



SUMMARY

# Six years of the Revolution of Dignity: what has changed?

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## Hypotheses and main findings.

The aim of this paper<sup>1</sup> was to establish whether irreversible (or nearly irreversible) systemic changes have occurred in Ukraine over the course and as a result of the Revolution of Dignity, and to identify what practical steps could be taken realistically in the near future to advance those changes.

We consider these changes in the perspective of systemic transition from what North et al. call “limited access order” (LAO)<sup>2</sup> governed by a “natural state” while incorporating Acemoglu and Robinson’s concept of “extractive institutions”<sup>3</sup> and what Hale<sup>4</sup> calls “patronal politics” towards “open access order” (OAO) that includes what is called “liberal democracy”, “free entrepreneurship”, “open society”, etc.

Unlike most other authors, we consider the incumbent socio/politico/economic setup as a system, thereby with interlinkages, and therefore analyze Ukraine’s systemic transformation (commonly called “reforms”) not as a laundry list of necessary changes but in how these changes affect one another and have the potential to bring about the critical mass of systemic transformation in Ukraine.

In order to assess the progress in systemic transformation we have analyzed the following fundamental balances between the observable characteristics of economy, institutions, and society:

- zero-sum vs. win-win thinking;
- rent seeking vs. profit seeking;
- vertical of power vs. checks and balances (within the state);
- Rule-of-Law vs. personal discretionary power (by analyzing the most important institutions defining the rule-of-law, such as courts, prosecution office, police and investigative institutions).
- LAO- vs OAO-oriented social transformations (observed changes in values, attitudes, stratifications, such as “survival values” vs. “self-realization” and self-reliance).
- As an additional indicator we also considered the “extent of corruption,” predominantly in business-government relations.

This report is based upon the analysis of primary and secondary sources (mainly, review of literature and government records, social research data).

What has changed after six years since the Revolution of Dignity? The working hypotheses were as follows:

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<sup>2</sup> North D., Wallis J., Weingast B. Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History. Cambridge University Press, 2009 (North et al.)

<sup>3</sup> Acemoglu D., Robinson J. Why Nations Fail: The Origins of Power, Prosperity, and Poverty. Crown Publishers, 2012

<sup>4</sup> Hale H. Patronal Politics: Eurasian Regime Dynamics in Comparative Perspective (Problems of International Politics). Cambridge: Cambridge University Press, 2014

1. The Revolution of Dignity so far has failed to change the nature of the State. The State is a monopolist on legitimate violence, thus the nature of regime is primarily about who controls the violence. The respective institutions have not changed in their nature, institutional role and corporate culture, except for the patrol police. Neither of the three “doorstep conditions” listed by North et al.<sup>5</sup> is in place yet.
2. For the country as a whole, the move from the Russian field of gravity to the European one is irreversibly accomplished. This may have long-term systemic effect, although contingent upon the EU’s ability to understand the deeper nature of “harmonization” as opposed to often formalistic blueprinting of “European” norms or following the “best practices” of already successful countries. In any case, the visa-free regime and temporary labour migration and other forms of population movement will continue to steadily erode the “Soviet mindset” and bring changes in prevalent values.
3. The core of a Ukrainian political nation is already formed, and has started modernizing.
4. In the political sphere, a “competing pyramids” regime is firmly established and will sustain from now on – a “single pyramid” regime will unlikely be possible again. As such, the system will likely become more open to political competition and further evolution. However, it is still unclear whether or not such evolution can ultimately alter the nature of the State.

Within this report – the first one that attempts a systemic assessment of the changes that have occurred within this period - we have been able to collect only limited empirical evidence in favor of our propositions, but hope that other scholars will follow up with their own empirical testing. So far we have had to largely rely on logically grounded hypotheses.

Overall, the collected evidence supports most of our hypotheses (at least, as we of spring 2020 when the report was finished). This means that Ukraine is still LAO rather than OAO, but is steadily moving forward and has better prospects than ever for transformation due to much stronger driving forces, and sufficiently mature political institutions able to conduct the necessary changes and corrections in a democratic way.

However, the doorstep conditions for this transformation (according to North et al.) have not yet been met, with the lack of RoL remaining the key problem. In the political cycle since the Revolution of Dignity, Ukraine has failed to make an ultimate turn towards a RoL state. At the same time, partial reforms serve as a useful basis for further reforms in the event that political will emerges in the current cycle. The balance has shifted in a positive direction but is still deep in the red, and achievements can be reversed at any moment.

Rent seeking has partly succumbed to the joint forces of civil society, donors, and the fiscal crisis. Nevertheless, it remains dominant, especially in the energy sector, natural monopolies, to a large extent in agriculture, as well as in other large industries. The share of such predominantly rent-seeking sectors in the overall economy has decreased, but they still dominate in the industrial mix by value added. New sectors and “de novo” firms have emerged and strengthened rapidly. The shifting of exports out of Russia towards other markets, primarily the EU, has also contributed to systemic change. The overall trend is thereby positive, but its sustainability will depend on exogenous pressure, because so far the profit-seeking macro sector by itself, though strengthened politically, still cannot overcome the rent-seeking macro sector alone.

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<sup>5</sup> North, Waingast and Wallis (2009) define them as (a) rule-of-law (at least for the elites), (b) politic control over use of force, and (c) perpetual organizations.

The sharp shift in foreign trade from CIS to the EU and new opportunities for labor migration are likely to become long-term and near-irreversible drivers for socioeconomic changes, primarily fueling the rise of the creative class and drifting Ukraine's economic center of gravity westwards. These factors have changed Ukraine's social structure (with the emergent creative class expanding) and economic geography (from east to west) with respective social and political consequences—these processes appear irresistible and irreversible. Still, permanent outmigration of active people, especially from the creative class, can erode the basis for change.

Therefore, the economy also anchors Ukraine's geopolitical choice to a significant extent. In time the new sectors will play an increasingly larger political role, driving not only economic, but also social and political development.

We suggest that post-revolutionary developments have probably altered the balance between “vertical of power” and “checks and balances” within the state system. Political checks and balances have significantly strengthened, primarily due to the return to the “dual” constitution of 2004 and decentralization. However, this balance is still extremely fragile, and progress is by no means irreversible. Most probably, no stable “single pyramid” regime can be established in Ukraine anymore, but an attempt to consolidate into such a system is still possible and would result in disastrous consequences. We consider both abovementioned achievements irreversible because an attempt to cancel either of them will meet very harsh and strong opposition. However, in their present form political institutions can still fail to secure smooth change, primarily due to the incompleteness of both reforms.

The President still holds ample informal power through his influence on the SBU with “economic departments” of this agency still functioning and supplying their boss with *kompromat* on his friends and foes that can be used as a powerful weapon during political infighting either directly (through the PGO and SBI that are still under Presidential control), or indirectly, through the media. Still, we suggest that, despite the obvious concentration of power that has resulted from elections of 2019, preconditions for building of a new “vertical or power” (cf. “single pyramid”) are now worse than ever; so that there is a chance for further evolutionary development. Of course, it does not mean that such a path would not entail further complications and even reversals.

It is so far unclear whether Ukraine's revolution is taking a “French” path (where the moderate reformers were followed by radicals, and then a “thermidor” that eventually paved the way for further revolution(s)), or a smoother and more evolutionary “American” one. Building upon the available data, we suggest that in Ukraine the observed drop in the state authorities and public institutes' trust does not necessarily translate into mass protests and bottom-up violence<sup>6</sup>, however, discontent is possible over a range of pivotal issues, chiefly the ones related to the (lack of) RoL.

Two fundamental processes of change can be identified as having transformed Ukrainian society considerably in the five years following the ouster of Yanukovich, each representing a crucial component of the revolution that the country experienced:

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<sup>6</sup> The course of events in the last three years (2016–19) also confirms this conclusion: despite extremely low popularity of the political class and its institutions, even hatred directed toward President Poroshenko and many other people in power (largely inflated by the media), all attempts to organize violent and massive non-violent rallies failed. Instead, the voters eventually put up with Poroshenko until he was voted out in democratic elections. We suggest that in Ukraine democracy is an established asset for a wide public. A promising sign is that a share of respondents who think that democratic development is important for them remains rather stable (from 64.1% in 2002 to 66.8% in 2017). Freedom of speech remains important as well (from 69.1% in 2002 to 73.1% in 2017).

(a) an unprecedented identity change in Ukraine during the Maidan protests and (largely) in the wake of Russian aggression resulted in the consolidation of an active part of society into a newly-fledged entity, negating previous ethnolinguistic regional cleavages and establishing the foundations of a Ukrainian political nation;

(b) acceleration of the ongoing recalibration of Ukraine’s economic structure (which already by 2013 led to the emergence of new political forces and new cleavages, though not yet contributing to the consolidation of an ideology-based political force) further shaped the two confronting post-Maidan constituencies: the so-called “urban creative class”, which openly supports OAO, and “oligarchic class” and its allies remaining the LAO’s main beneficiaries. Whereas other socioeconomic groups remain rather indifferent or ambivalent to the OAO-LAO nexus, the confrontation of the two “classes” creates many risks and challenges to further evolution of beneficial transformation. However, it can also serve a powerful engine for modernization.

Summing up, the sociological data and evidence-based observations support the hypothesis that Ukrainian society experienced fundamental changes in social values, attitudes and structures prior to 2013 that made the Revolution of Dignity possible. The Revolution (along with subsequent events) further accelerated these changes. The most important of them – the identity shift, emergence of a creative class, and the altering of the main societal cleavages – are hardly, if at all, reversible.

The social research data suggest that for a system to be sustainable in Ukraine, the ruling elites must continuously balance along a thin line between strong leadership and democratic authority. As it stands now, possible social discontent stemming from economic insecurities is low (at least until recently). Yet, the lack of RoL, abrupt violation of human rights and lack of public consensus, transparency and proper communication on the peacemaking initiatives of the new Ukrainian President may cause mass dissatisfaction and unrest.

Overall, by mid-2020 it remains an open question whether the trajectory of society-driven revolutionary change has proceeded sufficiently for the transformations to be fully sustainable, and if a return to a basic LAO is now impossible. A summary of the answers to our research questions follows:

<p>Have the changes that occurred in the process of the Revolution of Dignity (including the Maidan uprising of 2013–14 and the following six years full of dramatic and tragic events) already put Ukraine on the path of smooth evolution to OAO?</p>	<p>Not yet: Ukraine remains predominantly a LAO, although competitive sectors in the economy have expanded, political competition has improved, and some other critical balances have shifted in the direction of an OAO.</p>
<p>If not, then has sufficient momentum been created to rapidly complete the revolution aimed at the aforementioned goal (direction)?</p>	<p>Yes, provisional success in building a European-oriented political nation can potentially create such momentum, although the process will take time and effort, and faces substantial risks.</p> <p>A return to the dual constitution and decentralization are likely to be important in securing further smooth progress.</p>

	<p>An ultimate and irreversible shift from the Russian political sphere to the European one can firmly anchor the vector of further developments, provided that Western assistance and pressure for modernization will be well-targeted and well-tailored to Ukrainian realities.</p>
<p>If not, what further changes, if any, should occur in order to give a positive answer to the previous question?</p>	<p>See Recommendations</p>
<p>Can these occur in an evolutionary way, or are further forceful changes necessary (inevitable)?</p>	<p>These changes can hardly occur smoothly and, at the same time, sufficiently quickly as a natural endogenous evolution; but they can be accelerated and made manageable if conducted with the skillful help of external players and civil society.</p>
<p>Are the achievements listed above permanent/sustainable, or could they be rolled back?</p>	<p>The main systemic change achieved in the previous years—the emergence of a European-oriented Ukrainian political nation, including civil society—is irreversible unless some extreme events change this trajectory.</p> <p>The background societal and socioeconomic processes that led to the Revolution and were accelerated as a result of it are barely reversible but could be disrupted by a major disaster like a full-fledged war.</p> <p>Progress in the building of checks and balances is also barely reversible, but still insufficient.</p>
<p>In the worst case, will the remaining permanent changes be sufficient to serve as grounds for further (r)evolutionary processes?</p>	<p>In the unlikely event of reversal in the country's nation-building and/or its European choice, any systemic transition will at best be put on hold for a long time. In case of reversal in the progress of political institution-building, this will likely result in a new revolution, with uncertain—but quite possibly disastrous—consequences.</p>

## Recommendations

The analysis provided above allows us to formulate some specific recommendations that are summarized below. We reiterate that they are by no means sufficient for turning Ukraine into an OAO the day after they are implemented; this process will still take no less than a decade or more, and there is no firm guarantee of success. However, such measures can at least create momentum for further changes and facilitate them, ideally making them self-sustainable and self-propelling. At the same time, they should be feasible at present or in the immediate future. According to our methodological approach, they should alter the main balances and create positive feedback for subsequent developments. Of course, this list is subject to further discussions and amendments. Hence, here are our suggestions for what could and should be done soon.

1. Complete political reform:
  - a. Complete the partially-accomplished electoral reform.
  - b. Establish a workable mechanism for impeachment.
  - c. Clear the remaining issues in the constitutional division of power and strengthen institutional accountability at all levels.
  - d. Eliminate the informal instruments for blackmail that a President has at his disposal, as described before (influence on the SBU, SBI and the PGO).

The aforementioned measures, when implemented, should ultimately lock in the checks-and-balances against the “vertical of power” and, at the same time, secure the smoothness of further changes as the new system should be more representative and thus more legitimate. The demand for such reform is already there, but it is currently vested almost exclusively in civil society. Educating voters, particularly in the advantages of better functioning representative democratic institutions can have a systemic effect.

President Zelenskyy is in a good position to accomplish these reforms, because with his dominant position with respect to all formal institutions, including a Parliamentary majority, he should not fear the checks and balances as much as his predecessors did. Furthermore, even if he were reluctant to strengthen these checks and balances right away for some good reasons, it is rational for him to introduce respective legislative changes by the end of his term, just as Kuchma did with constitutional changes that weakened the presidency.

Towards establishing the rule-of-law, what one can hope for in the current political situation is a few critical steps in reforming the judiciary and weakening the power of the prosecution office. In addition, investigations should be made more professional in the police as well as in the new State Bureau of Investigations, thereby creating firm footholds for further reforms. The reforms that we suggest at this juncture are:

- a. Launch the Anti-Corruption Court and focus its activities primarily on countering judicial corruption.
- b. Review the appointments of Supreme Court judges that were made against the conclusions of the National Council of Integrity.
- c. Create a vetting process for the remaining courts with stronger involvement of civil society experts.
- d. Create special courts that rule according to British law, staffed with foreigners, as was done in Kazakhstan. This will create islands of good justice *within* the country and experience shows this has the chance to spread good behavioral models and practices.

- e. The prosecution office's power should be diminished; its hierarchy weakened, mandate reduced, and number of prosecutors reduced, while their salaries should be significantly increased. A credible vetting process should be designed.

This should shift the critical balance in favor of the rule-of-law.

Again, President Zelenskyy is in a good position to strengthen the RoL because he is the first President in Ukrainian history that has come to power from outside of patronal politics, thereby has much weaker conflict of interest in respect to independent judiciary and law enforcement than any of his predecessors that needed selective justice to uphold their informal verticals. Regrettably, however, so far he has shown no sign of turning this advantage into real reforms that could be his most important legacy as president.

2. Fight impracticable norms to the greatest possible extent, and dramatically reduce opportunities for blackmailing and extortion, especially with respect to business:
  - a. Apply the "regulatory guillotine."
  - b. Radically liberalize labor regulations for all firms except local monopolists on the labor market.
  - c. Complete the already commenced tax reform so that an honest taxpayer can "pay all taxes and sleep peacefully" (requires corporate taxation reform); eliminate the labor tax and partially substitute the PIT with land/real estate tax.
  - d. Establish a permanent feedback/hotline for identification and elimination (to the greatest possible extent) of further corruption opportunities.
3. Rein in the other rent seeking opportunities by imposing further transparency, de-monopolization, along with opening up the land market, abolishing all subsidies to business firms, and otherwise encouraging the free entrepreneurship and competition.

There is not much new in these recommendations as such: respective draft laws are either already on the table or being developed. But the political-economic key to their implementation is coalition-building among predominantly profit-seeking businesses, as well as education of the population.

Together these two recommendations will shift the balance between rent-seeking and profit-seeking towards the latter, while also positively affecting the RoL balance.

4. Run a broad campaign to enlighten and educate voters addressing, in particular, the most fundamental issues that hamper modernization: primarily, but not only, zero-sum thinking. "Value policies" that should unite the Ukrainian political nation and make it more conducive to modernization should be included. This can incorporate:
  - a. Mass media and social media.
  - b. Popular arts including movies, TV shows, etc.
  - c. Modern technologies developed by applied psychology.

Voters should also be taught critical thinking, some basic knowledge of institutions and the market economy, and various other facts falsifying widespread myths, illusions, and stubborn misconceptions.

This will, among other good things, support mostly positive current trends in the fundamental balances of zero-sum vs. win-win thinking, identification with a leader vs.

imaginable community, and “survival values” vs. “self-actualization” and self-reliance. This would create a firm base for further positive systemic change.

5. Coordinate the efforts of government, donors, and civil society in the shaping of the reforms’ strategy and tactics according to the priorities and principles described above (with, of course, the necessary further detailed elaboration of these principles and particular recommendations) within a new kind of strategic advisory project that should be inclusive, open to cooperation with civil society, holistic, and involve both institutional and educational components as described above.

Although these recommendations look ambitious, their strikingly advantageous feature is that **none of them belong to so-called “unpopular reforms.”** They are, of course, highly unpopular in certain narrow but influential circles of oligarchs and other rent seekers, such as corrupt judges, state officials and law enforcement officers, and local barons. But they could and should be made popular among average Ukrainians, for whom they will bring greater justice, security, freedom, opportunities, and, finally, material wealth. It is true that currently, people often fail to understand the links between, say, electoral reform and their own well-being: such links are, indeed, indirect and unclear, but can be popularly explained.

Although many of these recommendations look trivial, there are clear reasons why they were not implemented before, at least during the first five years of the Revolution of Dignity. The simplistic answer is lack of political will, but such an answer does not suggest any real prescriptions, because it fails to uncover the reasons that can be changed. A closer look at them yields the following answers:

- Most necessary reforms were not well-prepared at the time of their presentation.
- The prioritization of the reforms was different:
  - partly for good reasons (reforms like macroeconomic stabilization, rebuilding the army, and some others were existential for the country);
  - partly due to a lack of understanding, including by international donors and creditors (like the creation of punitive anti-corruption institutions while prevention lagged behind);
  - partly because of harsh resistance from certain interest groups.

As a result, interest groups have easily diverted attention to secondary issues, substituted the modernization agenda with other problems that simply cannot be solved quickly (for instance the identity cleavage), or just captured the reforms, as in the judicial case.

- Nobody aside from innumerable and mostly powerless civil society activists and second-tier politicians tried to achieve public support for reforms.
- Last but not least, the government and particular persons in power had conflicts of interest with respect to at least some of the reforms, from the abolition of protectionism, to the automotive industry, to judicial reform.

Previously, many observers and advisors lamented the lack of political leadership in Ukraine which, in their opinion, was the main culprit for the lack of speedy transformation. Now political authority in Ukraine, quite unexpectedly, has been consolidated, at least formally, in full. However, many drawbacks remain, plenty of new risks arise, and it is not yet clear if this good chance pays off for Ukraine.