine in the 2002 elections. Major national democratic political forces, which had joined the bloc four years earlier, refused to join Our Ukraine in 2006. These included well-known national democratic leaders whose presence in the government and in the Parliament would have been a positive development and given Yushchenko additional support. The Reforms and Order/Pora coalition, and the Kostenko-Pliushch blocs failed to enter the 2006 Parliament. All of the political parties in these two blocs, except Pora, which was established in 2004, were a part of Our Ukraine in the 2002 elections (see table 1);

- The only centrist political party to enter Parliament was the PR. In the 2002 elections the PR, which represents by the Donetsk oligarch clan, campaigned together with four other parties in the pro-Kuchma For a United Ukraine bloc (ZYU). Three of these parties ran independently in the 2006 elections and failed to enter Parliament (Agrarians [the Volodymyr Lytvyn bloc], Labor Ukraine, and the People's Democratic Party). Anatoliy Kinakh's Party of Industrialists and Entrepreneurs, the fifth member of the ZYU, defected to Yushchenko in the second round of the 2004 elections and joined the Our Ukraine bloc in the 2006 elections. The Social Democratic United Party, headed by Viktor Medvedchuk, who had headed the presidential administration during Kuchma's last two years in power (2002–04), fought the 2002 elections independently of the ZYU. It won the 2002 elections but, like most other centrists, also failed to enter the 2006 Parliament;

TABLE 1. Our Ukraine: 2002 and 2006 Parliamentary Elections

2002 Elections	2006 Elections
Rukh	Rukh
Christian Democratic Union	Christian Democratic Union
Congress of Ukrainian Nationalists	Congress of Ukrainian Nationalists
Solidarity	Merged into the new People's Union-Our Ukraine Party
Youth Party of Ukraine	Merged into the new People's Union-Our Ukraine Party
Party of Industrialists and Entrepreneurs was a member of the pro-Kuchma For a United Ukraine bloc	Party of Industrialists and Entrepreneurs
Republican Christian Party	Did not participate in the elections
Forward Ukraine	Ran independently
Liberal Party	Ran independently
Reforms and Order	Ran independently in a bloc with Pora
Ukrainian People's Party	Ran independently as the Kostenko-Pliushch bloc
The Pora NGO was established in 2004 and the party in 2005	Ran independently in a bloc with the Reforms and Order party

• The Tymoshenko bloc (BYuT) expanded its support more than threefold on its 2002 results by growing from 7 to 22 percent, coming in first in the Orange Revolution camp. Our Ukraine's support, meanwhile, declined from 23 to 14 percent between the 2002 and 2006 elections.

Ukraine's 2006 Parliament is the most polarized in Ukraine's fifteen-year history. Former pro-Kuchma centrists, who had traditionally played a "buffer" role between eastern and western Ukraine, were no longer present. Two antagonistic political forces—the PR and the BYuT—were the largest factions in Parliament with 310 deputies (or 70 percent of the total of 450). Contentious issues such as NATO membership and Russian language status heightened the polarization in Parliament.

The PR's attitudes toward the immediate past also heightened tensions in Parliament. The PR's leadership and supporters believe that they won the 2004 elections, but were betrayed by Kuchma and his then head of the presidential administration, Medvedchuk. The PR is therefore janus-faced; although it is anti-Kuchma, it is also attempting to legitimize itself as a post-Kuchma party.

At the same time, the PR has never acknowledged Yushchenko's legitimacy as deriving from a rerun of the second round of the 2004 elections called for by the Supreme Court, which, due to widespread fraud, overturned Yanukovich's electoral victory.⁶ The PR's view of the Orange Revolution as a U.S.-backed conspiracy shows its inability to separate itself from the political culture of the Kuch-

ma era. This is reflected in other policy areas, such as the PR's ambivalence toward a free media.⁷

The lack of criminal charges against senior Kuchma-era officials has discouraged the PR's leadership from admitting its role in election fraud in 2004, which contributed to Yanukovych's defeat. With no charges being pressed, the PR's leaders argue "election fraud, what fraud?" The possibility of criminal charges being pressed for election fraud in 2004 are now unlikely as those who could have been charged in 2005 now have parliamentary immunity for the duration of the current Parliament.

Coalition Choices

Following the 2006 elections, Our Ukraine senior leader Roman Besmertnyi proposed that Our Ukraine recognize the results and accept the BYuT's right to appoint its candidate for prime minister in a new Orange coalition. Both Our Ukraine and Yushchenko, who, instead, conducted simultaneous negotiations over the next three months with both the BYuT and the SPU for a revived Orange coalition, and with the PR for a grand coalition, ignored this proposal.

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The reality of the 2004 and 2006 election results, both of which confirmed Ukraine's regional divide, pointed to three potential coalition possibilities:

1. *Orange Revolution*: Our Ukraine, the BYuT, and the SPU (243)
2. *Grand Coalition*: Our Ukraine, the PR (267), and, possibly, the SPU (300)
3. *Anti-Crisis/National Unity*: the PR, the Communist Party, the SPU (240) and, possibly, Our Ukraine (320)

An Orange coalition would have been created immediately following the 2006 elections if Our Ukraine had come in second (i.e., first in the Orange camp). The prolonged coalition talks held simultaneously with the BYuT-SPU (revived Orange) and the PR (Grand) were a consequence of Our Ukraine coming in third (i.e., second in the Orange camp).

The marathon coalition talks (April–July 2006) showed that Yushchenko and Our Ukraine were also janus-faced. Although willing to accept domestic and international credit for holding free and fair elections, they were simultaneously unwilling to accept their reduced size and influence and the fact that the PR and the BYuT now control 70 percent of the parliamentary deputies. This unwillingness to accept the election outcome directly led to the spring–summer 2006 political and constitutional crisis. Hoping to increase Our Ukraine's leverage, Yushchenko and Our Ukraine negotiated two coalition options. Our Ukraine hoped to prevent Tymoshenko from taking the position of prime minister in the

Orange coalition and, failing this, to balance her position by controlling the parliamentary speaker position.

The nomination of Petro Poroshenko for parliamentary speaker reinforced two prevalent views. First, that there would be a return of the Tymoshenko-Poroshenko personal clashes that plagued the first year of the Orange coalition. Second, there is a chance the Orange coalition will collapse again in the fall of 2006 due to Tymoshenko and Poroshenko's personal rivalry. Following the collapse of the second Orange coalition, a grand coalition of Our Ukraine and the PR could have emerged to replace the failed Orange coalition. Our Ukraine's refusal to accept the SPU leader, Oleksandr Moroz, as a candidate for parliamentary speaker, while insisting that it should control this position, encouraged the SPU to defect to the PR, thus laying the foundation for Yanukovich's return to the government as head of the Anti-Crisis/National Unity government.

In negotiations with the PR over a possible grand coalition and the government, Our Ukraine sought to obtain concessions over the prime minister's position in return for the PR controlling the position of parliamentary speaker. The PR agreed to leave Yekhanurov as prime minister, whom they see as ideologically close to them on issues such as reprivatization. The PR's compromise aimed to block Tymoshenko's return to the government, which would have threatened the PR's strategic objectives of halting further reprivatizations and ensuring the sanctity of property rights. Our Ukraine, Yushchenko, and the PR agreed to stop further reprivatizations, with only the BYuT supporting them.

In late June a reunited Orange coalition was formed three months after the March 2006 parliamentary elections that would have seen Tymoshenko return as prime minister. But the coalition collapsed before it could propose its government when the smallest of the three coalition partners, the SPU, withdrew its support from the coalition over Our Ukraine's refusal to accept its demand that Moroz be made the parliamentary speaker. The SPU was opposed to Our Ukraine's leading member, Poroshenko, becoming the parliamentary speaker. They argued that this would have returned Ukraine to the institutional and personal conflicts that plagued 2005. In reality, the SPU had long sought the parliamentary speaker position for its leader.

The SPU never objected to other aspects of the Orange coalition's program during the April-June negotiations and remained in the government throughout 2005-06. Moroz was the speaker during the 1994-98 Parliament, where, allied with the Communist Party (KPU), he attempted to thwart economic reforms and a pro-Western foreign policy. As parliamentary speaker, Moroz and Kuchma disagreed on Ukraine's domestic and foreign policies. Moroz and the SPU played an important role in Ukraine during the 2000-01 Kuchmagate crisis, defending democracy in the face of Kuchma's authoritarian trends.⁸ The SPU and the BYuT⁹ formed the main basis of the Ukraine without Kuchma (2000-01) and Arise Ukraine! (2002-03) protests, anti-Kuchma protests that Yushchenko and Our Ukraine remained organizationally separate from and refused to support.¹⁰ Yushchenko and other Our Ukraine leaders always looked at themselves as a "constructive" or "loyal opposition," never an anti-Kuchma party in the manner of the BYuT or the SPU.

Anti-Crisis Coalition

The defection of the SPU to the PR gave it the possibility to create an Anti-Crisis coalition without Our Ukraine. The PR and the KPU had insufficient votes to create a parliamentary coalition, being nineteen deputies short of the 226 needed for majority. The Anti-Crisis coalition (the PR, the SPU, and the KPU) controlled 240 out of 450 deputies, which is close to the 243 that the Orange coalition would have controlled. The KPU has a long record of hostility toward Yushchenko over his alleged closeness to the U.S. and his positions on NATO and the Ukrainian language. These issues led the KPU to align with Yanukovich in the 2004 elections. The KPU's hostility toward the pro-NATO/U.S. Yushchenko trumped the corrupt and oligarch nature of the PR.

The creation of the Anti-Crisis coalition removed the need for the PR to concede the prime ministership, which it could seek to obtain for itself, with the SPU and the KPU sharing control of the leadership in Parliament. The PR refused to compromise over Yanukovich for prime minister, a position he occupied during the last two years of the Kuchma regime (2002–04). (During its negotiations with Our Ukraine over a grand coalition, the PR was willing to compromise over the prime ministership.)

The inclusion of the KPU marks the second occasion they have entered the government. The KPU are in the government at a time when they are in terminal decline from their peak of 120 deputies in the 1998 Parliament to only twenty-one today. The KPU initially entered the government in 1994, with Prime Minister Vitaly Masol. Then-president Leonid Kravchuk brought back Masol to replace Kuchma as prime minister in a vain attempt to attract Communist voters in the 1994 presidential elections.

Yushchenko and Our Ukraine insisted that the KPU be removed from the Anti-Crisis coalition before they would consider joining it. The coalition members refused and the KPU stayed in the coalition. Yushchenko, nevertheless, approved the entrance of Our Ukraine into the Anti-Crisis coalition. Our Ukraine officially declared their opposition to the Anti-Crisis coalition and joined the National Unity coalition following the signing of the Universal on National Unity. Only thirty out of the eighty Our Ukraine deputies voted for Yanukovich for prime minister.

The BYuT, which has always ruled out entering any coalition that includes the PR, was the only party that refused to sign the Universal. Our Ukraine will continue to be in “constructive opposition” to, and cohabitation with, the National Unity coalition. Our Ukraine's national-democrat wing will align itself with the BYuT and Our Ukraine's centrist business wing will align itself with the National Unity coalition and government.

Yushchenko initially refused to accept Yanukovich's candidacy for the prime ministership. The reasons were similar to those why he was disinclined to look favorably on Tymoshenko becoming the prime minister. Both Yanukovich and Tymoshenko are polarizing figures who would further divide—not unite—Ukraine if either one became the prime minister. Yushchenko and Our Ukraine also initially refused to join any coalition that included the KPU with Yanukovich

as prime minister. The Anti-Crisis coalition rebuffed Yushchenko and Our Ukraine's two demands.

Yushchenko has little leverage as his own poor tactics forced him to choose between dissolving Parliament and calling fresh elections or agreeing to nominate Yanukovich for the prime ministership. The first option was unpalatable, as Our Ukraine's ratings had declined to as low as 8 percent, meaning it would have even fewer seats, while the PR would have increased its share of the vote from 32 to more than 40 percent. The dissolution of Parliament and fresh elections would not have helped Ukraine. A newly elected Parliament would be even more polarized because the PR and the BYuT's representation would have increased. The SPU and the KPU may not have entered Parliament. The SPU could have been decimated in a new election by its supporters protesting its alliance with the PR.

Yushchenko's Weakened Position

During the course of his presidency, Yushchenko was increasingly viewed as a weak leader who lacked political will and strategy. He is unlikely to win a second term in the 2009 elections. The spring–summer 2006 crisis, coupled with Yanukovich's return to the government, will reinforce this growing view inside and outside Ukraine. By the president being forced to call early parliamentary and presidential elections, his first term could be cut short. Kravchuk called early elections in June 1994, two years early, and was defeated by Kuchma.

Yushchenko's weaknesses closely resemble those of Kravchuk's. Both Kravchuk and Yushchenko will be remembered for having brought about independence (Kravchuk) and the Orange Revolution (Yushchenko). But Kravchuk was not reelected in 1994 and Yushchenko is unlikely to be reelected in 2009 because they both proved to be weak, indecisive, and unwilling to listen to public opinion. In the 1994 elections, Ukrainian voters did not vote thinking of the independence achieved three years earlier, but in protest at the previous years hyperinflation and the incompetent economic policies of the Kuchma government. Similarly, in the 2009 elections, Orange voters will not base their vote on the Orange Revolution but on the fact that Yushchenko permitted Yanukovich (the former convict and "bandit" in Yushchenko's 2004 election rhetoric) to return to the government.

In the 2009 presidential elections, Tymoshenko will be well positioned after three years in the opposition. Her main opponent will be either Yanukovich or another PR candidate. Neither of the two main presidential candidates will heal Ukraine's regional divide and political polarization.

Besides early presidential elections, another threat to Yushchenko is the antipresidential stance of the two left-wing parties in the National Unity coalition. They oppose the institution of the presidency and have sought to establish a parliamentary republic similar to Moldova, which became a full parliamentary republic after constitutional reforms were adopted in 2000. The left, and some sections of the PR, could attempt to abolish the presidency as an elected institution through further constitutional reforms that would transform Ukraine into a full parliamentary republic (where the president is elected by the Parliament).

Such steps were first proposed by the Kuchma regime in 2003 as a way of removing the need to hold presidential elections in 2004.

Some Western academic experts downplay the significance of Yanukovych's return, claiming that the Orange Revolution changed the rules of Ukraine's politics.¹¹ Of the twenty-four members of the National Unity government, only four are new, while twenty are representatives of the Kuchma era or were briefly in the Tymoshenko government. Five areas point to Yushchenko failing to play by the rules of the Orange Revolution but instead by rules introduced gradually by his opponents since 2000, when he first entered politics as prime minister. As one commentator wrote, "there are grounds to believe that in August 2006, Yushchenko lost the elections begun in 2004. The triumphant inauguration in January 2005 was only the victorious end of the first phase."¹²

First, Ukraine has a multiparty coalition that includes representatives from four out of the five political factions in Parliament. All four—the PR, Our Ukraine, the SPU, and the KPU—signed the Universal. When Yushchenko was prime minister during 2000–01 he refused to accept demands from pro-Kuchma centrists to create a multiparty coalition government. National democrats and centrists had removed the left-wing leadership of Parliament in a "velvet revolution" in January 2000 and created, for the first time in Ukraine's history, a nonleft parliamentary coalition.

Yushchenko's refusal to transform his government by including representatives from the different political groups in the parliamentary coalition, principally centrists, had two ramifications. Tymoshenko was arrested in January 2000, spending three weeks in jail. In April 2000, Parliament held a no-confidence vote and replaced the Yushchenko government with one led by Anatoliy Kinakh.

Second, during the Orange Revolution, Yanukovych proposed, as a solution to the crisis, that he continue as prime minister while Yushchenko become president. But Yushchenko refused to deal with people he then called "bandits." Following the creation of the National Unity parliamentary coalition and government, Yushchenko and Yanukovych are jointly running Ukraine. Government competencies are divided between Yushchenko's control over the humanities, culture, law enforcement, and foreign and defense policy, and Yanukovych controls economics and energy.

Third, regional divisions, inflamed by Russian political operatives, the shadow Yanukovych campaign (run by Deputy Prime Minister Andriy Kluyev), and Medvedchuk's presidential administration were successful in creating a near 50-50 split in the vote.¹³ In the relatively free rerun of round two of the elections on December 26, 2004, Yushchenko won by only 8 percent because many voters had already been "zombified" during the earlier six months of the election campaign when he was constantly attacked as an American stooge, Nazi, and extreme nationalist.

The Razumkov Ukrainian Center for Economic and Political Studies, which provided many of the analysts for the 2004 Yushchenko campaign, pointed out that Yushchenko did nothing to resolve Ukraine's regional divide between coming to power in January 2005 and the March 2006 elections. If he had taken steps during this fifteen-month period Ukrainians would have welcomed them as sincere and those of a president with political will. The Razumkov Center states, "In addition,

Viktor Andriyovych did not wish to recognize the problem, described it as thought up, and spoke in the name of the nation himself.”¹⁴ Yushchenko only sought the “unifier” mantle of President Abraham Lincoln after his back was against the wall and he had to choose between two unpalatable options. The regional divisions inflamed by the 2004 elections, coupled with the failure to heal them following those elections, were successful in bringing Yanukovych back to power.

Fourth, only one reprivatization took place after the Orange Revolution. After only a week in government, Yanukovych issued instructions to the State Property Fund, the Security Service, and the Prosecutors Office to halt further investigations of past privatizations. The Orange Revolution was brought about by

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many factors, including blocking Yanukovych from becoming president, anger at the treatment of the population by the authorities in the 1990s, support for democratic rights and freedoms, and protest of election fraud. The Orange Revolution was also about removing “bandits” from the government and society. During the Orange

Revolution it was never made clear who these “bandits” were, but Orange supporters assumed they were Kuchma, Kuchma-era senior officials, and oligarchs.¹⁵ Oligarchs and “bandits” can no longer fear criminal retribution.¹⁶ Yushchenko included both Renat Akhmetov and Hryhoriy Surkis in the 2006 honors list for state medals.

Fifth, Moroz first developed constitutional reforms to transform Ukraine from a presidential to a parliamentary republic during 2000–01. Kuchma and Medvedchuk also developed them during 2002–03. Although they failed to obtain parliamentary approval in April 2004, they were agreed to in a “compromise package” in December 2004 and introduced in January 2006.

Yushchenko won breathing space for himself by ensuring that constitutional reforms would not take place until 2006, rather than immediately following the 2004 elections, which Kuchma, his centrist allies, and the left wanted. Therefore, Yushchenko, at his insistence, had extensive powers for a whole year. Yet, surprisingly, Yushchenko barely used these powers. Yushchenko’s detached personality is more comfortable as a president under the new parliamentary-presidential constitution, rather than under the 1996–2005 semipresidential constitution.

Stability of the National Unity Coalition

The revived Orange coalition had internal contradictions between the pro-business Our Ukraine, the SPU, and the BYuT. These divisions rested on ideological and personal rivalries. Throughout 2005, Poroshenko, as secretary of the National Security and Defense Council, and Tymoshenko openly disagreed over Ukraine’s

economic and political policies. Poroshenko's conflict with Tymoshenko was deepened by the September 2005 crisis when the head of the presidential secretariat, Oleksandr Zinchenko, accused Poroshenko and other business allies of the president of corruption. Although these accusations have never been substantiated in court, they have damaged the reputations and public standing of Poroshenko and the business wing of Our Ukraine.

The National Unity coalition is also beset by internal divisions. The two left-wing parties (the KPU and the SPU), have different ideologies than the pro-business PR, which is dominated by Ukraine's wealthiest oligarchs (grouped in Renat Akhmetov's Systems Capital Management) and the section of Our Ukraine that has joined. The PR's main purpose in entering the government is to ensure a halt to further reprivatizations, enforce the sanctity of property rights, and ensure that there will be no criminal charges from abuse of office and election fraud stemming from the Kuchma era. The signing of the Universal forced Yanukovych to accept, at least on paper, the continuation of Yushchenko's domestic and foreign policies. Unless the Universal is confirmed into law as state guidelines on domestic and foreign policies, there will inevitably be conflicts between the government, Parliament, and the executive. Before the adoption of the constitution in 1996, Ukraine—like most CIS states—was plagued by conflict over the division of powers between the executive and Parliament. The formation of a National Unity coalition government could return Ukraine to the conflicts that Ukraine experienced in the first half of the 1990s.

Constitutional reforms have eroded the power of the president in favor of Parliament. The National Unity coalition will control the positions of prime minister and parliamentary speaker with the government responsible to the coalition, not to the president (unlike the Kuchma era when the executive controlled the government). Unlike his twelve predecessors, who served an average of only 12–15 months each, Yanukovych could serve as prime minister until the next election cycle in 2009–11. Following constitutional reforms, the president no longer has the option to dismiss the prime minister if, for example, his or her popularity becomes too high, a common cause for the government's dismissal prior to 2005. Yushchenko used this power in September 2005 when he dismissed the Tymoshenko government after only seven months. Even if the National Unity coalition collapsed, the government would not automatically fall and Yanukovych could be prime minister for the medium term.

A strong-willed Yanukovych, with the backing of the largest parliamentary faction (the PR), will outmaneuver the more indecisive and weak-willed Yushchenko. Yushchenko also lacks the backing of an efficient presidential secretariat and the NRBO. Although Yushchenko controls the law-enforcement agencies, he did not assert his authority over dissident regions in eastern Ukrainian and the Crimea, or bring criminal charges against senior members of the Kuchma regime. According to the reformed constitution, the president continues to control the appointment of the defense and foreign ministers and the prosecutor and chairman of the Security Service. The PR permitted the president to continue to control the Interior Ministry's appointment within the National Unity government.

The Two Viktors: Part II

Yushchenko failed to formulate a coherent strategy following the March 2006 elections, instead reacting to events as they unfolded while preferring to stand above the crisis. His radio and press addresses and television interviews failed to clarify his position on the drawn out coalition negotiations. He never clarified which coalition he supported. If a National Unity coalition is preferable to unite eastern and western Ukraine, why did Yushchenko not propose this immediately following the release of election results on April 10, 2006? Yushchenko publicly revealed his preference for an Orange coalition in June, four months after the elections. Yushchenko had to sanction Our Ukraine while simultaneously negotiating with its Orange partners and the PR during the four-month coalition negotiations.

Yushchenko's position on the spring–summer 2006 crisis gradually evolved:

- The Anti-Crisis coalition was illegitimate from a legal point of view, Yushchenko claimed, because the Orange coalition was not dissolved over the constitutionally prescribed time frame of ten days prior to the creation of a new coalition. The Anti-Crisis coalition was replaced by the National Unity coalition following the signing of the Universal. In reality, there was little to differentiate the two coalitions, except that a portion of Our Ukraine had agreed to join the National Unity coalition;

- Yanukovych's candidacy was unacceptable and Yushchenko would not propose it to Parliament. The person holding the position of prime minister should not be somebody who provokes confrontation in society, a reference to Yanukovych and possibly also Tymoshenko. The person who occupies the position of prime minister should also not be involved in business affairs. Yushchenko agreed to submit Yanukovych's candidacy following his signing of the Universal where he committed himself on paper to continue the president's domestic and foreign policies;

- There should be no change in Ukraine's domestic and foreign policies. In other words, there could be no return to the policies of the Kuchma regime. Twenty out of twenty-four members of the Yanukovych government are from the Kuchma or Tymoshenko governments. The Universal ostensibly commits the "new-old" Yanukovych government to continue the executive's policies;

- Any candidate for prime minister, other than Yanukovych, would be proposed to Parliament only if Parliament agreed to simultaneously swear in its quota of judges for the Constitutional Court, thereby making it operational. On August 4, 2006, the day Parliament voted to confirm Yanukovych as prime minister, it also voted in its quota of judges. Parliament successfully demanded that Yushchenko sign into law on the same day legislation that prevents him from appealing the legality of constitutional reforms to the Constitutional Court. According to legal expert Judge Bohdan Futey, an adviser on Ukraine to the International Republican Institute, the law is illegal. Constitutional reforms were adopted in a compromise package in December 2004, an infringement of procedure that demands constitutional changes be approved over two parliamentary sittings, one with a simple majority vote and a second constitutional majority vote. Throughout 2005, Yushchenko threatened to repeal constitutional reforms;¹⁷

- The president's party, Our Ukraine, will not join a coalition that includes the KPU and only if it is given the position of prime minister. Our Ukraine, together with the BYuT, went into opposition to the Anti-Crisis coalition but, unlike the BYuT, signed the Universal and partially joined the government.

The PR's strategy evolved following the elections. The PR is seeking legitimacy as a post-Kuchma political party, which it will not achieve in a coalition with the left. The PR, therefore, seeks to include Our Ukraine within its coalition because only then can it achieve some level of domestic and international legitimacy. During the postelection coalition negotiations, the PR offered to give Our Ukraine the position of prime minister, a compromise offer that was dropped after the SPU's defection led to the replacement of the Orange with the Anti-Crisis coalition. Our Ukraine continued to insist on the parameters of a grand coalition; that is, Our Ukraine obtaining the position of prime minister in return for the PR obtaining the position of parliamentary speaker with the KPU expelled. Such a continued demand proved untenable as the PR was in a stronger negotiating position following the defection of the SPU.

National Unity Coalition

Following the signing of the Universal by Yushchenko and four of the five parliamentary factions, a National Unity coalition was established. The BYuT refused to sign the Universal while the KPU signed it with reservations on key aspects. The Universal was Yushchenko's compromise between two unpalatable choices, early elections or submitting Yanukovich's candidacy. Signing the Universal would ostensibly show that the prime minister and president supported the same policies and, in particular, that Ukraine remained committed to Trans-Atlantic integration.

The National Unity coalition includes the PR, the SPU, the KPU, and part of Our Ukraine. All four political parties, if fully committed to the National Unity coalition and government, would have a constitutional majority of more than 320 deputies. For this to happen, Our Ukraine would have to move from being in both opposition and in the government, to only being in the government, leaving the BYuT as Ukraine's official opposition. The BYuT will receive the support of national democratic and pro-Orange political groups who failed to enter Parliament (Pora, the Reforms and Order party, Yuriy Kostenko's Ukrainian People's Party, and the part of Our Ukraine who believe Yushchenko betrayed the Orange Revolution). After refusing to sign the Universal, Tymoshenko described it as the "capitulation of the Orange camp." Pora issued a demand that Yushchenko henceforth no longer claim legitimacy from the Orange Revolution.¹⁸

Positive Repercussions

Roundtable negotiations are a step forward in Ukraine's democracy, as Kuchma always ruled them out and such roundtables would never take place in Russia or the CIS. The EU has reacted favorably to the televised live roundtable between the president and the opposition parties.

The Universal is similar to the 1995 constitutional agreement adopted prior to the 1996 constitution in that it could become a fundamental stepping stone in Ukraine's state and nation building process, especially if the Universal becomes a law on domestic and foreign policy guidelines. The PR has compromised over divisive issues such as federalism, Russian language status, and NATO membership. Without the PR supporting Ukraine's NATO membership, it would be difficult for Ukraine to join NATO, as the PR dominates eastern-southern Ukraine, where NATO membership is most unpopular. The left would be always against NATO membership while Our Ukraine and the BYuT would be in favor. The PR is therefore the only political force in Parliament that could change its stance on NATO.

Negative Repercussions

Yushchenko has avoided going the way of Kravchuk, who was forced to call early elections in 1994 and lost them to Kuchma. This would have inevitably followed if Yushchenko had proposed Yanukovych without the signing of a Universal. But Yushchenko remains likely to be only a one-term president, as two stronger candidates (Tymoshenko and the PR candidate) will oppose Yushchenko in the 2009 elections. Polls show that Yushchenko would have received only 8–14 percent of the vote if an election would have been held in July 2006. Yanukovych would have received more than 30 percent while Tymoshenko would have received 20 percent. Yushchenko received 52 percent in the December 26, 2004, rerun of round two of the elections (see tables 2 and 3).

Our Ukraine's two wings are split between supporting the National Unity and aligning itself with the BYuT. Mykola Katerynchuk publicly called for the expulsion of the thirty Our Ukraine deputies who voted for Yanukovych. Our Ukraine remains unable to decide if it is in "opposition" or part of the National Unity coalition and the government, or both. If Our Ukraine enters a Yanukovych government it will ruin its electoral chances and public standing, making it, like Valeriy Pustovoitenko's People's Democratic Party in the late 1990s, a failed "party of power."

TABLE 2. Early Parliamentary Elections: July 2006 Polls (%)

Parties/ Bloc	2006 Results	Center Social Research "Sofia"	FOM- Ukrayina	Kyiv International Institute of Sociology	Institute of Social and Political Psychology, Academy of Sciences
PR	32.14	37.1	36.5	50.3	38.7
BYuT	22.29	22.3	19.8	22.4	35.1
NU	13.95	11.3	9.3	10.1	6.9
SPU	5.69	5.5	2.7	3.2	2.8
KPU	3.66	5.3	3.1	2.8	4.4

TABLE 3. Early Presidential Elections: July 2006 Polls (%)

Candidate	Center Social Research "Sofia"	Razumkov Center
Viktor Yanukovych	36.2	31.3
Yulia Tymoshenko	20.1	19.6
Viktor Yushchenko	14.4	8.4
Oleksandr Moroz	5.5	5.5

Source. Ukrayinska Pravda, July 17 and 27, 2006.

Yanukovych's return as prime minister will be perceived negatively inside Ukraine by the majority of Orange voters and by some Western governments and international organizations. Yanukovych's record as Donetsk's governor (1997–2002) and as the prime minister and presidential candidate (2002–04) is poor. His record on democratization, corruption, and the rule of law is also poor. The PR is seeking to increase its domestic and international legitimacy, but its commitment to democracy and reforms is, as yet, untested. The PR could move in a positive direction as a new democratic political party, a path undertaken successfully by other postcommunist forces in Poland, Lithuania, and Romania. Or, it could fail to do so, returning Ukraine to the policies and practices of the Kuchma era.

At the same time, the fact that Yanukovych is seen in a negative manner by the half of Ukraine that voted for Yushchenko or the Orange parties in 2006 should not be ignored. Forty-two percent of the electorate voted for Yanukovych in the 2004 elections and 32 percent for the PR in the 2006 elections, primarily in the industrialized and Russified eastern and southern part of Ukraine. Ukraine's democratic revolution was closer to that which took place in Serbia than Georgia. In Ukraine and Serbia the authorities were not completely defeated, making the threat of their return to power a serious threat to the new democratic authorities. Mikheil Saakashvili received 97 percent of the vote in the January 2004 Georgian elections while his opponents received less than 2 percent each. Unlike in Ukraine, Saakashvili's opponents are unlikely to return to power.

Conclusion

The Orange Revolution is at a crossroads. Ukraine's democratic revolution and Yushchenko's electoral victory in November 2004–January 2005 has brought democratic gains for Ukraine in a number of key areas such as free media and the holding of free and fair elections, making Ukraine's trajectory very different from the majority of CIS states.

At the same time, the return of Yanukovych as the prime minister, with Yushchenko remaining the president, could threaten these developments by

returning Ukraine to the competitive authoritarianism of the Kuchma era.¹⁹ The Universal signed by Yushchenko and four of the five parliamentary political forces could remain largely on paper coupled with growing institutional and personal conflict between Parliament, government, and the executive, reminiscent of the 1991–95 era before Ukraine adopted its June 1996 semipresidential constitution.

Alternatively, post-Orange Revolution Ukraine, following the six-month political and constitutional crisis that followed the March 2006 elections, could develop in a more positive manner, reinforcing the gains of the Orange Revolution. Elements of such an optimistic trajectory include relatively stable politics, the pursuit of moderate reforms, continued strong economic growth, the conversion of the Universal into enforceable legislation, and the successful transformation of the PR into a post-Kuchma and post-oligarch political party that is ready to play by the new rules introduced by the Orange Revolution.

The next three to five years before the next election cycle in 2009–11, when Ukraine holds presidential followed by parliamentary elections, will show which of these two outcomes, the pessimistic or optimistic, will emerge in Ukraine.

NOTES

1. Scholars are divided in their views on the number of democratic revolutions and which country experienced the first revolution. Serbia (2000), Georgia (2003), Ukraine (2004), and Kyrgyzstan (2005) are often placed in one category by scholars with expertise in post-Soviet politics. Scholars who are experts in central European politics add Bulgaria (1996–97), ostensibly the “first” democratic revolution, and then Slovakia (1998). But this ignores the Velvet Revolution in Czechoslovakia (1989) and the Solidarity movement in Poland (1980–89). Diffusion between these different revolutions undoubtedly took place, but to what degree is difficult to determine. See Taras Kuzio, guest editor of a special issue titled, “Democratic Revolutions in Post-Communist States,” *Communist and Post-Communist Studies* 39, no. 3 (September 2006); and Michael McFaul, “Transitions from PostCommunism,” *Journal of Democracy* 16, no. 3 (July 2005): 5–19.

2. See Taras Kuzio, “Revisiting the Orange Revolution, Parts One and Two: Considerable Gains,” *Eurasian Daily Monitor* 2, no. 217 and 220 (November 21 and 28, 2005).

3. See Alexander Motyl, “Ukraine and Russia: Divergent Political Paths,” http://www.opendemocracy.net/democracy-ukraine/russia_ukraine_3830.jsp (accessed August 17, 2006); and Taras Kuzio, “Ukraine Is Not Russia: Ukrainian and Russian Youth Compared,” *SAIS Review* 27, no. 2 (Summer–Fall 2006), forthcoming.

4. The 2006 elections were held for the first time using a full proportional law with a 3 percent threshold. In the 1998 and 2002 elections, Ukraine used a mixed proportional and majoritarian system with a 4 percent threshold and seats elected equally using both systems. Ukraine’s first elections in 1994 were held using a fully majoritarian system.

5. On the formation of the Our Ukraine bloc and Yushchenko’s personality and politics see Taras Kuzio, “Yushchenko: Constructing an Opposition,” *Transitions On Line*, August 11, 2006; and “How to Understand Yushchenko,” *Kyiv Post*, June 15, 2006.

6. See Lucan A. Way, “Kuchma’s Failed Authoritarianism,” *Journal of Democracy* 16, no. 2 (April 2005): 131–45; Taras Kuzio, “Ukraine’s Orange Revolution. The Opposition’s Road to Success,” *Journal of Democracy* 16, no. 2 (April 2005): 117–30; and Taras Kuzio, “Kuchma to Yushchenko: Ukraine’s 2004 Elections and ‘Orange Revolution,’” *Problems of Post-Communism* 52, no. 2 (March–April 2005): 29–44. See also Anders Åslund and Michael McFaul, eds., *Revolution in Orange* (Washington, DC: Carnegie Endowment, 2006).

7. 971 Ukrainian journalists issued an appeal to the PR demanding that it uphold

media freedom. See <http://www.pravda.com.ua/news/2006/7/13/44462.htm> (accessed July 14, 2006).

8. See L. A. Way, "Authoritarian State-Building and the Sources of Political Liberalization in the Western Former Soviet Union, 1992–2004," *World Politics* 57, no. 2 (January 2005): 231–61. On the Kuchma era, see two special issues guest edited by Taras Kuzio and Paul D'Anieri, *Problems of Post-Communism* 52, no. 5 (September–October 2005) and *Communist and Post-Communist Studies* 38, no. 2 (June 2005).

9. The BYuT contested the 2002 elections as the Forum for National Salvation.

10. See Kuzio, "Understand Yushchenko," *Kyiv Post*, June 15, 2006.

11. See comments by Dominique Arel and Alexander Motyl in the *Ukrainian Weekly*, "Scholars Comment on the 15th Anniversary of Ukraine's Independence," August 6, 2006.

12. Dmytro Lykhoviy, "Melodiya Prohrashu," *Ukrayinska Pravda*, August 10, 2006.

13. See Taras Kuzio, "Russian Policy toward Ukraine During Elections," *Demokratyzatsiya* 13, no. 4 (Fall 2005): 491–517.

14. Ludmilla Shanina, "Pro Kraiinu, Derzhavu Ta Hromadian u Perekhidnomu Vitsi," *Zerkalo Tyzhnia*, August 19–25, 2006.

15. See the debate between Anders Åslund, "Re-privatization Should Be Avoided," *Kyiv Post*, February 2, 2006, and Taras Kuzio, "Re-Privatization and the Revolution," *Kyiv Post*, February 23, 2006.

16. See Taras Kuzio, "Only the U.S. Tries and Convicts," *Kyiv Post*, September 7, 2006.

17. See Taras Kuzio, "Yushchenko's Referendum Threats Ring Hollow," *Eurasian Daily Monitor* 3, no. 17 (January 2006).

18. See statements on <http://www.byut.com.ua> and <http://www.pora.org.ua/> (accessed August 6, 2006).

19. See L. Way, "The Sources and Dynamics of Competitive Authoritarianism in Ukraine," *Journal of Communist Studies and Transition Politics* 20, no. 1 (March 2004): 143–61.

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