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Post-Soviet Super-Presidentialism: Explaining Constitutional Choice in Russia and Ukraine

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Post-Soviet Super-Presidentialism: Explaining Constitutional Choice in Russia and Ukraine

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Dedication

In memory of my compassionate, talented, and adventurous brother, David Goodnow (November 14, 1983 – May 16, 2006), who inspired me to take a road less traveled.

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Post-Soviet Super-Presidentialism: Explaining Constitutional Choice in Russia and Ukraine

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Abstract: The Russian and Ukrainian constitutions—like those in many other post-Soviet states—have concentrated political power in exclusive "super" presidencies. However, the concentration of power has persisted in only one of the two cases. Russian presidential authority was resilient in the face of attempts to increase legislative strength in the 1990s, even when severe economic and political crises undermined the presidency of Boris Yeltsin. In contrast, Ukrainian presidential power fluctuated over time, with "Orange Revolution" constitutional reforms shifting power to the parliament in 2004 and their annulment returning power to the president in 2010. What explains the different trajectories of Russia's and Ukraine's presidential systems? Using process-tracing to parse out the actions of elites during the 1990s and 2000s in combination with analyses of the electoral foundations of elite competition in the two cases, this dissertation develops an argument about the origins of super-presidential systems and the prospects for constitutional change in such systems. Concentrated executive power in Russia and Ukraine: (1) depended on elites' preferences for more or less concentrated political authority; (2) these preferences depended on how elites perceived their political prospects for capturing and holding presidential power; (3) elites' perceptions of their prospects for gaining and holding presidential power were conditioned by the relative balance of power

between major political forces; and (4) this balance of power was very vulnerable to pressure from social forces. It was this final factor that distinguished the Ukrainian and Russian cases. Ukraine had more balanced political competition because of its coherent ethno-linguistic cleavage, and consequently more uncertainty about rival elites' political fortunes, which produced challenges to super-presidentialism. Russia's experience with regional politics, by contrast, has not produced a similarly stable balance of power between rival forces, because the country's minority groups were too diverse and dispersed to form a unified constituency that could challenge the political dominance of the center. The structural underpinnings of elite competition help to explain why the preferences of self-interested politicians to concentrate or disperse political power changed over time in ways that promoted unstable super-presidentialism in Ukraine compared to much more durable super-presidentialism in Russia.

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Chapter 1: Introduction

What causes states to maintain or change their constitutional orders? This question is fundamental to new democracies because constitutions—particularly executive-legislative power relations—can be a key reason their political systems become more or less democratic and competitive over time (for e.g., Stepan and Skach 1993; Linz 1994; Przeworksi et al. 1996; Fish 2006). The Russian and Ukrainian constitutions—like those in many other post-Soviet states—have tended to concentrate political power in exclusive "super" presidencies. However, the durability of this concentration of executive power has persisted in only one of the two cases. Russian presidential authority was resilient in the face of attempts to increase legislative strength in the 1990s, even when severe economic and political crises undermined the presidency of Boris Yeltsin. In contrast, Ukrainian presidential power fluctuated over time, with constitutional reforms shifting power to the parliament in 2004 in the aftermath of the "Orange Revolution" only to see the annulment of these reforms and a return of concentrated power to the president in 2010. What explains the different trajectories of Russia's and Ukraine's presidential systems? In this dissertation, I evaluate the tendency toward "super-presidentialism" in these two cases by focusing on the origins of their post-communist constitutions and the conditions promoting constitutional durability and change over time. The goal of the study is to understand why political elites in both countries initially adopted constitutions with super-presidential characteristics and why the concentration of presidential authority has persisted in Russia but not in Ukraine. The study, therefore, evaluates two central research questions: (a) under what conditions are elite actors more likely to choose an exclusive constitutional framework with concentrated political authority, or, conversely,

an inclusive constitutional framework with a more balanced distribution of power among the branches of government; and (b) under what conditions are elite actors able to maintain concentrated power relations within a presidential system in the face of challenges for more equal distribution of power with the legislative branch?

CONSTITUTIONAL DESIGN AND CHANGE IN NEW DEMOCRACIES

The political science literature has examined at length the effects of different constitutional frameworks on the quality and durability of democracy. I review this literature in the following chapter but, by way of introduction, it includes the debates over the numerous disadvantages and advantages of presidentialism compared to parliamentarism (for e.g., Linz 1990; Shugart and Carey 1992; Linz and Valenzuela 1994; Stepan and Skach 1993; Linz and Stepan 1996; Przeworski et al., 1996; Mainwaring and Shugart 1997; Samuels and Shugart 2010) and the consequences of vesting greater or lesser power in legislatures (Fish 2006). While conclusions across these studies have sometimes differed, they all have assumed that countries' institutional features matter for the functioning of democracy. In general, countries with parliamentary systems, as well as presidential and semi-presidential systems with stronger legislatures, tend to be associated with greater democratic stability. The stakes involved in a new democracy's choice of constitution are therefore expected to be very high; constitutions will shape political competition over the long term in ways that are more or less conducive or detrimental to the consolidation of democracy.

However, constitutional choices do not always "stick" as countries move through the process of transitioning from authoritarian rule—which was the case in post-Soviet Ukraine, where changes in levels of societal mobilization caused elites to reassess the

costs and benefits associated with maintaining a strong presidential system. The constitutional change that resulted in Ukraine is an example of how a shift in the political and social environment can cause dramatic changes in elites' constitutional preferences. This raises additional questions about the relationship between constitutional design and democratic stability: What conditions made political elites more or less likely to choose relatively exclusive or inclusive constitutions in the first place? And when do these conditions have more or less constant or more or less variable effects across time?

The argument developed in this dissertation complements studies that have dealt with the origins of constitutional systems (for e.g., Fry 1997; Easter 1997; Cheibub 2007). It does so by explicitly incorporating one of the major criticisms of the "institutionalist" literature into the argument: that institutions cannot be treated as fixed because they are themselves responsive to external conditions. In other words, it "endogenizes" constitutions to help understand the origins of constitutional change. The overarching framework applied to the two cases in the study is Elinor Ostrom's (2005) multi-layered model of institutional change: Key actors operate within "action arenas" where they face a set of variables affecting their preferred institutional outcomes and their strategies for achieving their goals. The institutional choice is endogenous. However, the variables at this level are nested within broader institutional and structural layers that moderate their effects; therefore, whenever the higher-level exogenous (or contextual) institutional and/or structural parameters change, actors within the action arenas will reassess the costs and benefits associated with a particular institutional choice at any given institutional layer. The choice of a constitution is especially fundamental because it becomes the broader institutional framework within which lower institutional levels are nested. Therefore, the causes of the constitutional choice—the "endogenous constitution"—in addition to the effects of the constitutional choice—the "exogenous

constitution"—are both integral parts of institutional explanations of regime transitions. In some cases the external parameters that shape the constitutional "action arenas" are less liable to change, and in other cases they are more liable to change; the former reflects the Russian case and the latter reflects the Ukrainian case. This indicates the need for a study that grapples with the conditions that generate constitutional change over time, because the debate over constitutional design tends to treat the effects of constitutions as rather more homogenous and independent across time and national contexts (for exceptions see for e.g. Mainwaring and Shugart 1997). Within the Ostrom framework, the origins of completely new constitutions—in the wake of major events such as the collapse of communism or the toppling of an authoritarian regime through revolution—and the causes of any subsequent changes to the constitutions—as a result of changes in the external parameters affecting the costs and benefits associated with the initial constitutional choice—are conceptually identical. I use this lens in the current study to grapple *both* with the conditions that affected the initial constitutional choices in the case of the two particular countries *and* with the reasons underlying structures took on greater explanatory power in the dynamics of political competition and constitutional outcomes over a period of time.

The goals are within a "New Institutional Economics" (NIE) vein, in which constitutions (Buchanan 1990; Voigt 1999; Robinson and Torvik 2008) and institutions more generally (Ostrom 2005) are endogenized in order to evaluate their diversity. Following the NIE tradition, a fundamental assumption in this study of the Russian and Ukrainian constitutional choices is that strategically motivated elites competed over constitutional designs that would maximize (their perceptions of) their own political or

economic gains.[1] Put differently, constitutions are assumed to be zero-sum redistributive institutions (Tsebelis 1990: 104-118), in which power awarded to one party can only come at the expense of another party, and therefore result from struggles among self-interested parties pursuing their own objectives. As indicated above, the NIE framework also explicitly links the effects of strategic bargaining processes to the effects of the particular institutional and structural contexts within which they took place. This type of approach can therefore explain constitutional choice more fully than the more purely macro-level historical institutionalist or micro-level strategic accounts that undergird many arguments in political science.

THE CASES AND METHODS OF ANALYSIS

The choice of the Russian and Ukrainian cases is based on John Stuart Mill's Method of Difference, or a "most similar cases" research design. Potential causes can be inferred from the few ways in which the cases differ, compared to the many more ways in which they resemble each other. Russia's and Ukraine's many similar characteristics can basically "control for" a variety of possible alternative explanations for the continual reinforcement of concentrated political authority in Russia and the variations in the extent to which political power has been concentrated in Ukraine.

The countries are different in the key sense that Ukraine gained its independence from Russia and Russia lost its territorial control over Ukraine, but decades of shared Soviet experience meant that very similar bureaucratic and institutional foundations

[1] It is not possible to assume that the actors behaved fully rationally in this uncertain and murky institutional environment; that assumption would only be realistic in clearly defined institutional situations (Tsebelis 1990). For this reason, the study relies on evidence about how the actors *actually* behaved during the constitutional negotiation processes. This assumption of "bounded rationality" (Jones 1999) sacrifices some of the study's applicability to situations outside the Ukrainian and Russian contexts, but it is more realistic and does not undermine the argument that actors were motivated by self-serving goals.

structured the transition from Soviet rule across the two countries. Additionally, not long before the Soviet Union's disintegration, amendments to the constitutions of both the Russian Soviet Federative Socialist Republic (RSFSR) and the Ukrainian Soviet Socialist Republic (UkrSSR) provided for elected assemblies with formally powerful speakers: the Congress of People's Deputies (CPD) in Russia and the Supreme Council (Verkhovna Rada) in Ukraine. Both countries had also recently established popularly elected presidencies with limited (and quite ambiguous) powers relative to the legislatures. Both countries, moreover, were multiethnic states, and both initially had similar levels of economic development, with comparably low GDPs per capita at 565 and 480 U.S. dollars, respectively, in 1991.[2]

By accounting a priori for these broad similarities, it is easier to focus on how differences at the structural and institutional levels moderated the micro-level constitutional bargaining processes, which makes it easier to grapple with the reasons for the different constitutional trajectories in the two countries. At the structural level, for example, the differences in natural resource wealth could have affected incumbents' ability to co-opt support through patronage (Ross 2001), and the differences in ethnic cleavage structures may have had an impact on elite bargaining dynamics. At the institutional level, the wording of the constitutions could have affected later attempts to amend the constitutions (Roberts 2009), and the institutional differences between the countries can also help underscore when and how existing rules and regulations became more important during elite bargaining processes throughout the "critical juncture" (see Collier and Collier 1991) of the transition from the Soviet era.

[2] These figures are from the European Bank for Reconstruction and Development.

Pairing these cases also helps control for arguments that would attribute actors' choices to reasons other than rational self-motivation, in particular to ideology—that is, whether powerful elite factions were more or less democratic or had insider or outsider status in the former regime (Easter 1997; McFaul 2004). Yeltsin and the neoliberal/democratic reformers in Russia opted for an illiberal, super-presidential constitution, but the rather less "democratic" Kuchma/Yanukovych camp in Ukraine introduced a substantial number of "checks and balances," a hallmark of liberal democracy, into the Ukrainian constitution. This paradoxical behavior at least partially supports the study's basic assumption about the utility-maximizing objectives of political actors: to incur the fewest costs and gain the most political (and/or financial) benefits from constitutional outcomes.

In addition to the analytical leverage from the "most similar cases" comparison between Russia and Ukraine, on which the juxtaposition of the structural components of the argument in Chapter 5 capitalizes, the causal arguments in this dissertation rely on inferences from the "process-tracing" narratives of each country case in Chapters 3 and 4. Specifically, these narratives are designed as theory-guided process-tracing (TGPT) accounts, resembling Hall's (2003) "Systematic Process Analysis" and Bates et al.'s (1998) "Analytical Narratives," which work deductively from hypotheses to uncover the best explanation for an outcome. Because different theories would produce different expectations about events, they can be tested on the basis of the many detailed and diverse observations within the case, including the many specific events that occurred, the sequencing of these events, the various positions of the factions involved in decision-making processes, the different incentives and constraints they faced, and the changes to these variables over time, among the many other parts of the causal chains.

After building the argument over the course of the process-tracing and comparative chapters, a sixth, concluding chapter evaluates whether the basic components of the argument are consistent with the conditions under which elites opted for more or less concentrated presidential authority throughout the post-communist region. This chapter assesses the constitutional outcomes and the nature of elite competition at the moment of constitutional choice across the remaining countries in the post-communist region. The study's causal claims therefore rely on (1) similarities and differences between Russia and Ukraine, (2) in-depth analysis of causal processes within each of the cases, and (3) a more general evaluation of how well the argument fares throughout the post-communist region.

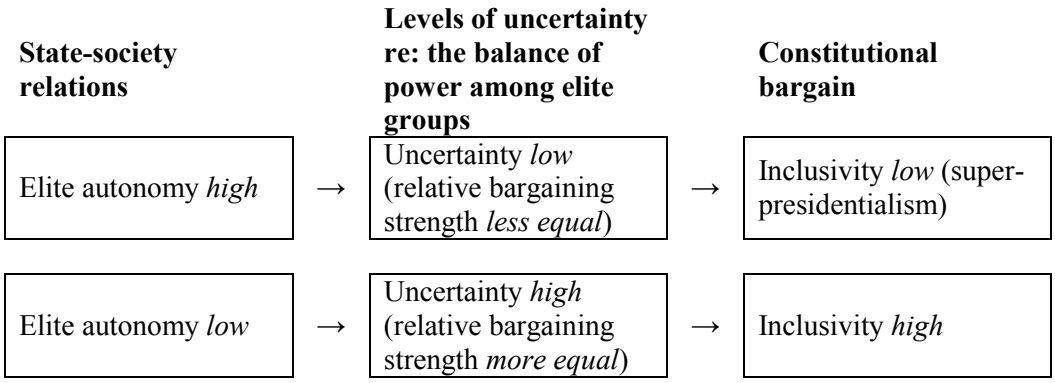
BUILDING THE ARGUMENT

The starting point for the argument developed in the empirical chapters of the dissertation is that elite actors were more likely to make less exclusive constitutional choices when they were operating under substantial uncertainty about the balance of power among elite factions. Under this "veil of ignorance" (Rawls 1971), each faction in the negotiation process would have the incentive to create a constitution from which it could still benefit, even if its opponents ended up with substantial control over the political process. The argument proposed in this dissertation veers from normative theories about how actors should act in order to achieve just (Rawls 1971) or efficient outcomes (see also Buchanan 1977); instead, it looks at the conditions under which inclusive constitutions would in fact maximize the "utility" of strategic actors who want to minimize potential losses and maximize potential gains. At this basic level of the analysis, the argument is that elite actors' constitutional preferences are primarily based

on their perceptions of the balance of power among elite forces—specifically, *who* is more likely to gain and hold onto power[3]—and so any normative commitments to more or less democratic and inclusive principles are expected to play a secondary role at best. As Figure 1 shows, when each of the major political camps had a relatively good chance of winning the presidency—i.e., when the balance of power was more equal—the uncertainty about election outcomes caused elites of diverse political stripes to prefer a more inclusive constitution. Likewise, elite factions, regardless of their respective ideologies, tended to prefer a strong presidential system when they were more confident about their prospects of gaining and holding on to power; their "utility" would be maximized if they limited the costs of compromise and consensus-building that would be required in a more inclusive political system.

[3] Easter (1997) and Frye (1997) have separately made arguments that follow a similar logic for explaining the choice of presidentialism or parliamentarism in former communist countries. According to Easter, when old regime elites remained sufficiently consolidated and unchallenged by much weaker opposition forces throughout the transition, they opted for presidentialism, because it allowed them to monopolize their claim on state power. Conversely, when old regime elites were fractured and faced substantial challenges from opposition groups, they chose parliamentarism in order to ensure that a single party or faction would not dominate politics. Similarly, according to Frye, the choice of stronger presidencies occurred when the more powerful elite groups were assured, given their substantial relative strength, that they would control the powerful new office. The argument in this dissertation differs from these earlier arguments in three key ways. First, it applies to all elite factions regardless of their ideology or whether or not they belonged to the old regime. Second, it is concerned with the degree of executive power rather than the dichotomous choice of presidentialism compared to parliamentarism. And third, it goes beyond the conventional "balances of power" (see also O'Donnell and Schmitter 1989) or "imbalances of power" logic by incorporating the higher level institutional and structural levels of analysis within which the actor-centered, basic analytical level is nested; these broader contextual variables shaped (elites' perceptions of) the balance of power in various ways both across the cases and also across time within the cases as voters became more or less mobilized, which can help explain prospects (or the lack thereof) for constitutional change over time.

Figure 1: Basic Conditions of the Argument



The factors that determined elites' perceptions of the balance of power are the next major consideration in the argument. When elections determine the composition of government, the different interests represented by voters across social groups should serve as the basis of elite competition. However, in these newly democratizing states these interests were not sufficiently mobilized in support of or in opposition to candidates and/or political parties. For example, the groups of voters who were suffering from the economic hardships associated with "shock therapy" reforms were too diverse and dispersed to overcome the classical hindrances to "collective action" (Olson 1965) to challenge the Russian and Ukrainian incumbent presidents during the 1990s. As a result, incumbent elites remained quite insulated from societal forces and were therefore willing to maintain a system with super-presidential characteristics, because of the advantages it gave them over the opposition. Moreover, with their access to patronage resources, they had the ability to "buy" political support, which was a key mechanism for sustaining the imbalance of power among incumbent and opposition forces. Under these conditions, as Figure 1 shows, incumbent elites had greater incentive to concentrate political power in the presidency: The higher the levels of elite autonomy were, the less equal the relative balance of power among elite factions was, which reduced levels of uncertainty and

promoted exclusive constitutional bargains. Conversely, when elites were more susceptible to social forces—which was the case in Ukraine at a later point in time—incumbents were less privileged, in spite of their access to patronage resources, because opposition forces had a stronger basis of voter support. Under these conditions, the balance of power was defined by issues and ideologies with active underlying voter constituencies to a much greater extent than it was by patronage. The greater ensuing uncertainty about the interests that would end up in control of the powerful presidency promoted the renegotiation of a more inclusive constitutional bargain.

When do "the masses" begin to matter after elections are introduced in fledgling democracies? In other words, when does the balance of power among elites at the helm of the transition from authoritarian rule start to more accurately reflect the balance of interests in society? The factors that "activated" social cleavages in a way that changed elites' perceptions about the relative balance of power, and ergo their constitutional preferences, are the next major consideration in the argument. The case studies show that in the months and years following the initial constitutional bargains—in 1993 in Russia and 1996 in Ukraine—the different elite factions continuously attempted to increase their bargaining capacity. These attempts were affected by the newly promulgated constitutions as well as an emergent civil society that had begun to encroach on the high degree of insularity elites had enjoyed. Within these contexts, party leaders consciously strove to mobilize the social groups they perceived as potentially strong and cohesive electoral bases. The parties in the opposition were the most active in this respect, but incumbents also benefited from their own mobilization efforts or societal reactions against the growing strength of opposition groups.[4] The incumbent presidents Yeltsin and

[4] For instance, Yeltsin's 1996 electoral victory against Ziuganov has often been attributed in the press to anti-Communist sentiment rather than to widespread support for his neoliberal reform agenda.

Kuchma also continually leveraged the institutional advantages of their offices, including dispensing patronage in exchange for support, to offset attempts by the opposition to bolster their bargaining positions. The nearly successful impeachment of Yeltsin in 1998—despite incredibly high institutional barriers—was avoided partly because of his ability to use the powers of his office to impede the process in the Duma, in addition to his ability to co-opt the support of parliamentary deputies in exchange for patronage. Similar efforts on the part of Kuchma, however, were undercut by vast voter mobilization during the "Orange Revolution," which dramatically changed the levels of uncertainty about rival elites' political fortunes; both opposition and incumbent had sufficient doubts about who would gain and hold power in the future, and so they reached a new, more inclusive constitutional bargain. Russian elites by contrast never reached a similar point where all parties would be willing to renegotiate the first constitutional bargain.

The part of the argument that the balance of power was very vulnerable to pressure from social forces *when* they were "activated" distinguished the Ukrainian and Russian cases. Early electoral patterns demonstrate that social interests were not clearly mobilized in either country, as candidates and parties drew votes across largely undefined and haphazard electoral landscapes. The most divisive and powerful issues that later emerged in these countries' electoral arenas were regional and ethnic rather than socioeconomic. In contrast to the West European experience, where economic interests and socioeconomic divisions have shaped electoral systems (e.g., Lipset and Rokkan 1967; Cusack, Iversen, and Soskice 2007), the early post-Soviet electoral landscape seemed to lack a clear basis for class politics. Some research has suggested that the widespread economic hardships in these countries served to unify voters "in shared suffering" rather than polarize them (Hesli et al., 1998, p. 244). Studies have also confirmed that regional interests surpassed other cleavages, including ethnic and

socioeconomic, as the most divisive post-Soviet political issues (Hesli et al., 1998; Birch 2000). Ukraine is unique because of its geographically coherent and cohesive rift over whether the country belongs with Russia or the West. This has arguably promoted much greater symmetry in the balance of power among the country's elite factions. Russia's experience with regional politics, by contrast, has been much less consistent. A powerful faction in the 1990s that favored the regions against the center (i.e., Moscow and St. Petersburg) failed to marshal similar voter appeal because the country's oblasts and minority groups were too diverse and dispersed to form a unified constituency. As a result, political discourse in Russia during this period remained primarily defined by the electorally weaker socioeconomic divide, in which candidates were primarily distinguished on the basis of their support for, or opposition to, large-scale economic reforms. In Ukraine, politicians and parties with similar platforms overwhelmingly lost ground to the candidates and parties that managed to activate support among voters united on the basis of regional and ethno-linguistic identity. The Ukrainian experience has, in fact, born out both sides of the importance of voter mobilization in maintaining a proportionate balance of elite power; as voters became increasingly dissatisfied with the "Orange" government, societal mobilization decreased, incumbents made use of their "authoritarian toolkit," and the constitution returned to the status quo ex ante of very strong formal presidential authority. However, if the argument in this dissertation is largely correct, authoritarianism would be a less likely eventual outcome in Ukraine *if* a coherent and unified opposition coalition could reconnect with a similarly coherent and mobilized voter base.[5]

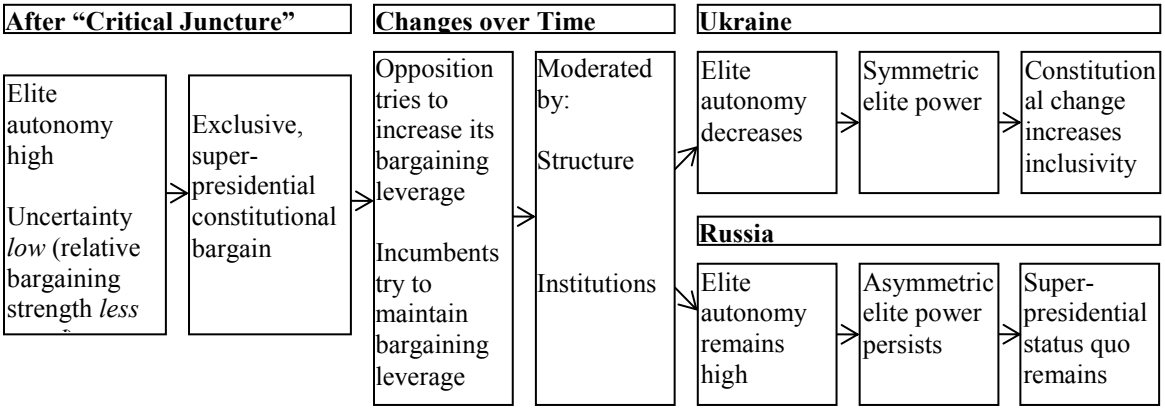
[5] Indeed, at the time of this writing, the Yanukovych camp is facing a re-mobilized west-oriented opposition movement despite the arsenal of methods it has used to harass key opposition figures and undermine their cohesiveness.

With its focus on the underpinnings of elite competition, the argument goes beyond the effect the "balance of the power" is expected to have on the incentives for elites to prefer particular constitutional outcomes. It deals with the *causes* of their expectations about their ability to gain and hold power. At a basic level the argument is about human agency, i.e., it comprises the actions and interactions of elite actors, but it is nested within a specific macro-structural environment that—depending on a variety of factors, including the "activation" of specific groups of voters—shaped their expectations about the relative power of elite groups. At this broader level I look at several factors, including the constitutions themselves: To what extent did they influence future renegotiation efforts? I then look at the structural environment, in which elites attempted to bolster their strength, by analyzing electoral results across multiple election cycles. Initial elections provided very limited information about the underlying support structure of the different camps. The result was that certain camps were emboldened with regard to their electoral prospects. Whether or not these actors made accurate judgments is a secondary consideration; information only matters insofar as it affects elites' perceptions of balance. Perhaps "learning effects" made future calculations *more* rational, but it is impossible to assume that actors ever had full information, which is the reason this study focuses on evidence of how the actors *actually* behaved during the constitutional negotiation processes—an assumption of "bounded" rationality (Jones 1999).

Figure 2 brings the argument together. Powerful incumbents were initially sufficiently insulated from social forces that they did not anticipate losing control over a powerful presidency to the opposition. However, during and after the initial constitutional negotiation processes, both opposition and incumbent elites actively sought to maintain or increase their political power. These efforts were moderated by the electoral contexts

in which they took place and by existing laws and constitutions, leading to constitutional change in Ukraine and constitutional stability in Russia.

Figure 2: The Argument



Analogously, Table 1 shows the values of the major variables at three broad points in time. $Time_1$ is the period just after the Soviet Union collapsed. The actors included parliamentary deputies and presidents elected under Gorbachev's demokratizatsiia policy, who were operating within highly ambiguous post-perestroika institutions. As a result, in both cases, the transitional and rather chaotic state of political affairs, combined with the lack of clear, strong social influences on political processes, provided elites with substantial autonomy. Broadly speaking, the Soviet Union's collapse had opened up a critical juncture in which human agency was substantially less constrained by institutional and structural conditions. The consequence was that the first constitutions, in 1993 for Russia and in 1996 for Ukraine, failed to reflect the diverse nature of societal interests. $Time_2$ reflects the periods in which demands to renegotiate the original constitutional bargains arose as a result of changes over time that caused elites to reassess the cost and benefits associated with maintaining very exclusive constitutional

systems. The fundamental difference at this point—in the case of Ukraine that experienced change—was that political competition had aligned along ethno-linguistic cleavage lines which, because of their coherence and cohesiveness, were less constrained by impediments to "collective action" than the politics of class that had defined previous elections. Finally, at $Time_{3,}$ the Ukrainian constitutional trajectory realigned with Russia's continuous re-enforcement of super-presidentialism, after the factors promoting greater inclusiveness dissipated; this trend, however, is arguably unsustainable so long as relatively competitive elections continue to serve as the basis for selecting leaders.

Table 1: Values on the Main Variables over Time

		$Time_1$	**$Time_2$**	**$Time_3$**
Russia	*Elite Autonomy*	High	Medium	High
	Uncertainty	Low	Medium	Low
	Inclusivity	Low	Low	*Low*
Ukraine	*Elite Autonomy*	High	Low	High
	Uncertainty	Low	High	Low
	Inclusivity	Low	High	*Low*

OVERVIEW OF THE DISSERTATION

The dissertation contains six chapters. The chapter that follows this introduction of the argument discusses the main variables and surveys the theoretical landscape on the consequences of constitutions and constitutions as consequences. The four subsequent chapters are empirical. They analyze, first, the cases of Ukraine and Russia in Chapters 3 and 4, respectively, using theory-guided process-tracing. These detailed narratives are based on primary archival and interview materials as well as secondary source accounts to ascertain political elites' preferences and the constraints on their actions throughout

multiple stages of the constitutional processes in the two countries. Second, Chapter 5 contains a comparison of the structural underpinnings of elite competition across the two countries. This chapter includes statistical analyses of electoral, ethnic, and economic data to ascertain the most powerful predictors of vote choice over time and in each of the cases. It also looks at parties' campaign materials to determine the groups of voters that they were most actively mobilizing. Finally, a concluding sixth chapter evaluates the applicability of the argument to the other countries in the post-Communist region.

Chapter 2: From Exogenous to Endogenous Constitutions

The argument developed in this dissertation is meant to explain the specific reasons for the constitutional choices in two former Soviet countries, but it also addresses an under-studied area in the literature about how and why specific constitutional frameworks originate. I draw on theories from New Institutional Economics (NIE) to help piece together the ways in which the different parts of the Russian and Ukrainian political and economic systems fit and worked together to produce their constitutional outcomes. The NIE approach is especially compatible with a study about institutional origins, because it explicitly considers the broader structural systems in which institutions are embedded and often reflect. The analytical goals are similar to quantitative multilevel modeling: to test both the direct effects of variables at various levels of analysis *and* the cross-level interactions among variables. The first analytical level in this study is comprised of the choices made by human actors, but these choices are nested in a second institutional level that has distinct characteristics across the two cases, and that is, in turn, nested in a third structural level that has its own particular features depending on the country. The goal of the study is to parse out the direct effects at each of these analytical levels, in addition to the interactive effects between human choices and the institutional and structural levels. To what extent were the particular constitutional outcomes in Russia and Ukraine products of choice as opposed to products of institutional and structural circumstances? How and to what degree did the two countries' structural and institutional features diminish or intensify the causal effects of human choices?

This chapter looks at the literature on comparative constitutions, beginning with a brief review of the extensive research that has focused on their consequences—i.e., in

which constitutions are exogenous—and concluding with the theories dealing with their origins—i.e., in which constitutions are endogenous. The goals are to survey the theoretical terrain and derive a set of alternative hypotheses to test in the empirical chapters of the dissertation. The first segment of the chapter is definitional; it discusses the major governing frameworks with a focus on the system in place in Russia and Ukraine: semi-presidentialism. The section also grapples with conceptualizing the term "super-presidentialism" with particular attention to how it relates to semi-presidential regimes. The second part of the chapter reviews the arguments about the most conducive choice of governing framework for democratic consolidation and discusses the implications of these studies for the dissertation's country cases and the post-Communist region. The third component of the chapter turns to theories about institutional choice and presents the hypotheses to weigh against the Russian and Ukrainian experiences with adopting and later attempting to change their respective constitutions.

DEFINING KEY TERMS: PARLIAMENTARISM, PRESIDENTIALISM, SEMI-PRESIDENTIALISM, AND SUPER-PRESIDENTIALISM

One of the most basic questions in the design of a new constitution is how to organize the state. Beyond the two basic ways to structure the relationship between the executive and legislative branches, parliamentarism and presidentialism, the semi-presidential form of government, or dual-executive system, in existence in both Russia and Ukraine, was until recently mostly considered in the literature as either presidential or parliamentary, depending on the extent of presidential and parliamentary power. Duverger is a notable exception; he used the term "régime semi-présidentiel" in the early 1970s to describe the Fifth French Republic and later provided a conceptualization to account for its varieties (Duverger 1980). Prior to the 1990s, this choice of governing

framework existed in only a handful of countries, including (and exhaustively) Austria, Finland, France, Iceland, Ireland, Portugal, and Sri Lanka, as well as formerly in the Weimar Republic. In the last two decades, however, this hybrid choice of government has become increasingly common and scholars have begun to assess its unique effects (for e.g., Skach 2006). In all, the current global count is fifty-three countries with hybrid systems, the majority of which are Portuguese and French-speaking African countries and the ex-Communist countries of Eastern Europe and the former Soviet Union.[6]

The primary differences between the pure forms of parliamentarism and presidentialism are: whether or not the chief executive is (1) elected by voters or legislators and whether or not he or she (2) serves a fixed term. These defining characteristics, which are portrayed in Table 2, highlight the basic distinction between the two forms of government: a pure parliamentary system is a system of "mutual dependence" between the executive and legislature, and a pure presidential system is a system of "mutual independence" between the two branches (Stepan and Skach 1993: 17). In the case of the former, the chief executive (prime minister) can dissolve the legislature and call new elections, but he or she also has to maintain the confidence of a legislative majority. In contrast, in the case of the latter, both the chief executive (president) and the legislature have their own electoral mandates for fixed terms, and so neither branch of government has the authority to dismiss the other except in rare cases when legislative assemblies impeach presidents.

[6] Source: Robert Elgie, "Up-to-date list of semi-presidential countries with dates," http://www.semipresidentialism.com/?cat=125, accessed February 2013.

Table 2: Defining Presidentialism and Parliamentarism

Chief executive selected by	Chief executive serves fixed term	
	Yes	No
Voters	Presidential	
Legislators		Parliamentary

Source: Lijpart 1984:70; adapted by Mainwaring and Shugart 1996:16.

Semi-presidential systems incorporate features from both of these systems. A useful definition excludes cases that are at the parliamentary extreme, where any presidential authority is negligible in comparison to the other executive, such as the current German presidency. According to Duverger (1980), "a political regime is considered as semi-presidential if the constitution which established it combines three elements: (1) the president of the republic is elected by universal suffrage; (2) he possesses quite considerable powers; (3) he has opposite him, however, a prime minister and ministers who possess executive and governmental power and can stay in office only if the parliament does not show its opposition to them (p. 166)." As with pure presidentialism, the extent of the "checks" on presidential powers from the legislature varies considerably among the regimes that fit this definition. Terms such as "president-parliamentarism" and "premier-presidential" (Shugart and Carey 1992) or "presidential-parliamentary" and "parliamentary-presidential" reflect different levels of presidential compared to parliamentary authority in semi-presidential systems. The distinctions between the different labels usually depend on the extent to which the president or the parliament controls the cabinet. However, in addition to control over the cabinet, presidents' powers vary substantially in their level of control over the legislative agenda (see Table 3). The dependent variable in this dissertation—the degree to which

presidential authority is concentrated—reflects the various non-legislative and legislative dimensions of presidential power.

The dependent variable is based on Shugart and Carey's (1992) measure of formal presidential power, which includes six legislative presidential powers: the authority to veto legislation (both as a package and partially), issue decrees, introduce legislation (exclusively), propose referenda, and control the budget; and four non-legislative presidential powers: the authority to form and dismiss cabinets, dissolve legislatures, and the extent to which the president's cabinet members are immune to legislative censure (p. 150). Their measure ranges from zero to four, in which four is the highest level of authority a president can have for a given power, and zero is the lowest. I modified some of the entries to better fit the constitutions that concern this study. These minor adaptations are indicated by italics in Table 3, which summarizes the basic legislative and non-legislative components of presidential power.

Super-presidentialism can be conceptualized by very high scores in both the legislative and non-legislative categories. Mid-range scores for semi-presidential systems reflect greater "separation of powers," and low scores reflect a greater emphasis on parliamentarism. More "presidential" semi-presidential systems tend to have presidencies with fewer legislative but substantial non-legislative powers, and more "parliamentary" semi-presidential systems tend to have presidencies with fewer non-legislative but considerable legislative powers. "Super" semi-presidential systems are mere façades of either presidentialism or parliamentarism; there is neither an effective "separation of powers" nor responsibility between prime ministers and their parliaments.

Table 3: Formal Powers of Presidents in Presidential and Semi-presidential Systems

LEGISLATIVE POWERS

Package Veto/Override

4 Veto with no override
3 Veto with override requiring majority greater than 2/3 (of quorum)
2 Veto with override requiring 2/3
1 Veto with override requiring absolute majority of assembly or extraordinary majority less than 2/3
0 No veto; or veto requires only simple majority override

Partial Veto/Override

4 No override
3 Override by extraordinary majority
2 Override by absolute majority (full membership)
1 Override by simple majority of quorum
0 No partial veto

Decree

4 Reserved powers, no rescission
2 President has temporary decree authority with few restrictions; *or (most) decrees require counter signature of Prime Minister*
1 Authority to enact decrees limited
0 No decree powers; or only as delegated by assembly

Exclusive Introduction of Legislation (Reserved Policy Areas)

4 No amendment by assembly
2 Restricted amendment by assembly
1 Unrestricted amendment by assembly
0 No exclusive powers

Budgetary Powers

4 President prepares budget; no amendments permitted
3 Assembly may reduce but not increase amount of budgetary items
2 President sets upper limit on total spending, within which assembly may amend; *or president prepares budget; subject to approval and amendments in assembly*
1 Assembly may increase expenditures only if it designates new revenues
0 Unrestricted authority of assembly to prepare or amend budget

Proposal of Referenda

4 Unrestricted
2 Restricted
0 No presidential authority to propose referenda

NONLEGISLATIVE POWERS

Cabinet Formation

4 President names cabinet without need for confirmation or investiture
3 President names cabinet ministers subject to confirmation or investiture by assembly
1 President names premier, subject to investiture, who then names other ministers
0 President cannot name ministers except upon recommendation of assembly *(with the exception of the ministers of Defense and Foreign Affairs)*

Cabinet Dismissal

4 President dismisses cabinet ministers at will
2 Restricted powers of dismissal
1 President may dismiss only upon acceptance by assembly of alternative minister or cabinet
0 Cabinet or ministers may be censured and removed by assembly

Censure

4 Assembly may not censure and remove *(president's)* cabinet or ministers; *President may censure and remove assembly's cabinet (with few restrictions)*
2 Assembly may censure *(president's cabinet*), but president may respond by dissolving assembly*; or assembly has no "constructive" vote; or president may censure and remove assembly's cabinet (with considerable restrictions)*
1 *Assembly has* "constructive" vote of no confidence *in president's cabinet* (assembly majority must present alternative cabinet)
0 *Assembly has* unrestricted censure *of president's cabinet; or president may not censure and remove assembly's cabinet*

Dissolution of Assembly

4 Unrestricted
3 Restricted by frequency or point within term
2 Requires new presidential election; *or results from assembly inaction (with no limits on frequency)*
1 Restricted; as response to censure *or assembly inaction (with limits on frequency; and/or requiring the consent of the prime minister)*
0 No provision

Source: Shugart and Carey 1992: 150; italics indicate author's modifications.

The above dimensions of Russia's and Ukraine's Presidential Powers for the different constitutions in effect since the Soviet Union dissolved are depicted in Table 4 and Figure 3. As a point of comparison, I included the powers of the French president, which Duverger referred to more than 30 years ago as an instance of a very strong presidency (1980). Russia and Ukraine's scores are a staggering 21 in comparison to France's score of just five. Ukraine's score came slightly closer to the French model with the Orange Revolution reforms, but the changes did not last; Yushchenko suffered a humiliating loss in his re-election bid, finishing a distant fifth with only 5.45 percent of the vote during the first round of the presidential elections in January 2010. His Orange Revolution rival, Yanukovych, won the election and moved quickly to consolidate power. The new president's Party of Regions took control of government within one month of his election, when six deputies from former president Yushchenko's coalition—Our Ukraine and Yuliia Tymoshenko's Bloc (BYuT)—defected to the pro-Yanukovych coalition consisting of the Party of Regions, the Communist Party, and Speaker Lytvyn's Bloc. This was unconstitutional[7] according to the still extant 2005 constitution and a symptom of political alliances forming on the basis of patronage rather than ideology.[8] Subsequently, electoral manipulations and various forms of patronage became the means to maintain a "consolidated majority" (see Skach 2006) government. It also was not long before the (stacked) Ukrainian Constitutional Court revoked the 2004 amendments and returned presidential powers to pre-Orange Revolution levels.

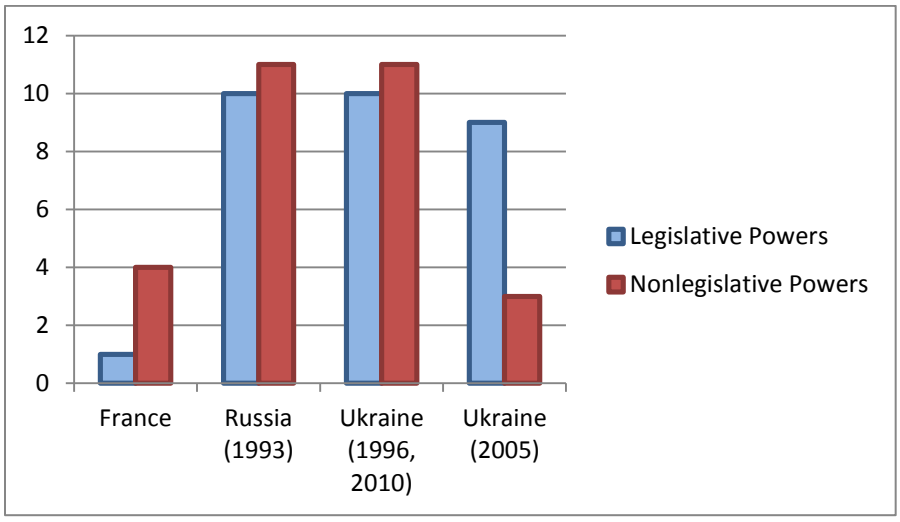
[7] The amended article 83 stated that deputy *factions* (not individuals) would form the majority coalition that would nominate the prime minister and cabinet members.

[8] The deputies had been elected on closed party lists for the parties from which they defected.

Table 4: Measuring Super-presidentialism: Formal Dimensions

LEGISLATIVE POWERS							
	Package Veto	Partial Veto	Decree	Exclusive Intro	Budgetary Powers	Referenda	***Total***
France[9]	0	0	1	0	0	0	***1***
Russia (1993)	2	0	4	0	2	2	***10***
Ukraine (1996, 2010)	2	0	4	0	2	2	***10***
Ukraine (2005)	2	0	3	0	2	2	***9***
NON-LEGISLATIVE POWERS							
	Cabinet Formation	Cabinet Dismissal	Dissolution	Censure			***Total***
France	1	0	3	0			***4***
Russia (1993)	3	4	2	2			***11***
Ukraine (1996, 2010)	3	4	2	2			***11***
Ukraine (2005)	0	0	1	2			***3***

Figure 3: Comparative Presidential Powers



In addition to the formal de jure components of presidential power, informal sources of power, such as presidents' co-partisan strength in the legislature, can

[9] Scores from Shugart and Carey 1992: 155.

dramatically bolster their power and Influence. Skach (2006) conceptualized three regime types for semi-presidential systems that deal with presidents' partisan strength: consolidated majority government, divided majority government, and divided minority government (see Table 5). The first is an instance where both the president and the prime minister are in the same legislative majority, which would facilitate presidents' efforts to monopolize the policy agendas. In the middle category, the prime minister has a majority but the president does not. This is the "cohabitation" situation that often fosters gridlock and conflict as the two executives attempt to pursue conflicting legislative agendas. In the third category, neither executive has a legislative majority, which, according to Skach, is the most problematic, conflict-prone setting in which neither the president nor the prime minister can effectively govern (Skach 2006: 15-22).

Table 5: Partisan Powers of Presidents in Semi-presidential Systems

A Consolidated Majority Government	A Divided Majority Government	A Divided Minority Government
President and prime minister have the same majority in the legislature	Prime minister has the majority in the legislature and the president does not	Neither the prime minister nor the president has a majority in the legislature
Source: Cindy Skach 2006: 15.		

According to Skach, situations of divided majority and especially divided minority government can cause democracy to fail if presidents (constitutionally or unconstitutionally) rely on emergency powers in the attempt to sidestep opposing or immobilized legislatures, as Hindenburg did in the waning years of the Weimar Republic (Skach 2006: 46, 54). Skach also argues that consolidated majority governments are the least prone to democratic breakdown, largely because such governments are better

equipped to address crises. However, while consolidated majority governments are likely to be more effective, they can also undermine democratization in certain contexts. The case studies in this dissertation illustrate that consolidated majorities in newly democratizing countries tend to be based on undemocratic patronage-based alliances rather than ideological cohesion or fundamental policy agreements. Some cases of "consolidated patronage majorities" are more formal, such as when Putin and Yanukovych's a-ideological parties of power—United Russia and The Party of Regions—predominated in their respective legislatures, and others are less formal, such as Kuchma's "artificial majority" (Whitmore 2004) in Ukraine's Verkhovna Rada in the late 1990s. In these cases, super-presidentialism was at an extreme on the presidential powers continuum and coincided temporally with greater competitive (even full-fledged) authoritarianism. In fact, in such cases the "super-presidential" designation is no longer meaningful because the regime is basically autocratic.

Tables 6 and 7 provide a glimpse of the government types in Russia and Ukraine since the collapse of communism. After Russia's constitutional crisis in 1993, Yeltsin had super-presidential powers, but he was frequently ineffectual because he did not have a working majority in the State Duma (see Table 6). When Prime Minister Primakov came close to forming a legislative majority in the late 1990s, Yeltsin fired him (presumably) to preserve the left-leaning parliament's toothless "divided minority" status. In contrast to Yeltsin, Putin seamlessly took control of the policy agenda, which included the ambitious task of re-centralizing political authority in Moscow. However, he had the advantage of a consolidated majority government from the onset of his presidency, which began as a pro-president coalition primarily among the Unity and Fatherland—All Russia parties, and which later combined to form the dominant United Russia party. The consequence

was that Russia went from being a super-semi-presidential democratizing regime to a consolidated competitive (or even full-fledged) authoritarian regime.

Table 6: Partisan Powers of Russian Presidents

President	Yeltsin				Putin		Medvedev
Legislature Election Year	1990	1993	1995	1999	2003	2007	2011
Prime Minister (Chairman)	*Gaidar/ Chernomyrdin* (Khasbulatov)	Chernomyrdin	Chernomyrdin Kirienko Primakov	Stepashin Putin Kras'ianov	Fradkov	Zubkov Putin	Putin
Government Type	Divided Majority Government	Divided Minority Government	Divided Minority Government	Consolidated Majority Government	Consolidated Majority Government	Consolidated Majority Government	Consolidated Majority Government

The concurrence of Ukraine's recent consolidated majority government (see Table 7) with a trend toward more authoritarianism resembles the Russian experience. The recent consolidated majority government has proven unsustainable without resorting to patronage, harassment of the opposition, and electoral manipulation. The jailing of the leader of the main opposition group and the widespread reports of potential fraud in the latest parliamentary elections are two prominent examples of this de-democratizing trend. Whether or not the trend from super-presidentialism to consolidated-majority-super-presidentialism to authoritarianism will be as sustainable as it was in Russia is questionable, because electoral patterns continue to reveal the very deep east-west societal divide that has undermined the dominance of particular interests at various points since the country's independence.[10]

[10] See chapter 5 of this dissertation.

Table 7: Partisan Powers of Ukrainian Presidents

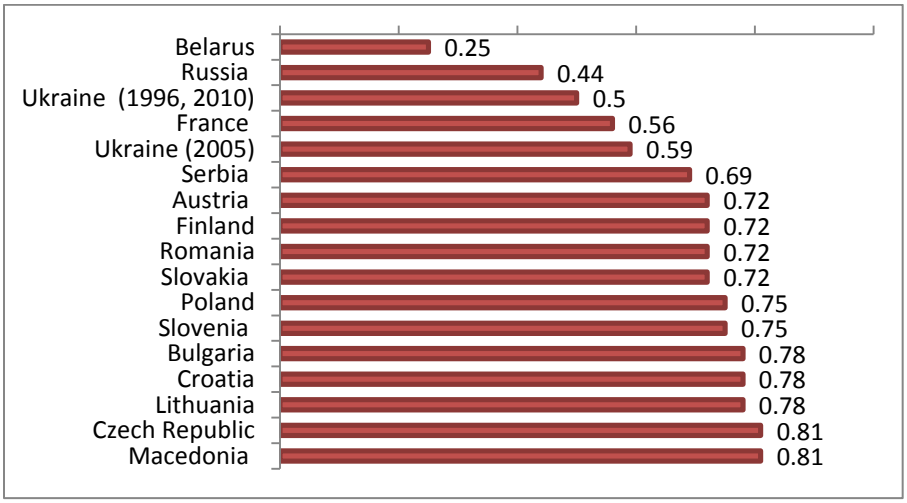
President	Kravchuk		Kuchma		Yushchenko		Yanukovych
Legislature Election Year	1990	1994	1998	2002	2006	2007 (early)	2012
Prime Minister (Speaker)	Fokin Kuchma (Kravchuk) (Moroz)	Masol Marchuk (Moroz)	Lazarenko Pustovoitenko	Yushchenko Kinakh Yanukovych Tymoshenko Yekhanurov	Yanukovych	Tymoshenko Azarov	Azarov
Government Type	Divided Majority/ Minority Government	Divided Minority Government	"Artificial" Consolidated Majority/Divided Minority	Divided Minority Government	Divided Majority Government	Consolidated Majority Government (both presidents)	Consolidated Majority Government

Super-presidentialism does not have to rely on a consolidated majority government, because legislatures would already have scant constitutional powers to check presidential authority. However, consolidated majority governments in semi-presidential systems *with constitutionally strong presidents* will effectively abolish any remaining effects from the separation of powers—i.e., the "checks and balances"—on which liberal presidential democracy is based,[11] and thereby undermine the process of democratization. Using an alternative way to assess presidential power—the strength of legislatures in semi-presidential (and presidential) systems (Fish and Kroenig 2009)—Figure 4 ranks the parliamentary powers in all of Europe's semi-presidential regimes from the weakest to the strongest legislature. The scores range from zero to one, in which zero is the lower amount of parliamentary strength and one is the highest. The constitutions of Belarus, Russia, and Ukraine (under its 1996 constitution) are at the top of the list with the lowest parliamentary powers' scores out of all of Europe's semi-presidential systems. With the exception of Belarus, Russia's 1993 constitution provides for the weakest of all the semi-presidential post-Communist parliaments; and both the Russian and (1996/current) Ukrainian constitutions provide for parliaments that are

[11] In the case studies this dissertation investigates, the courts were not a reliable check on presidents, largely due to judges' inexperience, court-stacking, or other forms of presidential control of the judiciary.

weaker than Duverger's example of the especially strong French semi-presidential presidency. It is also striking to note that the post-Communist cases with much weaker legislatures have struggled most with democratization compared to other semi-presidential post-Communist countries; the potential reasons for this trend are addressed in the next section of this chapter.

Figure 4: Powers of Parliaments in European Semi-Presidential Systems



CONSTITUTIONAL DESIGN: CONDITIONS THAT PROMOTE SUCCESS OR FAILURE

Most of the early literature on constitutional design supports parliamentarism over presidentialism as the more conducive framework for fostering democracy.[12] Most notably, Linz (1990, 1994) argues that the "dual democratic legitimacy" and characteristic rigidity that define presidentialism, along with the tendency toward the personification of the office and the winner-takes-all nature of presidential elections,

[12] As I indicate above, most of this literature considers the semi-presidential systems to be either presidential or parliamentary, depending on the two branches relative powers.

foster unstable democratic governments. The first of these "perils"[13] arises because presidential systems, unlike parliamentary systems, have two democratically legitimate governing institutions, and the inherent ambiguity over whether the legislature or the president more legitimately represents the people can lead to irreconcilable conflict. Second, the rigid fixed terms that presidents serve are liable to immobilize governments in cases of ineffective, unpopular, weak, or lame duck executives. Parliamentary systems, by contrast, are much more flexible because of the mutual dependence between the executive and the legislature that can, for example, oust ineffectual leaders by means of no-confidence votes and thereby adjust to changing circumstances. Third, the *personalismo* that presidentialism encourages can be detrimental to democracy, because, in such cases, particular leaders matter far more to voters and the functioning of government than policies, ideology, political parties, and even constitutions. Lastly, Linz argues that the winner-takes-all nature of presidential elections means that presidentialism may not be very representative of society, especially when presidents win elections with just a small plurality of the vote.

Linz's and other early arguments about the failures of presidentialism are largely supported by the struggles with democracy in Latin America and Africa during the 1960s and 1970s (Linz et al. 1994). In a number of broader assessments of the effect of regime type on democratic stability, Stepan and Skach (1993), for example, find that not one of the (non-OECD) countries with presidential systems that became independent in the decades following World War II was continuously democratic between 1980 and 1989. In contrast, 15 out of 41 of the countries with parliamentary systems maintained democracy throughout that decade. Likewise, Przeworski and his co-authors (1996) find

[13] From the title of Juan Linz's seminal article "The Perils of Presidentialism," Journal *of Democracy* 1, no. 1 (1990): 51-69.

additional general empirical support for the argument that presidentialism is less conducive for democracy than parliamentarism. These authors show that, in the countries included in their study, democracy failed in 52 percent of the 46 countries with presidential systems, compared to just 28 percent of the 50 countries with parliamentary systems between 1950 (or the year of the country's independence) and 1990. The authors also find that the democratic lifespan of countries with parliamentary systems is far longer than in countries with presidential systems.

The other side of the debate has some compelling arguments about the conditions that make presidentialism successful in certain national contexts. Mainwaring and Shugart's (1997) edited volume addresses the many variations in presidential systems and stresses the role of electoral systems in presidentialism's success or failure. More specifically, these authors argue that understanding the nature of countries' political parties and party systems is essential for understanding the success or failure of presidential democracies across Latin America, because it affected presidents' ability to pursue legislative agendas. Much like Skach (2006), the argument is effectively for stronger executives, where systems in which presidents who have more power to initiate policies in line with their interests or block policies that go against their interests are better able to manage conflict, and are therefore less susceptible to the perils Linz and other scholars elucidate. When presidents have the support of sizeable, disciplined, and stable legislative coalitions, or when presidents' respective parties control a majority of the seats in parliament, relations between the two branches are likely to be more productive. Accordingly, these authors argue that the electoral rules that affect voter behavior and, in turn, the nature of party systems and the extent of party discipline, are essential contextual variables for explaining the success or failure of presidentialism. Of course, if presidents have substantial constitutional powers, such as decree-making

power, they can also avert the immobilization that the critics of presidentialism stress, but such strong constitutional powers, these authors argue, are themselves a product of weak party systems (pp. 429-434).

Clearly, in the post-Soviet case, the stronger the president, the less immobilization governments have faced. During President Yushchenko's tenure in Ukraine, when the constitutional amendments strengthening the legislature went into effect, the country experienced the constant conflict and deadlock that the skeptics of presidentialism predicted. Presidents Kuchma, Yanukovych, and Putin, on the other hand, have all enjoyed extensive constitutional powers, which tended to "smooth" executive legislative relations, because the parliament effectively had very few means to block presidential initiatives. Strong partisan powers have also increased the legislative strength of several of these presidents. Putin, for instance, enjoyed substantially more power than Yeltsin because his party, United Russia, has dominated the State Duma. However, as Mainwaring and Shugart acknowledge (p. 396), strong presidential authority, whether derived from constitutional or partisan sources, is not always desirable, because in excess it can undermine democracy, and, in particular, the "checks and balances" that make presidentialism—with its "separation of powers"—the desirable option for preventing the tyrannies of either minorities or majorities.

The post-Soviet experience with super-presidentialism draws attention to this issue. While the formal concentration of political power in singular central executives manages to skirt some of the perils of presidentialism, it greatly accentuates some of the others. On the one hand, the presidential regimes with more evenly balanced power and the checks and balances needed to prevent narrow interests from usurping power tend to fall prey to conflict and deadlock that stem from the problem of dual legitimacy. A dramatic example is the violent conflict between President Yeltsin and the Congress of

People's Deputies (CPD) over the nature of the country's new constitution and highly contentious economic reforms. The problem of dual legitimacy was especially palpable because the heavily amended (and ergo, very contradictory) Soviet constitution in force at that time stated that the parliament was "the highest body of state power" (article 104), while at the same time the presidency was the "highest official...and head of executive power" (article 121-1). Consequently the leaders of both branches, President Yeltsin and CPD Speaker Khasbulatov, relentlessly clashed over the constitutionality of each other's actions. President Yeltsin ultimately won the fight with the *poder moderador* (Linz 1990: 54) of the military on his side and enacted a new constitution that intensely concentrated political power in the presidency. Less dramatically, in Ukraine, President Yushchenko's administration was severely hampered by the newly enacted reforms that strengthened the legislature. Most of his reform initiatives became mired in persistent conflict between the president and the parliament, under both prime ministers Yanukovych and Tymoshenko.

On the other hand, when the constitutional powers of the president are very substantial, consensus building is often no longer necessary for governing, and thus, while such systems are likely to be more stable and functional, they are also more prone to autocracy. Moreover, in such circumstances, democracy is often severely undermined as a consequence of the intense personification of the office, the exclusion of most, if not all, other interests in the policy-making process, the lack of horizontal accountability in government, and the tendency toward the consolidation of power in a small group of elites. One or more of these trends is clearly noticeable in the administrations of Putin, Lukashenka, Nazarbayev, and Karimov, all of whom began their tenure with very strong presidential systems that became further concentrated, and more autocratic, through time. Thus, the experience with presidentialism (and semi-presidentialism) in the post-Soviet

region has reflected a tradeoff between, on the one hand, greater democracy and less functional governments and, on the other hand, less democracy and more functional governments.

A critical question then is: how much presidential power would strike the golden balance and make semi-presidentialism (and presidentialism, for that matter) both functional and conducive toward democracy? This question is beyond the scope of this dissertation, but the apparent answer from the post-Communist experience with semi-presidentialism seems to be: very little. This brings this discussion full circle to the virtues of parliamentarism and perils of presidentialism. Indeed, very strong presidents have fostered autocracy, and more evenly balanced distributions of power between the branches of government have caused incredible tensions between prime ministers and presidents. On the other hand, the only semi-presidential regimes that have had democratic success are much more parliamentary than presidential, including Bulgaria, Croatia, Lithuania, Montenegro, Poland, Romania, Slovakia, and Slovenia.

Fish (2005, 2006) also found a strong correlation between stronger legislatures and democracy in the post-Communist region (see Figure 4). Instead of looking at parliamentarism and presidentialism, his study used an index that reflects the extent of formal constitutional powers vested in legislatures relative to executives (the Parliamentary Powers Index or PPI). There is a striking tendency for the countries with stronger legislatures to cluster toward the lowest Freedom House scores,[14] i.e., the strongest indicators of democracy. Specifically, the countries with the strongest legislatures—including the three Baltic countries, Bulgaria, Croatia, the Czech Republic, Hungary, Poland, Romania, Slovakia, and Slovenia—all have Freedom House scores at

[14] The Freedom House indices of political rights and civil liberties range from 1 to 7, where 1 reflects the most freedom and 7 is the least freedom. Scores of 1 and 2 are classified as "free," scores of 6 and 7 as "not free," and scores of 3-5 as "partly free."

or below two. Conversely, the weakest legislatures—including Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan,[15] Russia, Tajikistan, and Uzbekistan—all have Freedom House scores at or above five. Albania, Armenia, Georgia, Macedonia, Moldova, and Ukraine are in the "partly free" range, although from among these "partly free" countries, Armenia, Ukraine, and Georgia have the weakest legislatures and the weakest indicators of democracy.

If the only countries that became successful democracies were either parliamentary systems or semi-presidential systems with weak presidencies, a further question to ask is: why did these countries choose this constitutional framework to begin with? Each country has unique social and historical conditions that must have factored into their constitutional choice for either more parliamentary or more presidential power. The debate about institutional design and democracy leads to questions about the roots of these institutions: why do political actors choose specific institutions? When and why does constitutional change occur? To what extent does history, society, and culture matter in determining constitutional outcomes? Endogenizing constitutions in this fashion tackles the crucial question about the independent causal effects of constitutions on democratization: If democracy is, at least partly, a consequence of constitutional frameworks that are themselves, at least partly, consequences of historical or structural forces for or against democratization, this casts doubt on the conclusions from the extensive literature on the effects from variations in the type of constitutional framework. The question, however, comes down to how much *choice* played a role, which, according to the critical juncture model of institutional change, would have been especially high in the wake of the collapse and dismantling of the Soviet system, and how much (as well as

[15] The measurement precedes the 2005 and 2010 revolutions that were followed by legislature-strengthening constitutional reform.

how) broader structural and historical forces forced the hands of elite actors. These potential whos and whats behind constitutional change comprise the set of alternative hypotheses that are evaluated in the empirical chapters of the dissertation.

EXPLAINING CONSTITUTIONAL CHOICE

While political science has an extensive literature on the effects of constitutions, some economists have done a significant amount of work on their origins. A prominent example is James Buchanan (1990), who proposed a normative argument about how constitution-makers should act in order to make choices with more efficient consequences (see also Buchanan and Tullock 1964). Positive theories of constitutions and other institutions are also significantly developed in economics, including theories of constitutions as "equilibrium-producing" [16] institutions, i.e., as exogenous, independent variables (for e.g., Persson, Roland and Tabellini 2003), and also of institutions "as equilibria," i.e., as endogenous, dependent variables (for e.g., Ostrom 2005).[17] The majority of the scholarship on constitutions in Comparative Politics resembles the "equilibrium-producing" arguments, because of their focus on the effects constitutions have on the quality of democracy. The theories of endogenous institutions, however, provide insight into why political elites make particular constitutional choices.

Within the purview of political science, scholars in the Historical Institutionalist tradition have theorized that institutions are primarily subject to change during "critical

[16] An "equilibrium" reflects an outcome that rational actors have no incentives to disrupt in either the short-term or long-term, depending on changes in exogenous factors.

[17] Douglas North has succinctly defined "institutions" as the "humanly devised constraints that shape human interaction" (North 1990: 3). They include, then, the formal structures of governments, such as Russia and Ukraine's semi-presidential constitutions, as well as informal cultural norms, for example. These institutions structure social life in ways that produce more or less just and more or less efficient outcomes.

junctures" that result from exogenous crises or shocks to otherwise stable "path-dependent" institutional systems. Such junctures are "relatively short periods of time"—compared to preceding and ensuing periods of stability—"in which there is a substantially heightened probability that agents' choices, the range of which expands substantially, will affect the outcome of interest" (Cappocia and Kelemen 2005: 11).[18] This approach can explain the substantial amount of agency Russian and Ukrainian elites enjoyed in the wake of Soviet disintegration as a result of their considerable autonomy from social forces. However, the theory's expectation that actors would subsequently have a vested interest in maintaining the status quo, thus promoting path-dependency, does not satisfactorily account for external structural and institutional changes that affected actors' perceptions about the costs and benefits associated with preserving very exclusive constitutions. It also does not specifically theorize about precisely how change occurs. Who or what determined just who would draft, negotiate, and ultimately decide on the constitution? What accounts for the relative strength of key actors (or opposing factions) at the moments in time when their actions were expected to be highly consequential? Were actors motivated by rational self-interest or were values and ideology more important in their decisions? What were the limits on actors' ability to behave rationally? Why did subsequent attempts to change the constitution in both cases only once result in change?

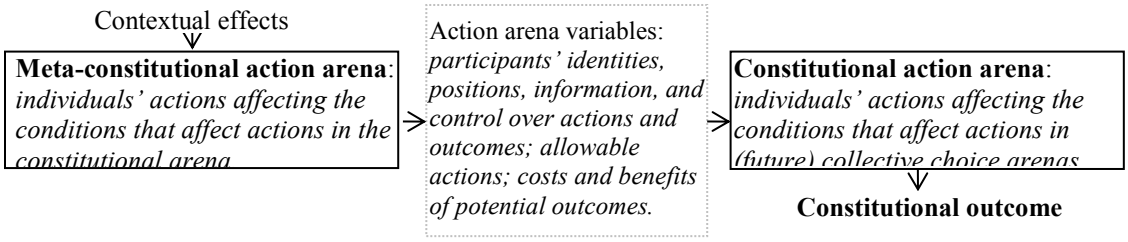
This dissertation essentially problematizes events that occurred during a relatively brief time span of transition from an old to a new system of government—effectively, a critical juncture in time. This goal is achieved by evaluating the relative influence of

[18] Historical Institutionalism also theorizes about gradual institutional change over long stretches of time via "conversion" and/or "layering" over time (Streek and Thelen 2004), in which existing institutions take on new purposes or shift their purposes as they adapt to changing historical circumstances.

structural, institutional, and historical arguments, alongside strategy and ideology-based explanations that rely on the actions of human actors. For analytical clarity, it frames the argument within Elinor Ostrom's multi-layered model of institutions (2005). Institutional change occurs, according to this approach, when "higher order" exogenous parameters change and thus cause actors to reassess the costs and benefits associated with an initial institutional choice; this would create that "critical juncture" in time. The study considers two levels of analysis, the constitutional and meta-constitutional levels (Ostrom 2005: 59). In the first, actors debated the choice of constitution, i.e., the rules for future policy-making. In the second, actors could alter the conditions affecting the lower constitutional level by strengthening their bargaining capacities or manipulating the rules governing constitutional ratification, for example.

The following diagram illustrates the structure of the argument:

Figure 5: Ostrom's Meta-constitutional and Constitutional Action Arenas



At the meta-constitutional level, actors could shape the conditions affecting constitutional negotiation processes to their advantage, to the extent allowed by the more permanent contextual conditions like electoral cleavage structures. Ostrom (p. 32) emphasized seven of these potentially amenable "action arena" variables: (1) The set of participants, defined broadly in this study as composite actors reflecting coalitions comprised of members supporting either the incumbent or the opposition, the regions or

the center in Russia and the interests of the East or the West in Ukraine, and drastic versus tempered economic reform; (2) the participants' positions affecting their standing vis-a-vis each other, such as their status as legislative or presidential coalitions; (3) the potential outcomes, including what each participant group would gain from reaching a constitutional bargain that increased or decreased constitutional inclusivity or remained at the status quo; (4) the set of allowable actions, including submitting or not submitting amendments to the draft constitution and voting in favor of or against key motions; (5) the degree of control the different participant coalitions had over actions and outcomes, which is a function of both coalitional strength and the respective positions in the bargaining processes; (6) the amount of information participants had, which was generally very limited but much more so in the context of more symmetrical distributions of power and often confounded by the opportunistic behavior of certain actors; and last (7) the costs and benefits, or "utility," associated with the outcome for all participant groups that varied depending on levels of uncertainty regarding the balance of power.

The empirical chapters of this dissertation test a set of hypotheses about the actors within the "action arenas" and a set of hypotheses about the conditions that shape the above "action arena" variables. For the basic actor-centric level—the events within the action arena—the point of departure is existing literature on why elites would prefer presidentialism over parliamentarism or a stronger presidency over a weaker presidency.

With regard to why some East European countries chose parliamentarism and others chose presidentialism after the demise of communism, Easter (1997) proposed a "balance of power" argument that focused on the strength of communist-era elites: when they were very powerful, they chose (or imposed) presidentialism because it best served their interests. On the other hand, old regime elites preferred parliamentarism in cases where their power was dispersed, because it would prevent any one group from

dominating politics and controlling state resources. Using a related rationale, Fry (1997) argued that stronger presidencies in Eastern Europe were chosen by powerful elite groups who faced little uncertainty about their future electoral prospects. The logic of these "balance of power" arguments is the same as the fundamental assumption in NIE arguments: actors are motivated by rational self-interest. When powerful elite groups are fairly certain they will control the presidency, it is in their interest to concentrate power in that office. On the other hand, when uncertainty about future political prospects is high, it is in their interest to choose a constitutional framework that would cause them to lose the least if their opponents ended up in control of the presidency. This study also assumes that greater uncertainty among elites about the balance of political power—and by extension future electoral prospects—creates a "veil of ignorance" that disincentivizes the choice to concentrated political authority in an exclusive super-presidential constitution. At this first choice-centered level, the hypotheses the study tests are:

> *Hypothesis 1: Russian and Ukrainian elites were more likely to prefer a more inclusive constitution—i.e., with less concentrated authority—when there was substantial uncertainty regarding the balance of power among political factions.*

By contrast,

> *Hypothesis 2: Russian and Ukrainian elites were more likely to prefer a more exclusive constitution—i.e., with more concentrated authority—when there was little uncertainty regarding the balance of power among political factions.*

These hypotheses would stand up to empirical scrutiny if the process-tracing narratives of Russian and Ukrainian constitutional development revealed that actors changed their preferences for more or less concentrated presidential authority over time in response to the shifts in their relative bargaining strength resulting from new elections or coalition formations and breakdowns. Likewise, if actors were motivated by self-

interest rather than ideology or values, then these hypotheses would be true for each faction, whether opposition or incumbent, or insider or outsider to the former regime. On the other hand, if ideology was in fact a more powerful motivator than self-interest, the empirical process-tracing narrative would show consistency in the various elites' preferences over time, in spite of fluctuating levels of uncertainty about the balance of power among elites. The expectation departs from the actor-centered argument proposed by Easter (1996), which specifically attributed presidentialism to the dominance of old regime elites. It also challenges McFaul's (2002) actor-centered argument that stressed the ideology of the most powerful elite groups as the most significant factor in whether or not "unbalanced" elite transitions produced democracy or authoritarianism.

> "Situations of unequal distributions of power produced the quickest and most stable transitions from communist rule. In countries with asymmetrical balances of power, the regime to emerge *depends almost entirely on the ideological orientation of the most powerful*. In countries where democrats enjoyed a decisive power advantage, democracy emerged. Conversely, in countries in which dictators maintained a decisive power advantage, dictatorship emerged. In between these two extremes were countries in which the distribution of power between the old regime and its challengers was relatively equal (McFaul 2002, 212, emphasis added)."[19]

In addition to assessing the motivations of elites at the choice-centered level of the analysis, another set of hypotheses tests the effects of the institutional and structural contexts within which the constitutional negotiation processes occurred. A first key goal is to uncover the external conditions that determined the set of "action arena" variables at

[19]This argument was made in the context of a different dependent variable—consolidated democracy rather than the choice of constitution that is the focus of this study. However, institutional choice is a part of the broader process of regime transition that is the focus of McFaul's argument.

key moments throughout the two countries' constitutional processes, one of the most crucial of which was the actors who could, in fact, participate in the bargaining processes. A second objective is to uncover *when* these factors mattered less or more. When did institutions, traditions, and social cleavages overlap with the purely choice-centered explanations?

Some scholars have argued that Leninist (Jowitt 1992) and even pre-Leninist (Pipes 2004) institutional legacies of centralized political authority in former communist countries would undermine attempts to build democratic and capitalist institutions. Such "cultural path-dependency" arguments resemble the historical institutionalist contention that history matters, because once institutions are created they tend to persist due to such mechanisms as "increasing returns" (Pierson 2000) or "lock-in" that provide incentives for actors to preserve institutions over time. In other words, the choices made within "critical junctures" (Collier and Collier 1991) establish a path of institutional development that becomes increasingly difficult to reverse. On a much more fundamental level, as countries enfranchise their populations through democratization, their deep historically forged societal divisions begin to define political discourse and serve as the bases for political contention, which can have a significant effect on the configuration of the variables in the "action arenas" from which new institutions—in this case, new constitutions—emerge.

The seminal work on the structural foundations of elite competition is Lipset and Rokkan's (1967) theory that traces the origins of political party systems to major historical events. Socioeconomic cleavages have received the greatest amount of attention within this literature (Zuckerman 1975: 239), largely because the majority of the literature on political cleavages and democratic elections has focused on Western Europe, where the class-based cleavages that formed as a result of the Industrial Revolution were

institutionalized in political parties. Studies in this vein have also shown that socioeconomic divisions translate into more stability than ethnic or regional divisions, for example, because they foster bargaining and compromise on both elite and mass levels (Evans and Whitefield 1998: 119). The latter societal divisions, however, have tended to be more politically salient in many post-Communist countries, which may have been because industrialization under communism did not establish the capital-labor divisions that have dominated politics in Western Europe. As Tavits (2005) argued, "one cannot deny that class and other socioeconomic cleavages matter less today in Eastern Europe than they do in Western Europe, and this discrepancy has to do with the communist past (p. 288)." Some studies, moreover, have suggested that the severe economic hardship from the transition tended to unify rather than polarize these populations "in shared suffering" (Hesli, Reisinger and Miller 1998: 244). The dispersed nature of economic hardship could have promoted significant barriers to "collective action" (Olson 1965; see also Hellman 1998) among voters, which would have hindered the formation of class-based alignments with parties and candidates.

That is not to say that class interests were absent from these countries' politics. In fact, some studies have found that urban-rural cleavages, which overlap heavily with richer-poorer divisions in these countries, can help explain support versus lack of support for former communist and other left-wing parties. However, regional, ethnic, and linguistic divisions in these countries became far more salient voting cues in the absence of strong class-based identities (Goodnow and Oziashvili 2010; Goodnow and Moser 2012). Thus a key difference between the two cases is that Russian elites' decisions were less vulnerable to social forces largely because the country's regions were much too heterogeneous to form a coherent cleavage structure. Yet even in Ukraine, with its very unambiguous regional divide, political realities have not always reflected societal

structures. At the beginning of the transition, elites who were creating the new institutions were largely unaffected by the social underpinnings of the country, because civil society was only just beginning to form, and because the elites at the helm of the transition process were themselves elected in what had been at best the quasi-democratic elections that came with Gorbachev's "demokratizatsiia" reforms. As the transition progressed and party elites were actively mobilizing voters along the more salient regional and language lines, the relative balance of power was re-ordered in a way that created enough uncertainty for the more powerful elite groups to want to greatly reduce the powers of the presidency that they were less certain to control. Yet fractures among the elites representing the western Ukrainian cleavage frequently caused the balance of power to disproportionately favor the eastern cleavage. The argument that the politics of region were more important than the politics of class, and ergo promoted the (albeit temporary) inclusive constitutional outcome in Ukraine compared to the consistent reinforcement of constitutional exclusivity in Russia, is supported by testing the following sets of hypotheses against electoral and census data. The first reflects the expectation that electoral politics in these countries were initially detached from social realities, given the infancy of civil society and political parties.

> *Hypothesis 3: voting in the first election cycles in Russia and Ukraine did not significantly reflect rich/poor and urban/rural societal divisions.*

Likewise,

> *Hypothesis 4: voting in the first election cycles in Russia and Ukraine did not significantly reflect societal divisions based on region, ethnicity, and language.*

If these two hypotheses hold up to empirical testing, the argument that elites were very insulated from societal forces in the first few years after the two countries' founding elections would have strong support. It would support the contention that this "critical

juncture" imbued insulated political elites with substantial decision-making autonomy, in which opposition groups were far weaker political players. On the other hand, if the data analyses were to show more crisp cleavage lines, implying a more mobilized and distinct voter base, then the argument about the relative autonomy of elites, given the critical juncture, would be more difficult to sustain.

Another set of hypotheses tests the expectation that when cleavage lines began to solidify in subsequent elections, they did so along regional lines to a much greater extent than along socioeconomic lines. This would have promoted a greater balance of political power among Ukrainian elites—in contrast to the balance of power among Russian elites—as a result of Ukraine's dichotomous, coherent regional cleavage structure.

> *Hypothesis 5: voting in subsequent election cycles in Russia and Ukraine primarily followed societal divisions based on ethnicity, language, and region.*

In contrast,

> *Hypothesis 6: voting in subsequent election cycles in Russia and Ukraine was less defined by socioeconomic divisions, including differences among income levels and rural compared to urban divisions.*

If hypotheses 5 and 6 were to hold up to empirical testing, the study could confidently argue that Ukraine's "national identity" cleavage emerged as the more significant and persistent point of political contention, which helps explain the greater ease with which Russian elites consolidated their power even as their country was undergoing democratization in the 1990s. It would also be supported by the basis of the political discourse during elections, such as parties' use of anti-nationalist, pro-Russia, and pro-Russian-language platforms in the East, along with the converse pro-west, anti-Russia, anti-Russian-language platforms in the West. In Russia during the 1990s, this would be

reflected in the politicization of issues affecting the regions compared to the "center" in Moscow and St. Petersburg, for example.

Alternative hypotheses that would challenge the theory would discount human actors' ability to enact change. Rather, the outcome would be the product of the country's historical legacy, economic circumstances, or societal structure. One could argue, for example, that existing institutions prevented a stark departure from Soviet era norms of centralized authority. Or, alternatively, that the interests of Russophone Ukraine would inevitably dominate politics, because the country's economic resources were concentrated in the East. A different type of challenge to the theory would agree with the micro-foundational reasoning but disagree with the notion that actors were motived by rational self-interest. Instead, for example, liberal and capitalist values and ideals motivated the democratizers, while the non-reformists remained committed to principles of social equality.

The argument advanced in this dissertation is effectively a synthesis of some of these alternatives: utility-maximizing actors adjusted their strategies over time with the intention of minimizing their personal losses and maximizing personal gains *to the extent allowed (or facilitated)* by underlying social and institutional structures. If this were true, then we would expect to see changes in actors' strategies and end goals across time as their efforts to mobilize voter support and forge new alliances changed their perception of their political prospects, and, in turn, their constitutional preferences. If, on the other hand, only the structural circumstances mattered, then we would expect to see a constitutional process more persistently favoring the Eastern oblasts, from an economic standpoint, or one that more consistently reflected the country's dichotomous ethnic and linguistic structure, from a societal perspective. Moreover, if actors' motivations transcended their rational self-interest, then we would see consistency in their goals and

preferences over the full period of constitutional negotiations, rather than the "flip-flopping" of constitutional preferences over time.

The chapters that follow unravel these layers of potential causes behind the constitutional choices in Russia and Ukraine. Chapters 3 and 4 evaluate the micro-level, actor-centered hypotheses 1-2 in the context of the Ukrainian and Russian constitutional processes, beginning in 1990 when their respective parliaments formed commissions to begin drafting new constitutions. They assess whether the actual course of events is consistent with the processes that the different theories would presumably generate. The approach thus resembles Hall's (2003) "Systematic Process Analysis" and Bates et al.'s (1998) "Analytical Narratives," which work deductively from hypotheses to uncover the best explanation for an outcome. Chapter 5 examines the macro-level structural underpinnings of the balance of power. It uses electoral and census data to compare voting patterns in Ukraine with voting patterns in Russia, thereby evaluating hypotheses 3-6. Finally, chapter 6 surveys similar constitutional events across a broader set of cases in the post-Communist region.

Chapter 3: The Process of Constitutional Creation in Ukraine

In contrast to the dramatic and relatively sudden imposition of the new constitution in Russia, newly independent Ukraine underwent a long and difficult constitutional negotiation process. However, the constitutional battles were fundamentally the same in both cases: Fights over how legislative and executive strength would be balanced in the new constitutions were also fights over who would end up in control of the massive economic and political reforms facing these new states. At stake were enormous gains and losses for different elite actors and social groups from either the "shock therapy" advocated by the neoliberals or the gradual course of reform supported by the factions on the left. In Ukraine, negotiations were further complicated by the divisive issues of national symbols and the status of the Russian language. The nationalist politicians representing the western part of the country wanted to banish the vestiges of Russian colonialism, especially the use of Russian in any official capacity, which Russophone eastern Ukrainians certainly opposed. Over time, the country's geographic divide became the primary basis of elite competition, because it proved to be the most salient and persistent point of political contention for Ukrainian voters. More specifically, rival political elites and parties became more and more defined by their pro-Russian versus pro-western stances on issues[20] that garnered support from a cleavage comprised, on the one hand, of ethnic Russians and Russophones who identified more strongly with Russia and, on the other hand, of ethnic Ukrainians and Ukrainian speakers who identified more strongly with the West.

[20] Examples of these issues include the status of the Russian Navy in the Crimean port of Sevastopol and the use of the Russian language in higher education and government.

While actors' preferences regarding "national identity" questions remained mostly geographically fixed over time, actors' preferences for a stronger or weaker presidency tended to fluctuate in response to changes in their political strength. One of the more prominent examples of this variation in elite preferences occurred in 2010 when east-oriented Yanukovych reversed his stance on a set of 2004 constitutional amendments that significantly increased the parliament's prerogatives. He and his political cohort had initiated the reforms in the first place, at a time when he faced a strong rival presidential contender. Furthermore, he had been an outspoken critic of prior attempts to annul the reforms by west-oriented President Yushchenko, calling them efforts to "return to totalitarian times."[21] The situation in 2010 was much different: Yushchenko's political career had ended with a humiliating fifth-place defeat in the first round of the presidential election; the new Yanukovych administration was using prosecution and other measures to weaken the west-oriented opposition from Tymoshenko's political party; and the eastern coalition had become increasingly cohesive due in part to political loyalty based on patronage and in part to loyalty from eastern Russophone voters. Under these conditions, Yanukovych had a new-found incentive to stack the constitutional court in order to revoke the very constitutional amendments he had championed when he faced a much stronger "Orange" opponent. In the same fashion, the Bloc of Yuliia Tymoshenko (BYuT)—the only parliamentary group that had voted against the constitutional reforms in 2004—criticized the court's decision to revoke the amendments, alleging bribery and calling for "a special commission be set up to investigate the actions of members of the

[21] Onyshkiv, Yuriy, "Constitutional Court nixes 2004 changes," Kyiv Post, October 7, 2010, http://www.kyivpost.com/content/ukraine/constitutional-court-nixes-2004-changes-85441.html, accessed March 2013.

Constitutional Court, who reversed the political reform of 2004."[22] These "flip flops"—each from a different side of Ukraine's east-west political spectrum—support this chapter's argument that actors' preferences for more or less liberal democratic and inclusive constitutions are contingent on how they perceive their political prospects. The narrative also shows that elite actors' perceptions of the relative balance of power was very vulnerable to pressure from social forces, which distinguished the Ukrainian and Russian cases in the extent to which more balanced political competition, and consequently more uncertainty about political fortunes, produced challenges to super-presidentialism in one case but not the other.

The systematic comparison of the social-structural components of elite competition in Ukraine and Russia is the subject of chapter five of this dissertation. This chapter (as well as chapter four) primarily grapples with the level of human agency in the argument, i.e., the actions and interactions of groups of elites. The chapter is therefore designed to evaluate hypotheses 1 and 2, presented in the preceding theoretical chapter, which state that, on the one hand, *elites were more likely to prefer a more inclusive constitution—i.e., with less concentrated authority—when there was substantial uncertainty regarding the balance of power among political factions,* and that, on the other hand, *elites were more likely to prefer a more exclusive constitution—i.e., with more concentrated authority—when there was little uncertainty regarding the balance of power among political factions.* The following narrative shows that changes in elites' preferences for more or less concentrated power over time depended on changes in their relative strength vis-à-vis their political opponents, which supports these two hypotheses and the overarching "balance of power" argument advanced in this dissertation. What's

[22] Interfax-Ukraine, "Opposition party demands inquiry into Constitutional Court's Oct. 1 ruling," Kyiv Post, October 5, 2010, http://www.kyivpost.com/content/politics/opposition-party-demands-inquiry-into-constitution-85049.html, accessed March 2013.

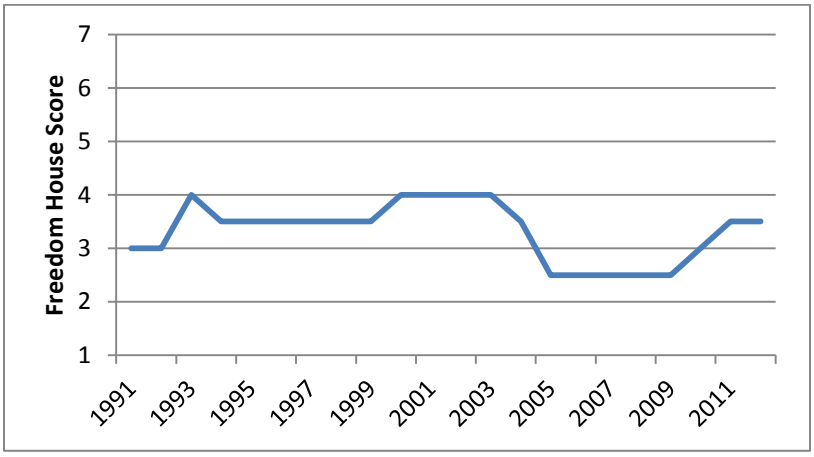
more, it suggests that this trend was true for each faction, whether opposition or incumbent, insider or outsider to the former regime, east-oriented or west-oriented, or left-leaning or right-leaning, which supports the assumption that self-interest was a much stronger motivator than ideology or values.

"Democrats,"[23] this chapter argues, did not foster democracy in Ukraine. What created the demand for more democratic institutions was greater *competition* among democrats as well as non-democrats. This challenges prior "balance of power" arguments, in which democracy was expected to result from "unbalanced transitions" favoring democrats (McFaul 2002), or in which strong presidential regimes were attributed to "unbalanced transitions" favoring non-democrats (Easter 1996). It also suggests that *competition among diverse interests* is more important than whether reformist, conservative, secularist, or Islamist forces, for example, are in power during regime transitions. When creating new institutions, elites of any political stripe would be more likely to adopt a framework that represents the interests of diverse societal interests if the bargaining conditions mimicked a Rawlsian veil of ignorance. In the majority of successful transitions to democracy throughout the post-communist region, the respective former communist parties re-entered electoral competition after the dust had settled from the collapse of the one-party communist regimes. The resulting balancing effect on elite competition promoted new institutions of government that would better accommodate the spectrum of societal interests across socioeconomic classes and ethnic groups, even if

[23] The distinction between "democrats" and "non-democrats" in the context of post-authoritarian political transitions can be quite ambiguous. Most research on the post-communist region treats neoliberal reformers as the former and the communists as the latter, or else outsiders to the former regime as the former and the insiders to the former regime as the latter. In Ukraine the distinction sometimes depends on elites' westward versus eastward orientation. However, these distinctions make little sense when the discussion is about democracy and the different factions are in fact reflections of different societal interests—the neoliberals, the entrepreneurial "new" Ukrainians who could profit from the reforms, and the communists, the pensioners and workers who would likely suffer from the reforms.

ultra-nationalist, "hardened" communist, and/or "indifferent" neoliberals were at the bargaining table. The institutions ultimately adopted in the countries with successful democratic transitions were either parliamentary (e.g., Latvia, Estonia, Hungary, and others) or semi-presidential with substantial "checks and balances" (e.g., The Czech Republic, Lithuania, Poland, and others).[24]

Figure 6: Freedom House Ratings for Ukraine (1991-2012)



Ukraine has struggled with democracy in the more than twenty years since its independence from the Soviet Union. According to the country's Freedom House ratings (see Figure 6), the country has remained in the grey zone between authoritarianism on the one hand and democracy on the other. Ukraine's combined rating for political rights and civil liberties has hovered between four, which is more "competitive authoritarian," and

[24] Parliamentarism, especially in combination with PR elections, would promote more inclusive policy outcomes because of the greater diversity of interests that are represented in coalition governments. Presidentialism, on the other hand, is a "winner-takes-all" arrangement that could undermine democracy unless it incorporates the "checks and balances" to protect the interests of the minority against the majority as well as the interests of the majority against the minority (see Federalist 51).

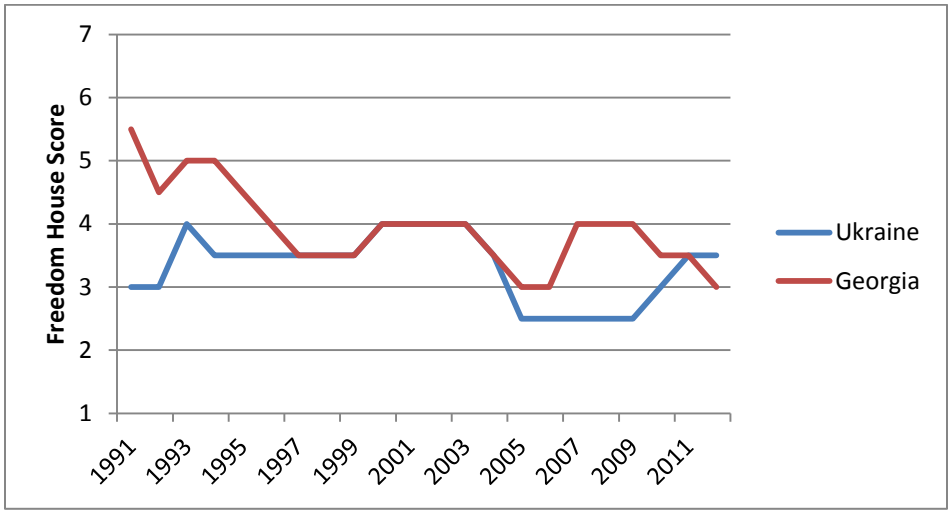
two and half, which is "electoral" rather than "liberal" democratic.[25] In sum, the country has yet to reach the full-fledged democratic end of the continuum, and although it tended toward greater democracy after the 2004 Orange Revolution, it began to trend back toward competitive authoritarianism with the resurgence of the Party of Regions and the consolidation of President Yanukovych's power in a renewed "super" presidency.

While the fluctuation between more or less concentrated political authority matches the trends toward more or less democracy, it also matches the transition of power between eastern pro-Russia and western pro-Europe forces. In other words, the dominance of the country's eastern cleavage between approximately 1996 and 2004, and then again from 2010 onward, is associated with the tendency toward competitive authoritarianism, in contrast to the post-Orange period under west-oriented President Yushchenko's leadership, which is related to a tendency toward electoral democracy. This pattern could also support an ideology-based explanation for democratic development, which would challenge a key contention in this dissertation that, in the long run, the ideology of political leaders matters less than real political competition among politicians representing diverse societal interests. Values can certainly have an effect on political transitions in the short-term; for example, Yushchenko's administration was not associated with the electoral fraud that has increasingly occurred since Yanukovych took office. But the case studies in this dissertation indicate that normative considerations rarely influenced the preference for the more inclusive political institutions that could foster greater democracy over the long-term. In Russia, Boris Yeltsin resorted to illiberal means—i.e., a violent offense against the parliament and the subsequent imposition of a super-presidential constitution—in order to achieve liberalizing ends—i.e., "shock

[25] Countries with approximate Freedom House ratings of two to one are at the liberal democratic end of the spectrum and countries with approximate ratings of six to seven are at the authoritarian end of the spectrum.

therapy" style reforms. These actions had the unintended, but perhaps not surprising, consequence of engendering authoritarianism. This argument is also supported by the Freedom House scores for the Republic of Georgia in the years since the country's Rose Revolution in 2003, in which power was transferred to Mikheil Saakashvili, who, like Yushchenko, was considered a pro-West "democrat."

Figure 7: Freedom House Ratings for Ukraine compared to Georgia (1991-2012)



As Figure 7 indicates, the country at first trended slightly toward greater electoral democracy in 2003-2004, although it never reached a score below the borderline competitive authoritarian/electoral democratic level of "three." However, while still under Saakashvili's leadership, Georgia's democratization reversed course for several years, returning to pre-Rose Revolution competitive authoritarian levels. Incidentally, the renewed authoritarianism followed the constitutional reforms that greatly strengthened President Saakashvili's office vis-à-vis the parliament. The authoritarian trend has reversed course toward electoral democracy since 2010, which uncannily coincided with

a new set of constitutional reforms that substantially increased the powers of the prime minister relative to the president. Even if Saakashvili's motivation for the reforms was to potentially prolong his leadership after his final presidential term ends in 2013 (as newly empowered prime minister), the country has indeed experienced a power-balancing trend in recent years, reflected in the electoral victory of the opposition Georgian Dream coalition in the October 2012 parliamentary elections.

Ukraine's similar pattern makes the country an especially good case for evaluating an argument about the importance of competition among elites of any political stripe in the creation of more or less inclusive political institutions. Variation over time in the dependent variable—the extent of presidential power—can be evaluated in the context of variation over time in the key independent variable for this actor-centered portion of the analysis—the degree of certainty about the balance of political power among elite actors. In addition to uncovering the conditions under which actors would prefer certain institutions over others, the process-tracing account grapples with *how* the various demands and concessions of the different elite groups translated into a constitutional bargain. The narrative that follows accomplishes these goals by assessing the balance of power among the key actors, their preferences and goals, and the constraints on their actions during five periods of time in the Ukrainian constitution-making process. The first period includes the passage of the Constitutional Concept and the creation of the Office of the Presidency, just prior to the country's independence; the second comprises the fruitless constitutional negotiations that followed the country's independence; the third accounts for the circumstances that produced the constitutional Dohovir (Agreement) in 1995 that was designed to serve temporarily in lieu of a constitution, in addition to the passage of the constitution itself in 1996; the fourth accounts for the legislature-strengthening constitutional amendments that occurred during

the 2004 Orange Revolution; and finally, the fifth looks at the conditions that facilitated Yanukovych's electoral victory in 2010 and motivated him to reverse the 2004 constitutional reforms.

TIME 1: CONCEPTUALIZING AN INDEPENDENT STATE

At the time of the first constitutional moment in Ukraine, the parliament, or Verkhovna Rada (Rada), was formally divided between a communist majority and the much weaker Narodna Rada (People's Council) opposition. However, the *de facto* balance of power in the Rada consisted of two distinct, quite disciplined, and fairly *symmetrical* voting blocs based on support for the Soviet regime or support for Ukrainian sovereignty, as many communists were consistently voting with the opposition on legislation that concerned independence and state-building (Whitmore 2004: 53-54). The prospect of independence had effectively split the communist majority between the hardliners, in what was called the "Group of 239," and the pro-independence deputies in their ranks, including then Rada Chairman, and later President, Leonid Kravchuk. The deputies in the People's Council opposition held just over one quarter of the assembly's 450 seats. The majority of them had been elected as part of the Democratic Bloc, an electoral coalition of anti-communist, pro-democracy, and pro-independence groups, most prominently the national democratic movement Narodnyi Rukh Ukrainy (Rukh).

This first semi-democratically-elected Rada launched the constitutional process in October 1990 with the formation of a commission charged with drafting a new constitution for the Ukrainian Soviet Socialist Republic, in anticipation of Gorbachev's new "voluntary federation" Union Treaty that was designed to transform the USSR into a loose federation. The failed August 1991 coup, in which Soviet hardliners attempted to

thwart Gorbachev's decentralization efforts, convinced even the most conservative Ukrainian communists that independence was the only viable alternative. The result was the near-unanimous August 24, 1991 vote in the Rada on Resolution No. 1427-XII "On the Independence of Ukraine," which declared Ukrainian independence from the Soviet Union and called for an all-Ukraine referendum to confirm the declaration. Just prior to this watershed moment in the history of Ukraine, the Rada had been in intense debates over a general concept for its new constitution.

In these debates, most of the initial controversy was about whether to adopt a presidential or parliamentary system in what was to be either a more sovereign republic under the new Union Treaty or a fully independent state. Most of the communists were committed to the system of soviets and supported the idea of a parliamentary regime as the more natural reflection of their vision, but the opposition, as well as Rada Chairman Kravchuk, thought a president as "head of state" would be an important symbol of sovereignty and a potential bastion against encroachment from Moscow into Ukrainian affairs. The People's Council opposition, moreover, were campaigning for immediate massive economic reforms, stating in their formal platform that "…in the case of paralysis of the executive branch of government…it is essential to institute a presidential form of government (Narodna Rada Bloc Position Statement, September 18, 1991)."[26] However, early Rukh documents envisioned limited powers for the president within a "parliamentary-presidential" system in which the president is the head of state and not chief executive.[27]

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[26] Official document published in *The Ukrainian Review*, Winter 1991, Vol. XXXIX, No. 4, p. 53.

[27] "Konseptsia derzhavotvorenia v Ukraini (Concept of government in Ukraine)," Program document adopted at Rukh's Fourth All-Ukraine Congress, December 2-4, 1992, quoted in Wolchuk 1997, p. 144.

> The form of government that in terms of (Ukraine's) historical tradition, theoretical thoughts on statehood at the beginning of the twentieth century, and the psychological traits of the Ukrainian nation is the most appropriate is that of a parliamentary-presidential republic with the head of state, who is not the chief executive. Historically, this is confirmed by the forms of government utilized in the Cossak Republic and the Ukrainian People's Republic (quoted in Wolchuk 1997: 144).

The national communists eventually came on board with the idea of a "head of state" presidency and proposals for pure parliamentarism were tabled, but the debates continued to center on concerns, particularly from the communist majority, about transferring too much power to a presidency that could end up in anyone's hands.

The version of the "Concept" that Rada passed in June 1991 recommended the presidential system proposed by the non-communist opposition in the legislature, but with a quite limited, mostly foreign policy role for the president. The document formally recommended that Ukraine would be a "presidential republic" with a president and vice-president.[28] However, the president's primary role would be to represent the state abroad; the document granted the sole right to the Rada to speak on "behalf of the people of Ukraine," while the President could only speak "on behalf of the state." Moreover, the document proposed that the Verkhovna Rada would have the power to: (a) impeach the president, (b) veto presidential decrees, (c) determine the constitutionality of presidential actions, and (d) call national no confidence referenda *prior* to the expiration of his or her term. Further reflecting a rather more parliamentary model, in the event that the no confidence referendum failed to pass, the document indicated that the Verkhovna Rada

[28]"Kontseptsiia novoi konstitutsii Ukrainy (Concept for the new constitution of Ukraine)," June 1991, F. 1; Op. 16; Sp. 1605; Ark. 121-140, TsDAVO Ukrainy; See Appendix A for a guide to archival references.

would be dissolved and new elections called. Additionally, while the president would have the power to issue decrees, the "Concept" otherwise anticipated scant legislative powers for the presidency. Instead,

> …Legislative power is realized through referenda and the Verkhovna Rada…Its functions according to the constitution are: passing laws; making decisions on the budget; determining state and territorial organization; ratifying international agreements; ensuring that the president's activities correspond to the constitution, budget, and other state institutions; participating in the selection of judges; among other functions (Kontseptsiia Novoi Konstitutsii Ukrainy, June 1991).

Soon after approving the Concept, the Rada passed a bill creating a similarly limited presidency and set elections to the new office for the following December. This new office effectively amended the country's existing 1978 Soviet constitution, which asserted that formal state power was vested in the Verkhovna Rada (Article 2). The president's power to issue binding decrees (Articles 114-6), however, conflated the structure of power and set the stage for intense legislative-executive conflict in the early post-Soviet period. These circumstances are similar to the events leading up to the constitutional crisis in Russia between 1990 and 1993. Ukraine, however, weathered its ongoing constitutional crises in a manner that protracted the constitutional negotiations process, but avoided actual violence.

TIME 2: INDEPENDENCE AND CONSTITUTIONAL STALEMATE

After independence, any discipline among voting blocs in the Rada died out. From approximately late 1991 to early 1992, the Rada fragmented as the deputies realigned along overlapping and murky political lines, which made further constitutional

progress practically impossible. The communists reorganized as the Socialist Party of Ukraine (SPU) under the leadership of Oleksandr Moroz, which, as Whitmore (2004) put it, turned out to be the "death knell" (p. 58) for the Rada majority. Many of the former communist deputies instead joined the Agrarian Party and others, including newly elected President Kravchuk, eschewed party affiliations. Likewise, the parties in the former People's Council opposition bloc stopped cooperating to a significant extent. Rather than provide a unified front in the December 1991 presidential election, for example, most of the opposition bloc's parties fielded their own candidates. They also fractured in terms of their support or opposition to newly elected President Kravchuk. European consultants on the draft constitution at the time observed in a report that "…The 450 members of the unicameral Parliament are split into a large number of parties of unclear connotations in the political spectrum. This gives rise to a very confrontational climate, with the population being wary of political parties that all call themselves democratic but fail to take clear stands."[29] Whitmore (p. 59) described a situation in which Rada decisions and legislation were being "...passed by ad hoc 'situational' alliances of the left or right together with the large (around 200) shifting boloto (marsh) of deputies located between the left and right flanks. In this context, political groupings formed and re-formed frequently." Many of these deputies of the "swamp" became the basis for Kravchuk's informal "Party of Power." It consisted primarily of apolitical, pragmatic former nomenklatura members, who were intent on preserving their power and influence in the newly independent state and were therefore willing to support the president in return for the access it gave them to state resources.

[29] Venice Commission, Secretariat Memorandum "Meeting on the Draft Constitution of Ukraine," Kyiv, Ukraine, May 31 – June 2, 1993.

Kravchuk appointed Leonid Kuchma as Prime Minister and the two executives soon entered a prolonged struggle over their relative powers. Kuchma was continuously pressing the parliament to give him special powers to enact "shock therapy" style reforms, which went against Kravchuk's more conservative gradual approach to reform. Meanwhile the Rada was in disarray and legislative power was effectively "bankrupted," as one local scholar observed (Fedorchuk 1993: 2). In late 1992, the parliament temporarily transferred its powers to the Cabinet of Ministers, while Kravchuk and Kuchma sparred over which of them would control the cabinet. In May of 1993, Kuchma threatened to resign after the Rada refused to extend his decree-making powers and instead gave sweeping powers to Kravchuk over the course of reforms.[30] By early summer of that year the constitutional crisis deepened as inflation sky-rocketed, spurring mass strikes among coal miners in the eastern Donbas region.[31] In the face of this acute social unrest, the two executives agreed to a truce in the form of an agreement to hold joint confidence referenda—one in the president and one in parliament. The goal, as then Chairman Pliushch put it, was to resolve the problem of "a sapling with two main trunks," where, "one has to be cut down."[32] The Rada, however, abruptly voted to cancel the referenda just prior to their scheduled date in September and instead opted to hold early parliamentary and presidential elections in March and June of the following year, respectively. This decision was perhaps not surprising, because the more numerous deputies on the left were quite confident in their electoral prospects, especially in light of the resurgence of the Communist party in the face of the severe hardship Ukrainian

[30] *The Ukrainian Review,* XL, no. 3 (1993): 61.
[31] "Donbas" is the name of the eastern coal mining Donetsk Basin region of Ukraine. It includes parts of the Donetsk, Dnipropetrovsk, and Luhansk oblasts.
[32] Ibid.

workers, pensioners, and other social groups were experiencing as a result of the early shocks from liberalizing economic reforms.

The constitutional commission, chaired by President Kravchuk, produced several drafts of the new constitution during the period leading up to this executive-executive standoff, which, given the conflict between the two executives and the disarray and uncertainty in the parliament, never progressed to a point that would force even a semblance of agreement or compromise. The first draft of a new constitution was introduced in the Rada in January 1992. Under Kravchuk's administration two more versions were put out, in June 1992 and October 1993. In these early drafts, the nature of executive-legislative relations lacked clarity, which, as the Venice Commission delegation observed, was the product of "an attempt to compromise between certain features of presidential and parliamentary systems, which are however irreconcilable (1993)." The attempts at compromise between the parliamentary and presidential visions may have been a result of the murky and uncertain nature of the balance of power among the different groups. Neither the factions on the left nor the right of the ideological spectrum had the leverage to achieve their vision of what the new constitution should look like, nor were the drafters willing to shift the powers they had in the parliament to the president. At this point, moreover, Kuchma's immediate interest was in increasing the powers of his office as prime minister, but he also had his sights set on the presidency.

The various drafts illustrate some of the back-and-forth over the question of presidential power. For example, the first draft in January 1992 described the president as "head of state and executive power" (article 174) with substantial control over the cabinet and the power to nominate judges. However, the October 1993 draft described the

president as "head of state" (article 142)[33] and gave him (or her) much less exclusive control over the nomination and dismissal of cabinet members and judges. Commenting on the first of the drafts, foreign consultants[34] raised concerns over the excessive emergency powers of the president (Troper 1992: 43) and the lack of "checks and balances," both horizontally across the institutions of government and vertically in terms of citizens' ability to contest government (Lampert 1992). The thrust of many of the concerns from outside commentators was that the draft lacked the mechanisms to ensure that competing processes could effectively operate throughout the system, which meant that decisions could ultimately end up in the hands of a small group of elites. For example, while Article 4 of the 1992 draft spelled out the right to regional and local self-government, elsewhere in the document the national government had the power to appoint many of the more important local positions (ibid.: 12).

The commission incorporated some minor suggestions from foreign and domestic consultants into subsequent drafts, including remedying the more blatant inconsistencies in the document. But on the whole, the voices of western consultants were not addressed in a meaningful fashion. Furthermore, it appeared that the commission did little to incorporate the advice they had solicited from the public. There were also some rather significant contradictions emanating from westerners and the voices from society. On the one hand, the main message coming from western, especially American, consultants concerned the "Soviet traces" of positive rights in the draft.[35] On the other hand, an

[33] Although subsequent drafts, including the final ratified version, kept the "Head of State" wording, the actual powers of the president in subsequent drafts were substantially increased and more "executive" in nature (until the 2004 reforms).

[34] "Zauvazhennia ta propozytsii amerikans'kykh fakhivstiv do proektu novoi konstytutsii Ukrainy (Comments and suggestions by American experts on the draft constitution of Ukraine)," March 3, 1992-March 17, 1992, F. 1; Op. 35; Sp. 120; Ark. 11-53, TsDAVO Ukrainy.

[35] See memoranda by Judge Bohdan Futey of the US Court of Federal Claims and Roger Pilon of the CATO Institute. The materials from various international seminars on the first draft of the constitution are

impassioned letter to President Kravchuk from the head of the Ukrainian Labor Union Federation, for example, expressed outrage over the fact that the latest draft had completely ignored the federation's concerns about guaranteeing the social rights of citizens.[36] The many, often handwritten, letters to the constitutional commission expressed similar concerns, including those from regional and municipal councils and private citizens.[37]

The constitutional process was effectively occurring as a power struggle among political elites with little external—either societal or foreign—influence. Although the factions on the left were very vocal in their demands to include social welfare provisions in the constitution, these concerns were continually sidelined by the more contentious questions relating to *who* would wield power: the president or the parliament, the regions or the center, etc. As summarized by Mykhailo Syrota, the chairman of the Rada's "temporary special commission" charged with finalizing the draft constitution in 1996, the questions that kept stalling progress on the country's new constitution were: (1) the country's territorial structure, especially with regard to the autonomous status of Crimea; (2) national symbols and language, including the critical question of whether Russian would be a second official language; (3) the number of chambers in the parliament; (4)

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archived in TsDAVO, including F 1; Op. 35; Sp. 119, 120, and 179. The Futey and Pilon memoranda are on pp. 112-116 and pp. 165-170 of sprava 119, respectively. In contrast to most of the foreign advice was Herman Schwartz's (American University Law School) memo on pp. 87-99, which supported the draft's commitment to aspirations concerning social welfare and social justice. He argued that that they are consistent with democratic constitutions worldwide and that it should be irrelevant that the Soviet Constitution contained, for example, the right to education. In the end, these provisions remained largely unchanged throughout the drafting process.

[36] Letter to the Chairman of the Constitutional Commission, President Kravchuk, from O. M. Stoian, dated 12.10.93, F. 1; Op. 35; Sp. 179; Ark.114-115, TsDAVO Ukrainy.

[37] For example, Archive of the Verkhovna Rada of Ukraine, F. 1; Op. 46; Sp. 56 and 57. The other frequent concern voiced by citizens concerned allowing Russian as a second official language.

questions about the nature and extent of presidential power; (5) the nature and role of the judiciary; and (6) the power of local self-government.[38]

Prior to the early elections to the Rada in March 1994 and the run-off election to the presidency in July 1994, none of the factions were very committed to concentrating power in the presidency. However, after the elections altered the power balance within the Rada and between the Rada and the President, when Kuchma defeated Kravchuk, the subsequent drafts of the constitution—in addition to a temporary agreement over the distribution of power between the president and the Rada (the Dohovir)—dramatically increased presidential power.

TIME 3: THE FIRST CONSTITUTIONAL BARGAIN

Even though the new parliamentary elections did not give any one party a majority, the three political parties on the left, including the re-constituted Communist Party of Ukraine (CPU), the Socialist Party of Ukraine (SPU), and the Agrarian (or Peasant) Party, initially formed the largest and most disciplined bloc (see Table 8). However, the role of this bloc in the constitutional process was very limited due to the president's efforts to undermine the legislature and the willingness of opposition parties on the right[39] to ally with the president in order to undercut the influence of the leftist majority in the Rada. Ultimately, the result was loss for Rada deputies of all political stripes and a win for President Kuchma.

[38] F. 1; Op. 46; Ark. 2, AVR Ukrainy.

[39] The largest contingent of which was Rukh (by then a political party under the leader of Viacheslav Chornovil).

Table 8: Party and Faction Membership in the Verkhovna Rada after the 1994 Elections.

Party Membership (March/April 1994)		**Faction Membership (May 1995)**	
Left			
Communist Party of Ukraine	91	Communist Party of Ukraine	90
Socialist Party of Ukraine	14	Socialist Party of Ukraine	27
Peasant Party of Ukraine	21	Peasant Party of Ukraine	47
Center			
Labor Party	5	Inter-Regional Group of Deputies	30
Civic Congress of Ukraine	2	Unity	31
Party of Democratic Revival of Ukraine	4	Center	30
Social-Democratic Party of Ukraine	2	Independents	27
Christian Democratic Party of Ukraine	2		
Party of Democratic Revival of Crimea	1		
Right			
Rukh	22	Rukh	28
Ukrainian Republican Party	10	Reforms	35
Democratic Party of Ukraine	3	Statehood	28
Radical Right			
Ukrainian Conservative-Republican Party	1		
Congress of Ukrainian Nationalists	3		
Ukrainian National Assembly	3		
Non-Affiliated			
No Party Affiliation	218	Did not belong to a faction	29

Source: Verkhovna Rada Ukrainy: Paradygmy i Paradoksy, Ukrainska Perspectyva, 1994, 1995, in Wolchuk, Kataryna, *The Moulding of Ukraine*, 1997, pp. 131, 134.

The debate over the Dohovir began with Kuchma's proposed law "on state power and local self-government," which sought to extensively concentrate political authority in the president. It proposed to bring local councils (radas) directly under the president's control and greatly strengthen the presidency via provisions that would give the president the power to appoint and dismiss the members of the cabinet without the Rada's approval and issue decrees on economic reform. Most factions on the left were uncompromising in their opposition to the bill, but Kuchma did have some conditional support from the center-right, because the bill would also eliminate the system of local soviets (i.e., the radas). When a toned-down version of the bill failed to win the needed majority, which

was virtually impossible given the opposition from the left, Kuchma threatened to issue a decree to force confidence referenda in the Rada and the president. This threat pressured the Rada to accept the bill as a temporary Dohovir, which translates as an "agreement" or "treaty," between the president and the Rada.

The Dohovir substantially increased the president's power. To the center-right this was perceived as a temporary victory, as it took power away from the left-dominated Rada. Official Rukh correspondence described the agreement as a "peaceful and civilized way out of political crisis…, an important step toward dismantling the system of soviets..., and establishing real distribution of power as a basis for democracy (Rukh Statement 1995)."[40] The fact that the president would have the authority to accelerate economic reforms, or, as the national-democratic minority viewed it, conduct a much-needed "economic conversion (Zavrych 1996)," was also perceived as a victory for many of the deputies on the center-right. However, they also viewed the Dohovir as a flawed basis for a new constitution, because it "violated the principle of 'checks and balances,' given the distinct advantages the President has over the parliament (ibid.)."[41] It was nevertheless a temporary arrangement; the parties agreed that the Dohovir would expire within one year, at which point they would ratify a final version of the constitution.

A new constitutional commission was put in place after the parliamentary and presidential elections, which was to be formally chaired jointly by President Kuchma and Rada Chairman and SPU leader Moroz. However, the politically contentious process of forming the new commission ended in a way that favored the president. In particular, he had disproportionate power to appoint members of the commission, especially given that

[40] "Zaiava tsentral'noho provodu Narodnoho Rukhu Ukrainy (Statement by Rukh leadership)," *Visnyk Rukhu*: 1995, F. 270; Op. 2; Sp. 12, Ark. 74zv, TsDAHO Ukrainy.

[41] Roman Zvarych, "Konstytutsiinii protses: v poshuku suspil'noho konsensusu (The Constitutional Process: in Search of Social Consensus)," *Visnyk Rukhu*: 1996, F. 270; Op. 2; Sp. 13, Ark 43v-45, TsDAHO Ukrainy.

his share of appointees would represent a unified front compared to the diverse views held by the Rada appointees. The commission solicited suggestions for revisions from Rada factions, labor union leaders, civic organizers, etc., but, much like under Kravchuk's chairmanship, very little of this input made it into the text of the document. Instead, the thrust of the text was produced by a working group of ten scholars and jurists, and although it was more "professional" than prior drafts, it had a clear pro-presidential bent. In addition to granting full control of the cabinet and prime minister to the president, it proposed a two-chamber parliament, which would have produced an additional "check" on the powers of the legislature. This draft was passed to the Rada for deliberation in March 1996, but was, not surprisingly, overwhelmingly voted down.[42]

The deputies on the left were uncompromising in their objection to the president's draft constitution. They wrote:

> After analyzing the constitutional draft, which was endorsed by the pro-presidential majority on the constitutional commission and presented in the Verkhovna Rada, we declare that its content is anti-people and that it should in no case be adopted as the constitution of Ukraine…It purports to change the nature of social relations, limit citizens' socioeconomic and political rights, liquidate the rule of the people, limit the powers of the legislature, and provide the legal basis for virtually unlimited singular power for the president (Joint statement by Communist, Socialist, and Agrarian factions, April 1996).[43]

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[42] "Kiev Draws Up New Constitution," ITAR-TASS, March 11, 1996.

[43] "Zaiava Presydii Tsentral'noho Komitetu Komunistychnoi, Politvykonkomiv Sotsialistychnoi i Selians'koi partii Ukrainy ta yix fraktsii u Verxovnii Radi Ukrainy 'Shchodo konstytutsiinoho protsesu v Ukrainy (Statement of the Central Committee of the Communist, Socialist, and Agrarian parties of Ukraine and their factions in the Verkhovna Rada of Ukraine 'On the constitutional process in Ukraine'), April 10, 1996, F. 328; Op. 1; Sp. 51; Ark. 67-68, TsDAHO Ukrainy.

In addition to requiring greater social guarantees, the factions on the left demanded that the president act solely as head of state and not government, that local radas would be preserved, and that Crimea would be granted autonomous status (ibid.). They also launched grassroots campaigns to gain public support for their opposition to Kuchma's constitution.[44] In an appeal to the public, the Socialist faction in the Rada wrote: "This is a project of a president who is seeking the support of the national-'democrats' in order to prolong his term and have dictatorial powers…his solution to an oppositional parliament is in keeping with his strategy to 'divide and conquer'—split the parliament into two chambers and let them squabble while the president rules!"[45]

Because of the completely incongruent views on the nature of executive-legislative relations between the president and the factions on the left, Kuchma indeed needed the support of the national-democrats on the center-right. These factions were more "malleable" to Kuchma's vision for a constitutionally strong president because, despite the natural rivalry between the west-oriented center-right opposition and east-oriented Russophile Kuchma, they had a mutual political opponent on the left. At the time, moreover, the parties on the left were numerically much stronger than any of the other parties in terms of both party organization and membership as well as the number of representatives serving in the national Verkhovna Rada and the regional radas (see Table 9). Viacheslav Chornovil and others on the center right were therefore determined

[44] "Deiaki pidkhody do provedennia agitatsiino-propagandysts'koi SPU u konstytutsiinomu protsesi (Some approaches to the Socialist Party of Ukraine's agitprop/campaign efforts regarding the constitutional process), Socialist Party of Ukraine internal document, date unknown, F. 328; Op. 1; Sp. 55; Ark. 83, TsDAHO Ukrainy.

[45] "Zvernennia do narodu, do vsikh patriotychnykh syl Ukrainy (Appeal to the people, to all patriotic forces in Ukraine)," Socialist Faction of the Verkhovna Rada, date unknown, F. 328; Op. 1; Sp. 51; Ark. 72, 72zv, 73, TsDAHO Ukrainy.

to pass the new constitution before the left had the chance to regroup. In a letter to the regional Rukh leaders,[46] he wrote:

> The leftist factions are using all their power to interfere with the constitutional process. They are attempting to organize a national referendum on questions of national order, sovereignty, and symbols, and other important aspects of state building; they are working with the armed forces of Ukraine…in the effort to organize "autumn" and "winter" communist offensives in the form of nation-wide strikes—all measures intended to prevent the passage of the new constitution. The constitutional agreement (Dohovir) will expire on June 8; the presidential election in Russia is on June 12. Leftist hopes rely on this connection. Therefore, the constitution must be adopted before June 1996. (Chornovil 1996).

Table 9: Relative Strength of Ukrainian Parties 1996-1997

	Membership	**Verkhovna Rada Deputies**	**Local Rada Deputies**
	Left		
Communist Party of Ukraine	80,000-120,000	92	4005
Socialist Party of Ukraine	29,370	20	378
Peasant Party of Ukraine	65,000-100,000	19	932
	Right		
Rukh	50,000	26	965
Republicans	13,000	10	428
Congress	14,000	5	297
	Center		
Liberals	40,000	12	20
Christian Democrats	12,000	10	53

Source: Andrew Wilson, "The Ukrainian Left: Still a Barrier to Reform?," *The Ukrainian Review* 44, no. 1 (1997): 30.

[46] Letter from Viacheslav Chornovil "Holovam kraiovykh orhanizatsii Narodnoho Rukhu Ukrainy," dated February 19, 1996, F. 270; Op. 1; Sp. 220; Ark. 27-28, TsDAHO Ukrainy.

Chornovil even stressed Rukh's and the President's mutual interest in defeating efforts by the factions on the left to derail the passage of the president's constitution in a published zverennia[47] (appeal) to President Kuchma in April 1996:

> Dear Mr. President!
>
> We are writing to you because the constitutional process in Ukraine is in jeopardy. We believe …that there will be tragic consequences if the adoption of the Constitution is delayed, and that a great responsibility for those consequences lies with you.
>
> You were not our candidate in the presidential elections and we do not support all your actions....We do not think you adequately used the powers you received from the Constitutional Agreement to remove those from power who act against the Ukrainian state, and who even challenge the institution of the presidency….
>
> …In the regions, there is a massive campaign (by lefist factions) aimed at defeating the passage of the constitution on the basis of the Constitutional Commission's current draft….
>
> …Rukh's platform has been one of constructive opposition to you. *But we are ready to fully support you in decisive steps toward establishing the constitutional independence of Ukraine* (Chornovil 1996, emphasis added).

As discussed in the "Time 1" section of this chapter, Rukh had initially envisioned a parliamentary-presidential system. However, by 1996 they had embraced Kuchma's preference for a presidential-parliamentary model. The alliance with the President, moreover, was reinforced by Kuchma's willingness to concede on issues like the status of the Ukrainian language and national symbols, which were major points of

[47] "Zverennia narodnoho rukhu Ukrainy do prezidenta Ukrainy Leonida Kuchmu," April 24, 1996, F. 270; Op. 2; Sp. 13; Ark. 2zb, TsDAHO Ukrainy.

contention for the right. According to Viacheslav Koval', Chornovil's deputy in Rukh at the time and the head of Rukh's All-Ukrainian Public Committee for the Support of the New Constitution of Ukraine, the "most brutal fights" with the president were bound to result from disputes about national symbols.[48] Kuchma also conceded on the issue of designating Ukrainian as the only state language, even though he had campaigned on the promise that he would advance the status of the Russian language in the country. In concessions that also appealed to the left, he retreated on his demands to divide the Rada into two chambers,[49] and somewhat softened his demands for exclusive presidential control over the cabinet and prime minister.[50] He also agreed to give Crimea its autonomous status, which helped to mollify the left.

The special temporary committee, chaired by Mykhailo Syrota, and consisting of members of the different Rada factions, produced the modified draft reflecting the above concessions. Even though it denied the president the right to dissolve the parliament, it still gave the president broad powers to make appointments for key government positions. The Rada's control over the government, moreover, was limited to confirming the president's candidate for prime minister. In all other non-legislative (see Table 2) respects—e.g., the appointment, dismissal and supervision of the government—it was effectively toothless. While not "completely satisfied,"[51] after signing off on the revised Syrota draft, Kuchma passed it to the Rada for a final reading and ratification vote. However, it received only 258 votes out of the 300 needed to pass, which precipitated a

[48] Viacheslav Koval', "Holovam oblasnykh organizatsii Narodoho Rukhu Ukrainu (To the regional Rukh leaders)," May 15, 1996, F. 270; Op. 1; Sp. 220; Ark. 74, TsDAHO Ukrainy.
[49] He initially only agreed to allow an "interim one chamber parliament" to operate temporarily for a five year term; "Kuchma Accepts 'Majority' of Amendments to Constitution," ITAR-TASS, May 20, 1996.
[50] Even so, the Rada's role was limited to confirming the president's candidate for prime minister. In all other respects—e.g., the appointment, dismissal and supervision of the government—it effectively had no power.
[51] "Kuchma Accepts `Majority' of Amendments to Constitution," ITAR-TASS, May 20, 1996.

dramatic set of events on the night of June 27, 1996. President Kuchma threatened to issue a decree to hold a referendum on the constitution rather than allowing the Rada that prerogative. The Rada in turn responded just as they had to his prior threat of a no-confidence referendum over the Dohovir—to maximize their chances of retaining at least some power and minimize their chances of losing more power. A twenty-three hour session in the Rada that included several rounds of voting ended with a ratified constitution for the new Ukrainian state. However, Rada deputies had been bullied into this vote and acted in a way that would spare them from a fate similar to their counterparts in the Russian Congress of People's Deputies (CPD) three years earlier. The deputies within the Rada made some concessions to each other, but the Rada as a whole made the most concessions to the president.

In the short-term, Kuchma was the clear winner and the left was the clear loser. For the center-right, it was less clear; they certainly made concessions, but they had defeated the more powerful left. In the medium-term, however, the right was also a loser, as Kuchma and his allies monopolized political power. To ultimately win, the right would need to have control of the presidency. Thus, in subsequent years, the non-communist opposition started to actively mobilize a voter base in the western regions. The campaign materials from the various national-democratic parties from this period demonstrate their shift to a much clearer anti-Russian message, reflecting a strategy to mobilize voter support along regional, ethnic, and linguistic cleavage lines by changing the political discourse from the ideological left versus right—or gradual versus neoliberal reforms—to one that is focused on the question of Ukrainian "national identity." Such efforts to either maintain or reshape the balance of power were apparent, on the one hand, by Kuchma's pervasive use of patronage and strategies to consolidate his power base among the eastern "clans" and Russophone voters, and, on the other hand, by Tymoshenko and

Yuschchenko's electoral alliance that unified the west-oriented opposition and helped consolidate the support of voters united on the basis of their stronger affinity with the west.

TIME 4: A NEW CONSTITUTIONAL BARGAIN

Even though the new constitution did not include all the presidential prerogatives that Kuchma wanted, he effectively had full control of the government and pursued an aggressive policy to consolidate his authority over all aspects of government and policy-making. The circumstances in the Rada were initially not very favorable to his ambitions, but after his re-election in 1999 he managed to create a pro-presidential "artificial majority (Whitmore 2004)," giving him a consolidated majority government (see Skach 2005) and effectively super-presidential powers. After the new parliamentary elections in March 1998, neither the left, right, nor center factions had a majority (see Table 10). The left received 39 percent of the seats, the center 30.7 percent, the right 10.4 percent, and unaligned independents made up 19.6 percent of the Rada. The "centrist" factions in addition to the unaffiliated deputies, which together comprised a simple majority in the Rada, were ideologically a very loose group of parties, many of which served as various oligarchs' political power bases and were often closely linked to Kuchma (Whitmore 2004: 44-45).[52] Kuchma also had support from some of the factions on the right; by this point Rukh had split into a group that tended to support the president under Hennady Udovenko and a group that maintained the party's platform of "constructive opposition" to the incumbent president under Yurii Kostenko (ibid.: 45).

[52] Including SDPU (o), the Revival of the Regions, Trudova Ukraina, Bat'kivcshchyna, and others, that were funded and linked, respectively, to Medvedchuk and Surkis, Volkov, Punchuk and Derkach, and Tymoshenko (see Whitmore 2004).

Table 10: Party and Faction Membership in the Verkhovna Rada after the 1998 Elections

Faction	**No. of deputies**	**Percent Seats**
Communist Party	123	27.4
"Left-Center" (Socialist Peasant bloc)	35	7.8
Progressive Socialists	17	3.8
Total "Leftists"	*175*	*39.0*
People's Democratic Party	89	19.8
Green Party	24	5.3
Social Democratic Party	25	5.6
Total "Centrists"	*138*	*30.7*
Rukh	47	10.4
Total "Rightists"	*47*	*10.4*
Hromada (non-aligned oppositionists)	39	8.7
Unaffiliated deputies	49	10.9
Total Non-aligned	*88*	*19.6*

Source: Registration of first factions by the secretariat of the Verkhovna Rada, 14 May 1998. In Sarah Whitmore, "Faction Institutionalization and Parliamentary Development in Ukraine," *Journal of Communist Studies and Transition Politics* 19, No. 4 (2004): 46.

The left was steadfast in its opposition to Kuchma and for a time managed to curtail his attempts to consolidate his "super-presidency," usually with the help of some of the less loyal centrists. However, Kuchma's reelection victory in a second round against CPU leader Petro Symonenko in November 1999, in addition to a court ruling that overturned a law in which deputies could only join factions on the basis of their party affiliations, opened up the opportunity for Kuchma to construct a consolidated majority government based on his "artificial majority."

Kuchma achieved this artificial majority using bullying tactics similar to those he had used for the Dohovir and constitution: He threatened to hold a referendum to decrease the constitutional powers of the Rada if the members failed to form a pro-

presidential majority. This majority consisted primarily of center-right deputies and was buffered by his nomination of Yushchenko, then still a presidential ally,[53] to the post of prime minister. The leftist Chairman (or Speaker) Moroz was ousted and replaced by Kuchma-loyalist Ivan Pliushch. Kuchma, moreover, was simultaneously attempting to regain the concessions he had made to the opposition at the time of the first presidential bargain. In April 2000 he held a referendum to gauge public support for a bill that would: (a) give the president the power to dissolve the Rada if it failed to form a majority or pass the budget, (b) eliminate deputies' immunity from prosecution, (c) reduce the size of the Rada from 450 to 300 deputies, and (d) establish a bi-cameral parliament.

The referendum's results were overwhelmingly in favor of the president's objectives. With his majority, the bill passed its first reading in the Rada in July 2000, but by the time of the subsequent Rada session, in which it would need to receive 300 votes to become law, the "Kuchmagate" scandal had erupted. Moroz exposed tape recordings made by a former Kuchma bodyguard, in which the president appeared complicit in the murder of journalist Georgii Gongadze who had been investigating political corruption. The scandal created a rare moment of unity among the left and right as they jointly called on the president to resign.

Attempts to impeach Kuchma did not get very far, but his now weakened position and the prospect of his chosen successor Yanukovych's potential electoral loss to Yushchenko caused him to reassess the costs associated with further weakening the Rada's powers. A new Rada was elected in March 2002. The various parties on the right coalesced into the Our Ukraine bloc, on the basis of their support for potential presidential candidate and now Kuchma opponent, Yushchenko. For the first time, the

[53] At the time, Yushchenko compared their relationship to a father and son.

right was numerically more powerful than the leftist faction, with 23.4 percent of the seats compared to the left's 20 percent. The pro-presidential United Ukraine bloc included the Party of Regions that would back Yanukovych in the next presidential election. Kuchma's reduced power base and the recognition that Yushchenko would be quite a competitive contender for the presidency not only caused Kuchma to moderate his super-presidential ambitions, but to soon be proposing constitutional reforms that would increase the prime minister's power at the expense of the president.

Around this time, Kuchma appointed Yanukovych to the post of prime minister. While also an "easterner," he belonged to a different political/financial clan; Kuchma was from Dnipropetrovsk and Yanukovych was from Donetsk. However, Kuchma relied on the support of the Party of Regions and shared their pro-Russia and pro-Russian language orientation. Kuchma's proposed reforms in favor of the prime minister were actively taken up by these parties in late 2003, when it was becoming less and less clear which direction the election would take. The BYuT and Our Ukraine blocs opposed the reforms, but the leftist factions came on board when the president's coalition agreed to also change the electoral system from a mixed single-member-district-plurality/proportional representation system to a pure proportional representation system, which was likely to mostly benefit the left. However, when this joint constitutional and electoral system reform bill was put to a vote on April 8, 2004, it fell just six votes shy of the 300 it needed to pass. The incumbent and his chosen successor had one remaining option to ensure an electoral victory: to falsify the results.[54]

However, they grossly miscalculated the extent to which society would mobilize in response to the manipulated second-round election that gave Yanukovych a slim edge

[54] Or possibly even to assassinate their political opponent. Yushchenko nearly died and was left disfigured by dioxin poisoning in September 2004. The case is still open.

over Yushchenko in November 2004. The resulting "Orange Revolution" greatly underscored the east-west divide in the country. Support for the candidates closely followed ethnic, linguistic, and regional lines, in which ethnic Russians and Russophones identified more closely with Russia, and ethnic Ukrainians and Ukrainian speakers united on the basis of Ukrainian patriotism and a closer affinity to the West (see chapter 5). Pro-west "Orange" forces rallied in support of their candidate of hope and change, Yushchenko, with the campaign slogan "Tak!—My mozhemo" (Yes we can!). In the three Galician oblasts[55] his support ranged from 92 to 94 percent. By contrast, in the easternmost oblasts of Donetsk and Luhansk, voters supported Yanukovych at levels as high as 96 and 92 percent, respectively. Several weeks of massive rallies by Orange supporters in downtown Kyiv, and a decision by the Constitutional Court to nullify the election result based on evidence of widespread and systematic fraud, created a tense political crisis for Ukraine's elites. Kuchma was determined to reach a compromise that would protect him and his family from prosecution over Kuchmagate and other corruption charges, in the event his political cohort lost power. He was also determined to push through his Rada-strengthening reforms prior to the next election round that had been set by the court for December 26. The rival political factions sat down for a series of three "round table" discussions in late November and early December with a group of mediators, including Lithuanian President Valdas Adamkus and Polish President Aleksander Kwasniewski. The proposal on the table was to bring the Ukrainian political system closer to the Polish and Lithuanian "parliamentary-presidential" semi-presidential

[55]The Galician region is comprised of the Ivano-Frankivsk, Lviv, and Ternopil oblasts. It was incorporated into the Soviet Union several decades later than other Ukrainian regions. Anti-Russian nationalism is deeply rooted in this part of the country, where OUN-UPA separatists—the Organization of Ukrainian Nationalists (Orhanizatsiya Ukrayinskykh Natsionalistiv) and its militant wing (Ukrayinska Povstanska Armiya)—fought the Soviets during World War II and contemporary nationalist parties and movements took root shortly before and after the country's independence.

model. To Kuchma this was arguably about control of government, but to the foreign mediators, dispersing power would allow more inclusion and representation for the country's different deeply divided societal groups. Yushchenko agreed to the compromise under the condition that the current government, in which Yanukovych was prime minister, would be fired prior to the presidential election and that the reforms would not take effect for another two years. Once the parties agreed to this compromise, the Rada overwhelmingly passed Resolution No. 2222 to amend the constitution of Ukraine. Ukrainian elites had renegotiated their constitutional bargain.

TIME 5: THE RETURN OF THE STRONG EXECUTIVE

Yushchenko went on to win the election and appoint his Orange ally Yuliia Tymoshenko to the post of prime minister.[56] The new president still had all the prerogatives Kuchma had enjoyed, but they were set to expire on January 1, 2006 when the Rada would assume control of the government (with the exception of the Foreign Affairs and Defense ministers). Almost immediately, however, the power-balancing among elites that had occurred as a result of the electoral alliance between Yushchenko and Tymoshenko—and supported by voter mobilization—reversed course. Disagreements between President Yushchenko and Prime Minister Tymoshenko caused their coalition to dissolve, with Tymoshenko's BYuT bloc serving as the pro-prime minister coalition and Yushchenko's Our Ukraine bloc serving as the pro-presidential coalition. Furthermore, the balance of power shifted back toward the east-oriented Party of Region after it received the largest share of the vote (32.14 percent) in the March 2006 parliamentary elections (see Table 11). Tymoshenko's bloc BYuT also emerged as a

[56] Tymoshenko had backed Yushchenko with the understanding that she would receive that nomination.

much stronger political contingent than Yushchenko's Our Ukraine, with their respective 22.29 and 13.95 percentages of the vote. The SPU and CPU for the first time received among the lowest vote shares of the parties represented in the Rada, each with less than 6 percent of the vote. Political discourse was now much more defined by east-west rather than left-right ideological conflict.

Table 11: Verkhovna Rada Election Results, March 2006

Party/Bloc	**Percent Votes**
Party of Regions	32.14
Bloc of Yulia Tymoshenko (BYuT)	22.29
Our Ukraine Bloc	13.95
Socialist Party of Ukraine (SPU)	5.69
Communist Party of Ukraine (CPU)	3.66
Source: Central Election Commission of Ukraine, http://www.cvk.gov.ua/, accessed April 2013.	

Given that the west-oriented groups were not easily consolidated, the Rada selected Yanukovych as prime minister. Not surprisingly, this set the stage for intense political conflict and gridlock, which ultimately forced a compromise between the president and the Rada to hold special early parliamentary elections. The result was both a win and a loss for the Party of Regions opposition (see Table 12). The party gained more seats than they had in the 2006 election, but BYuT gained 10 percent more of the seats than they had won in the previous election. Thus, with the support of Our Ukraine, Tymoshenko became prime minister.

Table 12: Verkhovna Rada Special Election Results, September 2007

Party/Bloc	Percent Votes
Party of Regions	34.37
Bloc of Yulia Tymoshenko (BYuT)	30.71
Our Ukraine bloc	14.15
Communist party of Ukraine (CPU)	5.39
Lytvyn's Bloc	3.96
Source: Central Election Commission of Ukraine, http://www.cvk.gov.ua/, accessed April 2013.	

Yushchenko tried and failed to increase his powers throughout his tenure as president. Tymoshenko, who had her sights set on running in the next presidential election, also campaigned to have the reforms reversed. These efforts, however, did not have enough support from the Constitutional Court justices, even after Yushchenko dismissed three of the justices and replaced them with more compliant members. The administration also attempted to put an entirely new constitution in place with a much more presidential than semi-presidential framework; one of the drafts proposed an effectively pure presidential system, in which the president would be both head of state and chief executive, with the prime minister serving as a perfunctory administrator.[57] However, Yushchenko's popularity and coinciding ability to govern successfully was rapidly waning. It was impossible to secure the 300 votes it would take for a new constitution to be ratified by the Rada. In January 2010 when he ran for a second term, he came in a distant fifth with just over 5 percent of the vote in the first round of the election. Tymoshenko and Yanukovych went on to the second round, each drawing votes along linguistic and regional cleavage lines; Tymoshenko emerged as the candidate for the west as opposed to Yanukovych's appeal to eastern voters (see Chapter 5). The

[57] Interview with the author of the new constitution draft, Vsevolod Rechytsky of the Kharkiv Human Rights Protection Group, Kyiv, Ukraine, December 14, 2010.

"villain" of the Orange Revolution had won the presidency in an election that independent observers declared "free and fair." Yanukovych quickly moved to consolidate power. Control of government was wrested from BYuT and Our Ukraine forces, when six deputies from Prime Minister Tymoshenko's coalition defected to the pro-Yanukovych coalition consisting of the Party of Regions, the Communist Party, and Speaker Lytvyn's Bloc. Subsequently, electoral manipulations and various forms of patronage became the means to maintain a "consolidated majority" government. It also was not long before the (now stacked) Ukrainian Constitutional Court revoked the 2004 amendments and returned presidential powers to pre-Orange Revolution levels.

The pro-presidential majority in the Rada submitted a petition to the Constitutional Court in the summer of 2010 to have reforms revoked. However, the court was not sufficiently accommodating and so, under what appeared to be pressure from the president's administration, four of the eighteen judges abruptly resigned just two weeks before the court was expected to issue its ruling. The judges who resigned were rumored to oppose Yanukovych.[58] By the end of September 2010, Yanukovych was newly empowered and on the road to fully consolidating his party's control of government and the policy agenda. He also waged a campaign to weaken his main opponent—Tymoshenko and her Bat'kivshchyna party—through harassment and the prosecution (and eventual imprisonment) of its more prominent members, including Tymoshenko. The country's electoral democracy reverted to competitive authoritarian levels (see Figure 6).

[58] They included Ivan Dombrovskii, Viacheslav Dzhun, Anatoliy Didkovskiy, and Yaroslava Machuzhak.

CONCLUSION: PROSPECTS FOR CONSTITUTIONAL CHANGE

The constitutional process in Ukraine has been characterized by changing preferences about the nature of the constitution. This pattern implies that to understand the reasons for more or less concentrated political power in the post-Soviet context, it makes more sense to look at the conditions that would incentivize the choice of more politically inclusive institutions than to focus on *who* was in power during the transition. Democrats as well as non-democrats, however defined, were just as likely to choose to either concentrate or disperse political power, depending on whether it was in their interest to do so. When Ukraine was on the verge of independence at Time 1, the very high levels of uncertainty about the future of the country fostered the desire among the different factions for a more parliamentary-presidential system. At Time 2, the power struggle between President Kravchuk and Prime Minister Kuchma, as well as the disarray in the Rada, stalled the constitutional progress, but also caused the different parties to prefer a constitution with less concentrated political authority. When Kuchma came to power, he exploited the weakness of the Rada to consolidate his power base and demand a very strong presidency. Although he had to make some concessions to the various factions, he ultimately won. The right sided with the president on the question of a stronger presidency, because the left was numerically much stronger in the Rada. With the new constitution in place, Kuchma temporarily moved forward in his attempt to undermine any and all power in the Rada *until* his power base was compromised in the wake of Kuchmagate, and it was now in his interest to strengthen the Rada's power at the expense of the presidency.

What's more, by the time of the dramatic events of the Orange Revolution, the reality of the country's underlying societal divide along ethnic, linguistic, and regional lines started to shape the power dynamics among elites. Kuchma had relied on a co-opted

"artificial" majority in the Rada, which his substantial powers and access to patronage resources had facilitated. However, when society was mobilized enough to protest, the distribution of power among elites began to reflect the distribution of interests in society. In this way, regional and ethnic structural divisions in the country had, at least temporarily, moderated attempts by the eastern cohort to consolidate political power, because societal support for the different elite camps was quite symmetrical and well defined. These circumstances produced the power symmetry and resulting uncertainty that can explain the paradoxes of the 2004 legislature-strengthening constitutional reforms: Kuchma's about-face after attempting to increase the formal and informal powers of the president, and Yuschenko's concession to the reforms despite the large-scale mobilization of his supporters. The much more symmetrical balance of power had given the key players the incentive to choose an outcome from which they would lose the least as a result of the uncertainty over which of the parties would end up controlling the presidency.

Efforts by the victorious "Orange" forces to gain back the power lost in the power-balancing compromise during the Orange Revolution were unsuccessful, largely because of their weakening position relative to eastern forces. In contrast, by 2010 Yanukovych had the incentive and the capacity to re-concentrate power in the presidency. In fact, Yanukovych, who had been one of the main proponents, and Tymoshenko, who had been one of the main opponents of the reforms in 2004, each reversed their prior preferences regarding the concentration of political authority in 2010. The multiple instances of changing preferences for the different elite factions in the two decades following the country's independence helps substantiate the hypothesis that uncertainty would cause actors to be more willing to choose inclusive constitutions and less willing to choose exclusive constitutions. If actors are not purposefully acting as if

they were behind a veil of ignorance because of a commitment to democracy and inclusivity, uncertainty would cause them to behave in a way that would achieve a similar outcome even if their actions were based on self-interested "utility maximizing."

Chapter 4: The Process of Constitutional Creation in Russia

The constitutional battle in Russia was similar to the constitutional struggle in Ukraine: It was a fight over who would control the reins of government during a crucial political and economic turning point for the country. However, in contrast to Ukraine, where the Verkhovna Rada ultimately ratified the final document, albeit with a "twisted arm," the already tenuous Russian constitutional negotiations devolved into a violent executive-legislative confrontation that resulted in a total victory for President Yeltsin's political cohort. The institutional consequence was a very illiberal "super-presidential" constitution that was intended, ironically, to facilitate neoliberal reforms. Presidential power was severely threatened by economic and political crisis in the summer of 1998, opening a window of opportunity for constitutional change. However, not only did Yeltsin survive the challenges to his presidency from the parliament, but political power subsequently became more and more concentrated to the point that the regime has reverted to nearly full-scale authoritarianism.

Russia's Freedom House ratings over time reflect its steady democratic decline, beginning in 1998 when the country's previous score of 3.5, indicating a modicum of democracy, worsened first to four, indicating more "competitive authoritarianism," and then ultimately to 5.5, which is close to the out-and-out authoritarian end of Freedom House ratings' continuum.[59] This trend contrasts with Ukraine, which remained much more steadily "competitive authoritarian" and experienced an interval of "electoral democracy" in the mid-2000s (see Figure 8).

[59] As noted in chapter 3, countries with approximate Freedom House ratings of 2 to 1 are at the liberal democratic end of the spectrum and countries with approximate ratings of 6 to 7 are at the authoritarian end of the spectrum.

Figure 8: Freedom House Ratings for Russia and Ukraine (1991-2012)

The story of constitutional creation in Russia provides additional grounds in support of the second hypothesis presented in the theoretical chapter of this dissertation, which states that *elites were more likely to prefer a more exclusive constitution—i.e., with more concentrated authority—when there was little uncertainty regarding the balance of power among political factions.* When the military handed a complete victory to President Yeltsin during the 1993 presidential-parliamentary standoff, the balance of power was dramatically skewed in favor of the liberal reformist political cohort. However, in the absence of real ideological political competition, any normative commitments to liberal democratic principles among elites were trumped by "utility-maximizing" behavior: the victorious anti-communist "democrats"[60] centralized political

[60] See Footnote 2 in Chapter 3.

authority in order to marginalize the opposition in the parliament. Similarly, the "non-democratic" communist opposition campaigned for a more inclusive parliamentary-like system of government when their advantage was in the legislature, but supported the status quo when the presidency appeared within their grasp. This pattern of behavior is consistent with elites' shifting preferences in Ukraine, where the "democrats" backed a constitution that would concentrate authority in the president when their leftist opponents were the dominant force in the legislature, but supported a more balanced distribution of power between the branches of government when the uncertainty about electoral outcomes made the compromise of "checks and balances" the most rationally "safe" course of action.

Like the previous chapter, this chapter is based on a process-tracing methodology that assesses variation over time in the study's dependent variable—the preference for concentrated political authority—in relation to variation over time in the key independent variable at the actor-centered portion of the analysis—the degree of certainty about the balance of political power among elite actors. The narrative that follows assesses the balance of power among the key actors, their preferences and goals, and the constraints on their actions during four periods in the Russian constitution-making process. The first period was a time when centrifugal tendencies in the Soviet Union pressed Russian elites to consider the status and nature of a sovereign Russian state. During this period, legislators created both a Russian presidency and a commission to begin drafting a new constitution. The second period chronologically overlaps with the first by covering the various constitutional drafts that reflected ideological debates in addition to actors' strategic preferences in the three years between the creation of the constitutional commission and the autumn of 1993's violent executive-legislative standoff. The third period accounts for the circumstances and dramatic events that produced Russia's super-

presidential constitution. The fourth was a period when opposition groups attempted to impeach the president, which gave Yeltsin the incentive to seek a constitutional compromise. However, Yeltsin survived the challenges to his authority and passed the legacy of super-presidentialism to his chosen successor Vladimir Putin, who, like his Ukrainian counterpart Kuchma, was soon attempting to further consolidate political authority into a small group of elites at the Kremlin center.

TIME 1: SOVIET DISINTEGRATION AND RUSSIAN STATEHOOD

By the late 1980s, the constitution of the USSR and the constitutions of its constituent republics had been substantially amended to accommodate Gorbachev's perestroika, glasnost, and demokratizatsiia reforms. When the Soviet Union dissolved at the end of 1991, the 1978 constitution of the Russian Soviet Federal Socialist Republic (RSFSR) was encumbered with approximately 400 amendments (Henderson 2011: 59). The new Russian state inherited a democratically elected parliament from these late soviet-era reforms. Its Congress of People's Deputies (CPD) had been created with an October 1989 amendment to the RSFSR constitution and filled with elected representatives during Russia's first federal, regional, and local elections in March 1990. Although democratic processes were still in their infancy, the composition of the CPD was the result of a quite competitive electoral contest between reformist "democrats" and the communists. Some local observers even described "the surge in popular participation in politics" during the 1990 legislative electoral campaigns as "a peaceful February revolution akin to the swelling of popular participation in February 1917 (McFaul 2001: 79)."

At the start of the first session of the CPD in May 1990, 86 percent of the deputies were officially members of the Communist Party of the Soviet Union (CPSU). The rest were a diverse group of candidates united on the basis of their opposition to communism, most of whom had been endorsed by the "DemRossiia"—short for "Democratic Russia"—umbrella organization of non-communist candidates. Over time as coalitions formed and re-formed, both reformists and non-reformists were quite well-represented in the CPD, although the leftist groups remained the largest and most disciplined throughout the CPD's short history. Table 13 shows approximate memberships in the different blocs for the final three convocations of the CPD. Out of a total of 1,068 members,[61] approximately 250 to 300 belonged to factions that supported "shock therapy"-style reforms; another 250 supported a more moderate course of reform, including the "Communists for Democracy" and other left-center groups; and another 300-350 deputies were conservative socialists who remained opposed to market capitalism.

[61] Not all of these seats were consistently filled.

Table 13: Coalitions and Factions in the Congress of People's Deputies (with approximate coalition membership for sessions 6-8)

"Radical Reformists"			
Reform Coalition (initially the Bloc of Democratic Factions)	*300*	*241*	*-*
Democratic Russia			
Radical Democrats			
Joint faction of Social Democrats and Republicans			
Consent for the Sake of Progress			
"Reformists"			
Democratic Center Bloc	*-*	*200*	*167*
Left Center—Cooperation			
A Free Russia (formerly Communists for Democracy)			
Sovereignty and Equality (Deputies from Autonomous Regions)			
Independents			
Not part of a bloc	*-*	*52*	*57*
Motherland			
"Leftists"			
Constructive Forces Bloc	*167*	*151*	*158*
Industrial Union			
Workers' Union--Reform without Shock			
Change--New Politics			
"Radical Leftists"			
Russian Unity Bloc	*310*	*355*	*302*
Communists of Russia			
Agrarian Union			
Russia			
Homeland			
Russian Union			
Civil Society			

Notes: The ideological groupings are based on information from "The Congress of People's Deputies and the Supreme Council of the RSFSR/Russian Federation (May 16, 1990 – October 4, 1993)," http://www.politika.su/gos/ndrs.html, accessed May 9, 2013.

In spite of the relative numerical strength of the left, Yeltsin became increasingly influential during the waning years of the Soviet Union. He was already a deputy in the USSR CPD and Supreme Soviet when he entered the race for a seat in the RSFSR CPD, representing a district from his native oblast of Sverdlovsk. He won easily and was soon elected to the highest executive office in the RSFSR—Chairman of the Presidium of the

Supreme Soviet[62]—by a razor thin margin over Ivan Polozkov, his ideological opposite as a member of the Communists of Russia faction that later joined the most conservative leftist Rossiiskoe Edinstvo (Russian Unity) bloc. Thus, although the balance of power in the CPD favored the forces on the left, the new chairman was directing the policy-making process toward liberalizing reforms. In fact, in the early sessions of the CPD, Yeltsin quite easily marshaled a majority coalition on the basis of the issue of Russian sovereignty within the USSR; the "Declaration of Sovereignty of the RSFSR"[63] was adopted by an overwhelming 907 to thirteen votes. It called for "political sovereignty" in anticipation of potential legal conflicts over the supremacy of Russian or Soviet law, when it came to the large-scale reforms envisioned by Yeltsin and other reformists. Thus, rather than the full-scale independence that the Lithuanian parliament, for example, had already declared, it stated its "resoluteness in creating a democratic rule-of-law state within a reformed USSR."[64] Soon after, on June 16, 1990, the CPD created a commission charged with drafting a new constitution for a more sovereign RSFSR.[65] Yeltsin was formally the chairman of the 102-member commission. However, a smaller working group comprised of fifteen deputies took the lead in the drafting process under the chairmanship of Oleg Rumiantsev, a legal scholar and member of the centrist, rather more social-democratic Rodina (or Motherland) faction.

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[62] The Supreme Soviet was a smaller legislative body elected by the CPD that met between sessions.

[63] "Deklaratsiia s'ezda narodnykh deputatov RSFSR ot 12 iiunia 1990 g. № 22-1 'O gosudarstvennom suverenitete Rossiiskoi Sovetskoi Federativnoi Sotsialisticheskoi Respubliki' (Declaration of the RSFSR CPD from June 12, 1990 "On State Sovereignty of the RSFSR")," in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii: Konstitutsionnaia Komissiia: Stenogrammy, materialy, dokumenty, 1990-1993 gg. (On the History of Creating the Constitution of the Russian Federation: Constitutional Commission: Stenograms, Materials, Documents, 1990-1993),* vol. 1, edited by O. G. Rumiantsev, 51-53, Moscow: Wolters Kluwer (2007).

[64] Ibid., p. 51.

[65] "Postonovlenie s'ezda narodnykh deputatov RSFSR ot 16 iiunia 1990 g. № 37-1 'Ob obrazovanii konstitutsionnoi komissii' (Resolution of the RSFSR CPD from June 16, 1990 "On the Formation of a Constitutional Commission")," in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 1, 54-61.

The commission—and in particular the working group—was at work on the new constitution as the movement toward greater Russian autonomy was gaining momentum. From the beginning, the drafts envisioned the presidential republic, which came into existence independently of the commission, "as a product of 'life itself'"[66] in the waning years of the Soviet Union. The Russian presidency was created soon after RSFSR citizens responded positively to a supplemental question on Gorbachev's March 17, 1991 all-union referendum asking: "Is it necessary to introduce the post of President of the RSFSF, who would be elected by all-republic popular vote?" Russian voters in fact overwhelmingly supported both the preservation of the USSR in response to the referendum's general question as well as the creation of a Russian presidency at 71.4 percent and 69.9 percent, respectively. Soon after, on May 24, the CPD adopted the "Law on the President,"[67] which amended the still extant RSFSR constitution to accommodate the new presidency (Chapter 13-1). In short order, on June 12, Yeltsin was elected president of the RSFSR with 57 percent of the vote. By year's end, he was president of a fully sovereign state after a series of events resulted in the collapse of the Soviet Union:

When soviet hardliners attempted to block further progress toward Gorbachev's new union treaty of "more sovereign" soviet republics during the (failed) August 1991 coup, many of the USSR's constituent republics declared full independence from the Soviet Union for fear of losing the sovereignty gains they had already achieved. On December 8, 1991, Yeltsin along with the popularly elected new presidents of Ukraine

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[66] From Rumiantsev's opening remarks during a fall 1991 press conference on the constitution process. "Press-konferentsii po priniatoiu novoi konstytutsii RSFSR (Press-conference on the adoption of a new constitution in the RSFSR)," September-October 1991 (no specific date in file), F. 10026; Op. 1; D. 2924; L. 5, GARF.

[67] "Zakon RSFSR ot 24 maia 1991 g. № 1326-1 'Ob izmeneniakh i dopolneniiakh Konstitutsii – Osnovnogo Zakona – RSFSR' (Law of the RSFSR from May 24, 1991 "On changes and additions to the Constitution – Basic Law – of the RSFSR")," in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 2, 233-242.

and Belarus'—the other two founding republics in the original 1922 Union Treaty—signed the "Agreement on the Creation of the Commonwealth of Independent States (CIS),"[68] which declared that "The USSR as a subject of international law and as a geopolitical entity ceases to exist."[69] The Russian CPD subsequently ratified the CIS agreement and most of the other constituent republics also became signatories. By the end of that same month, Gorbachev resigned as President of the defunct USSR and Yeltsin automatically became president of a new nation state.

TIME 2: CONSTITUTIONAL BARGAINING IN THE NEW RUSSIAN STATE

Yeltsin's star was rising, just as Gorbachev's was falling. He defied the coup in August 1991, most dramatically in a speech from on top of one of the tanks that had surrounded the Russian legislature, or "White House." Soon after, he asked the legislature for more expansive powers to help him carry out reforms that he promised would lift the country out of economic crisis. Because of his post-coup popularity, the CPD was quick to agree. Plus, he had only recently marshaled the support of an overwhelming majority coalition on the basis of the issue of Russian sovereignty. With his temporary year-long special powers, Yeltsin had the authority to issue decrees that would have the force of law, appoint the heads of local government (without legislative approval), and appoint ministers (with legislative approval). Yeltsin found ways to further expand his powers, such as appointing himself prime minister,[70] so that he could

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[68] "Soglashenie o sozdanii Sodruzhestva Nezavisimykh Gosudarstv ot 8 dekabria 1991 g. (Agreement on the Creation of the Commonwealth of Independent States from December 8, 1991)," in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 2, 824-827.

[69] Ibid., p. 825.

[70] The Chairman of the Government of the Russian Federation was informally called "Prime Minister"—a convention that still exists in Russia.

form his own government without consulting the legislature. He made Yegor Gaidar—the architect of Russia's "shock therapy"—his first deputy prime minister.

The CPD (and the constitutional court) were soon wary of the power they had given the president; he had accumulated too much power and the country was experiencing the first shocks from the reforms. A struggle about each branch's control over the course of reform and how the balance of power would be institutionalized in the new constitution started to take shape. In April an anti-Yeltsin coalition attempted to fire the reformist Yeltsin-Gaidar government. Yeltsin and his government survived, partly because he was willing to compromise. Yeltsin resigned as prime minister and brought in a few cabinet members from the industrial lobby—including Victor Chernomyrdin—who were rather more conservative in their approach to economic reforms. However, despite temporary compromises, the executive-legislative power struggle persisted. When Yeltsin managed to hold onto power, the CPD sought ways to impede his reform efforts, such as wresting control of the Central Bank from presidential control to make the implementation of his economic policies difficult if not impossible (Rahr 1993a: 18). As a result, drastic measures like introducing emergency rule were beginning to appeal to the liberal reformist camp; as early as mid-1992 some of Yeltsin's closest advisers were convinced that Russia could only move forward with economic reform if it had a centralized "energetic, strong power (Rahr 1992: 16)." However, it was not clear whether the military and other security forces would in fact support the president over the CPD if the conflict escalated (Rahr 1993a: 19), and this encouraged several more arduous attempts at negotiation between the two branches.

For example, in December 1992, Yeltsin agreed to a compromise that made Chernomyrdin prime minister instead of Gaidar,[71] who had been acting prime minister since Yeltsin's resignation from the position. In return, the CPD agreed to an extension of the president's temporary special powers beyond December 1992, when they were set to expire. These agreements were reached thanks to the mediation of Valerii Zor'kin, the chairman of the Constitutional Court, but they had relied on both parties agreeing to put the "main provisions" of a draft constitution to a country-wide referendum on April 11, 1993. The compromises, however, were very short-lived. CPD Chairman Khasbulatov, with the backing of a majority of both conservatives and centrists in the CPD, reneged on the agreement during a special session called in March 1993, after Yeltsin's version of the "main constitutional provisions" caused Khasbulatov and a majority in the CPD to balk at the idea of a referendum that could legitimize their opponent's agenda. They passed a new resolution,[72] which cancelled the agreement reached during the previous session (see footnote 69) and reinstated three constitutional provisions that had been temporarily suspended to give Yeltsin more leeway with his reform agenda. These included article 121.6 from Chapter 13.1 on the president, which stated that "the president is not entitled to use his powers to change in an arbitrary manner the borders of the Russian Federation or to disband constitutionally elected bodies, such as the congress or the parliament. Should the president attempt to dissolve any of these bodies without their consent, he will automatically be deposed (Wishnevsky 1993: 2)."

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[71] "Postanovlenie s'ezda narodnykh deputatov Rossiiskoi Federatsii ot 12 dekabria 1992 g. 'O stabilizatsii konstitutsionnogo stroia Rossiiskoi Federatsii' (Resolution of the Congress of People's Deputies of the Russian Federation from December 12, 1992 "On the Stabilization of Constitutional Order in the Russian Federation")," in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 3/2, 789-790.

[72] "Postanovlenie s'ezda narodnykh deputatov Rossiiskoi Federatsii ot 12 marta 1993 g. № 4626-1 'O merakh po osushchestvleniiu konstitutsionnoi reformy v Rossiiskoi Federatsii' (Resolution of the CPD of the Russian Federation from March 12, 1993 "On Measures for Implementing Constitutional Reform in the Russian Federation")," in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 4/1, 319-320; see especially points 2 and 7.

While Khasbulatov was openly calling for the total return of power to the legislature, Yeltsin and his advisers began to allude to introducing "special administrative rule." Yeltsin was counting on a positive outcome from a referendum to give him more leverage than the legislature if the fight came down to suspending one of their respective institutions. The CPD had already shot down the president's proposal regarding the "main provisions" of a draft constitution that would go on the referendum, first by refusing to vote on a four-question "confirmation ballot" similar to the referendum question that led to the sudden creation of a presidency in 1991: "Do you agree that the Russian Federation will be a presidential republic?" and "Do you agree that the legislative branch will be a two-chamber parliament?"[73] The president's referendum proposal had also intended to ask whether voters supported his preferred method for ratifying the new constitution—via a constitutional assembly (or convention) comprised of representatives from across the Russian Federation—and whether "every citizen should have right to own, use, and sell private land in the capacity of owners." He managed to get the Supreme Soviet to vote on whether or not to put just two of those questions to a national vote: the first and the last, but the proposal was voted down by 422 to 286. By law, Yeltsin could not call for a referendum without either (a) one million signatures from citizens or (b) the approval of one-third of elected deputies (ibid.). He first tried a confrontational approach, but eventually moderated his appeal in an attempt at another possible compromise, another indication of the ambiguity that remained over the balance of power.

[73] Official correspondence from President Yeltsin to Supreme Soviet Chairman Khasbulatov (two letters), March 7, 1993 and March 9, 1993, in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 4/1, 666-667.

In a bold decree[74] on March 20, which he announced that same day on national television, Yeltsin condemned the CPD's actions, which he described as "arrogantly denying Russia's citizens the right to determine their own destinies and cowardly burying the April referendum on property rights and the fundamentals of a new constitution." He announced that he was calling for "special rule" as well as a confidence referendum in his leadership:

> I have honestly tried to compromise with the Congress, despite their machinations, despite their insults, despite their rudeness; every path has been taken and every attempt to find agreement has resulted in the Congress discrediting power and destroying the state….The Congress is trying to limit the president's desire to give the land to the people and to protect Russia. Any possibility of reaching an agreement with the conservative majority of deputies has been completely exhausted....The Congress has refused to listen to the voice of the country and rejected the views of the majority of voters….Under these conditions, the president must take responsibility for the fate of Russia….I signed a decree today on "special rule" to overcome the crisis of power. According to the decree, on April 25, 1993, citizens will take a vote of confidence in the president and the vice-president…they will determine if I should continue to fulfill my obligations and who should lead the country: the president or the Congress of People's Deputies."[75]

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[74] "Ukaz Prezidenta Rossiiskoi Federatsii ot 20 marta 1993 g. № 379 'O deiatel'nosti ispolnitel'nykh organov do preodoleniia krizisa vlasti' (Decree of the President of the Russian Federation from March 20, 1993 "On the Activities of the Executive Bodies Pending the Resolution of the Crisis of Power")," in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 4/1, 725-727.

[75] From Boris Yeltsin's televised address to the country, March 20, 1993, in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 4/1, 719-724.

On March 23, Zor'kin's constitutional court condemned Yeltsin's actions as unconstitutional; and on March 26 the CPD convened another special session to vote on impeachment proceedings against Yeltsin. The impeachment vote came in seventy-two votes short of the two-thirds majority needed for the vote to succeed, but the 617 votes against the president and the uncertainty over the loyalties of the military facilitated yet another joint compromise. Yeltsin moderated his immediate ambitions by revising the referendum questions he had announced; he removed any reference to "special rule" and refrained from asking for a confidence vote in his much more conservative vice-president—and now political opponent—Alexander Rutskoi. In the end, he managed to get the CPD's approval for the following four questions to be put to nation-wide vote on April 25: (1) "Do you have confidence in the President of the Russian Federation, Boris Yeltsin?" (2) "Do you approve of the socioeconomic policies carried out by the President of the Russian Federation and the government of the Russian Federation since 1992?" (3) "Do you consider it necessary to hold early elections to the Presidency of the Russian Federation?" (4) "Do you consider it necessary to hold early elections of the people's deputies of the Russian Federation?" (Sakwa 2002: 51).

Yeltsin actively campaigned for a favorable referendum outcome with the "Da, Da. Net. Da! (Yes. Yes. No. Yes!)" slogan, indicating how his supporters should vote. He had also increased students' stipends, pension benefits, and some salaries in the months leading up to the poll, which, in addition to the disproportionate media coverage he received, gave him an advantage over the legislature (Tolz and Wishnevsky 1993: 2). Nevertheless, based on the votes of 64.5 percent of the electorate, Yeltsin could claim a stronger democratic mandate than the CPD. The positive response rates to the first and second questions were 58.7 and 53 percent, respectively; and 67.2 compared to 49.5 percent of respondents supported early elections to the CPD compared to the presidency.

The results, however, were very uneven, especially in the republics where Yeltsin did not receive the same levels of support. Yet, because the most densely populated regions of the country did in fact support the president at levels at least as high as 60 percent, Yeltsin was confident enough to speed up the process of adopting a new constitution. On May 12 he issued a decree[76] establishing a new pro-presidential constitutional working group, headed by one of his advisers, Sergei Alekseev; and on May 20 he issued another decree[77] to convene a June 5 "constitutional convention" to finalize the text of the document. On the surface, the 750 participants in the Constitutional Convention appeared to be quite representative of diverse societal interests, regions, parties, and factions. However, to the opposition this was a group of people brought in by invitation only to "rubber stamp" a constitution that favored the president.

The two "sanctioned" drafts at the convention were the Rumiantsev draft and an alternative presidential draft. The Rumiantsev group had published a first draft of the constitution as early as November 1990. With Yeltsin initially focused on questions of economic reform and the country's future territorial boundaries (McFaul 2001), opposition to that draft had come from leftist conservatives, who held the plurality of seats in the CPD (see Table 14). These critics opposed the Rumiantsev draft as a "constitution designed for thieves and robbers," (Rumiantsev 1991: 2) largely because of its capitalist provisions.[78] Therefore, the working group incorporated some concessions

[76] "Ukaz Prezidenta Rossiiskoi Federatsii ot 12 maia 1993 g. № 660 'O merakh po zaversheniiu podgotovki novoi konstitutsii Rossiiskoi Federatsii' (Decree of the President of the Russian Federation from May 12, 1993 "On Measures to Finalize the New Constitution of the RF")," in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 4/2, 179-182.

[77] "Ukaz Prezidenta Rossiiskoi Federatsii ot 20 maia 1993 g. № 718 'O sozyve Konstitutsionnogo soveshchanii podgotovki proekta konstitutsii Rossiiskoi Federatsii' (Decree of the President of the Russian Federation from May 20, 1993 "On Convening a Constitutional Convention to Finalize the Draft Constitution of the RF")," in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 4/2, 305-306.

[78] "Press-konferentsii po priniatoiu novoi konstytutsii RSFSR (Press-conference on the adoption of a new constitution in the RSFSR)," September-October 1991 (no specific date in file), F. 10026; Op. 1; D. 2924; L. 2, GARF.

based on constitutional drafts prepared by the Communists of Russia faction and the Saratov Institute of Law. Over time, however, Rumiantsev steered the text back toward his original rather more social-democratic vision, but it continued to reflect a middle ground between the radical reformists on the one hand and the leftists on the other. In addition, while the Rumiantsev drafts provided for a president with enough authority to lead reform efforts, they ensured that the parliament would have quite extensive control over the nomination and dismissal of the government. During a press conference in the fall of 1991, Constitutional Court Chairman Valerii Zor'kin outlined the project's vision as follows:

> In this project, as you can see, we began with the classical theory of the separation of powers.…We believed that a presidential republic would be the most appropriate choice for Russia. But it is, I stress, based on the separation of powers. Our draft is not like the Latin American presidential republics, nor some president who can go as far as to dissolve the parliament or "hide it somewhere in his pocket"; rather, it is about balance between the legislative, executive, and judicial powers…(Regarding the need for a president) where the executive branch does not have enough power to carry out reforms; where a generally civilized "Roosevelt"-level president does not emerge, a "Pinochet" will. Unfortunately, nowadays this name does not evoke such aversion in this country, but we are talking about momentous and fateful events in Russia. If we fail to create a civilized constitution, which would give us the opportunity to build this version of democracy, then we will condemn Russia to hard and dark times (Zor'kin 1991: 8-10).[79]

[79] Ibid.

As Zor'kin outlined, the Rumiantsev project proposed a presidential republic. However, President Yeltsin's cohort was dissatisfied with the limits on presidential authority, and so it published a "presidential draft" on April 30, 1992. The main author of this draft was Yeltsin's primary legal adviser, Sergei Shakhrai. This competing draft greatly strengthened the president's prerogatives relative to the parliament; the president would have the power to dissolve the parliament, practically full control over the cabinet, and the ability to serve longer fixed terms of six years. Shakhrai's original "presidential draft" was revised in April 1993 with help of the liberal mayor of Leningrad, Anatolii Sobchak,[80] and former mayor of Moscow Gavriil Popov, as well as presidential advisor Alekseev. This latest presidential draft drew on parts of the Rumiantsev's draft, but the two texts had some key distinctions, especially with regard to the relationship between the president and the parliament (and prime minister) and the relationship between the Russian center and the federal regions—the two most divisive issues in the constitutional debates. The task of the Constitutional Convention would be to consolidate these two drafts into a final version of the constitution. The communist version of the draft was not allowed to enter the discussion. In fact, Yeltsin opened the Convention with remarks that cast his opponents in the CPD as the illegitimate and authoritarian heirs to the Bolsheviks. As Tolz (1993a) summarized:

> "Today's representative bodies," Yeltsin maintained, "were elected (in 1990) in accordance with Soviet legislation. They are the direct heirs of those soviets that usurped power in 1918" and therefore are illegitimate. "The soviet type of

[80] Sobchak initially put out an alternative draft that was based on a draft Andrei Sakharov drew up as a template for a new USSR constitution just prior to his death in 1989. It had a primarily parliamentary basis and the executive would have limited independent authority (Thorson 1992: 48). However, he never succeeded in getting the CPD to consider it.

power," he concluded, "cannot be reformed. Soviets and democracy are incompatible" (p. 9).

In response, Khasbulatov stormed out of the hall "denouncing the body as shameful and dictatorial (Tolz 1993a: 9)." Approximately sixty other delegates, including Rumiantsev and Zork'in, left with him (ibid.). Additionally, when a communist deputy, Yuri Slobodkin, attempted to introduce the communist version of the draft constitution, he was forcibly removed from the hall (ibid.). After several delays, the Convention finally agreed on a "final" draft. However, only thirty out of the 100 members of the original constitutional commission approved the revised text, including Yeltsin who was formally commission chairman. Moreover, representatives of just three factions in the CPD signed the document— Democratic Russia, the Radical Democrats, and Consent for the Sake of Progress (Rumiantsev 2009: 43)—all of which belonged to the "radical reformist" Reform Coalition.

The version approved by the Convention was primarily based on the "presidential draft," but it incorporated elements from the Rumiantsev draft, in particular the first and second chapters on the fundamentals of the constitutional order and the rights and freedoms of citizens. According to Rumiantsev, the final revised draft was therefore more "society-oriented" than the initial presidential draft (ibid., p. 45). However, even though it reduced the presidential term to four years, it kept most of the provisions from the original presidential draft that emphasized the personal power of the president: he or she had the right to dissolve the parliament and faced few accountability mechanisms, among other pro-presidential provisions.

The discussion about how to ratify and promulgate the constitution was the next question for the major actors in the constitutional debates. According to the existing rules, constitutional changes could occur with a two-thirds majority vote in the CPD. But

it was extremely unlikely that the CPD would agree on the version of the draft that came out of the Constitutional Convention, when it met during for its tenth session the following November. The deputies on the Constitutional Commission and in the Supreme Soviet were not in any particular hurry to pass the constitution; according to Rumiantsev, they wanted to continue working toward a version of the draft that could realistically be passed in either the current CPD or its successor after a new round of elections. Regarding this period in time, Rumiantsev (2009) wrote that "In spite of the political battles, the legislative process continued to function. This led to many more instances of agreement and compromise during this final stage of the constitutional debate. The questions that remained were whether or not the opposing parties would continue this incremental progress toward each other and whether or not the parties would abandon their political tolerance (p. 46)." Nevertheless, the presidential cohort was neither willing to wait nor willing to reduce the executive powers it envisioned as necessary for pursuing "shock therapy." And because of the major discrepancies between the parties in terms of the powers of the president and in terms of the timing of the ratification, the CPD, along with the constitutional court, would have to be forcibly removed from the bargaining table.

TIME 3: CONSTITUTIONAL CRISIS AND SUPER-PRESIDENTIALISM

The crisis that produced Russia's super-presidential regime was a dramatic example of the problem of "dual democratic legitimacy" that Juan Linz (1990) associated with presidential regimes. In the case of the new Russian state, moreover, the inherent ambiguity over which of the country's directly elected branches of government more legitimately represented the people was complicated by the conflicting provisions in the

much-amended RSFSR constitution in force at the time. It stated that the parliament was "the highest body of state power" (article 104), while at the same time the presidency was the "highest official...and head of executive power" (article 121-1). Additionally, while only the CPD could alter the constitution with a two-thirds majority vote, Yeltsin had the decree-making powers that the CPD had given him early in his presidency, which he had tenuously held onto after they were set to expire at the end of 1992. As Slater and Tolz described the situation at the time of the crisis:

> The crux of the problem is that over the past eighteen months the Russian legislature has altered the constitution in its favor, while Yeltsin has issued decrees on his own terms and strenuously resisted relinquishing any of the extraordinary powers granted him in November 1991. While each side ignored the other, Russia was still lacking authoritative institutions that could set limits for political ambitions and a political culture of compromise rather than rule by the strongest (Slater and Tolz 1993: 3)

By September, the branches were pursing divergent constitutional strategies that reflected, on the one hand, the legislature's weaker position that necessitated ongoing compromise and, on the other hand, the president's stronger position, where there was no longer any need to compromise if he could claim a total victory. The opposing strategies were apparent in each of the parties' disparate constitutional activities at the time. On September 10, the Supreme Soviet passed a resolution requesting that the president consult with Chairman Khasbulatov and a delegation of Supreme Soviet deputies about subsequent steps in the process of constitutional reform ahead of the CPD's upcoming session in November[81] (Rumiantsev 2009c: 51). Around the same time, Yeltsin formed a

[81] "Postanovlenie Verkhovnogo Sovieta Rossiiskoi Federatsii ot 10 sentiabria 1993 g. 'O merakh po obespecheniiu soglasovannoi konstitutsionoi reform v Rossiiskoi Federatsii' (Resolution of the Supreme Soviet of the Russian Federation from September 10, 1993 "On approaches for assuring agreement on

new working group on September 8 that would "review the constitutional draft approved by the Constitutional Convention in order to prepare recommendations for developing a single harmonized draft constitution."[82] Khasbulatov's deputy Supreme Soviet Chairman, Nikolai Riabov, who was much closer to the reformist camp than his superior, was put in charge of this new working group. It consisted of sixteen members of the original commission, "practically all of whom," as Rumiantsev sarcastically described in a footnote, "were the 'democrats' from the working group's predecessor (i.e., Rumiantsev's group)…the 'single-partisanship' (of the new working group) was only slightly diluted by the 'opportunist' O. G. Rumiantsev. Not a single *oppozitsioner* (opposition member) was included in the new working group (Rumiantsev 2009c: 51-53)." It was becoming clearer and clearer that the president was not interested in any further compromise; *he no longer needed to compromise because the balance of power was much more clearly in his favor.* First, he had the results of the April referendum on which to base a claim for popular support for him and his reform program; second, he managed to secure the support of all the members of the Security Council (*Sovet Bezopasnosti*) during a meeting on September 15 on his prospective plans to disband the legislature and introduce emergency rule (Rumiantsev 2009: 56); third, he was confident that as "the reformist" he had the support of the West even if he chose a "Pinochet option" for maintaining the course of radical liberalizing economic reforms (Klein 2007: 226)."[83]

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constitutional reform in the RF")," in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 4/3, 408, 415.

[82] "Rasporiazhenie Prezidenta Rossiiskoi Federatsii ot 9 sentiabria 1993 g. № 621 - rp (Directive of the President of the Russian Federation from September 8, 1993), in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 4/3, 410-412.

[83] In fact, at the height of the conflict, the U.S. Congress voted to give Yeltsin 2.5 billion dollars in economic aid to ensure his victory. Moreover, U.S. Secretary of State Christopher Warren went to Moscow just after the crisis to support Yeltsin. In a speech at the Moscow Academy for the National Economy on October 23 he said: "On October 3-4, the world witnessed what we all hope was the last gasp of the old

Decree number 1400 from September 21, 1993, "On stage-by-stage[84] constitutional reform in the Russian Federation,"[85] contrary to the implication in the title, outlined a speedy process for adopting a new constitution. The CPD and the Supreme Soviet were suspended, effective immediately, and the country would be governed by presidential decree and resolutions of the Council of Ministers until elections to a new legislative body—the State Duma—were held on December 12, the same day the constitution would be ratified by national referendum. It also brought the Central Bank and the Prosecutor under presidential control. As he had done the previous March, Yeltsin went on television to announce the decree, only this time he faced a much higher probability of achieving an outcome in his favor. The preamble to the decree claimed that the legislature had become a "liability to democratic reform," which necessitated his extra-constitutional and unilateral actions:

> …The Supreme Soviet has directly opposed the implementation of socioeconomic reforms, openly and routinely obstructed the policies of the popularly elected President of the Russian Federation, has attempted to exercise executive authority in lieu of the Council of Ministers. Therefore, the majority of the Supreme Soviet of the Russian Federation and some of its leaders have grossly violated the will

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order in Russia. The political crisis was a struggle of the sort well known to students of Russian history—a battle between reform and reaction. As the crisis unfolded, we in America knew what we had to do: We stood firmly behind reform. Let me be clear about our decision to support your President during this crisis. The United States does not easily support the suspension of parliaments. But these are extraordinary times. The steps taken by President Yeltsin were in response to exceptional circumstances. The parliament and the constitution were vestiges of the Soviet communist past, blocking movement to democratic reform. By calling elections, President Yeltsin was once again taking matters to the Russian people to secure their participation in the transformation of Russia (www.speeches-usa.com/Transcripts/warren_christopher-russian.html, accessed June 13, 2013)."

[84] The Russian word is "poetapnyi," which also means "step-by-step" or "gradual."

[85] "Ukaz Prezidenta Rossiiskoi Federatsii ot 21 sentiabria 1993 g. № 1400 'O poetapnoi konstitutsionnoi reforme v Rossiiskoi Federatsii' (Decree of the President of the Russian Federation from September 21, 1993 "On Stage-by-Stage Constitutional Reform in the RF")," in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 4/3, 456-461.

> the Russian people expressed by referendum on April 25, 1993….Constitutional reform in the Russian Federation has nearly collapsed….In the effort to eliminate the political obstacles that have deprived the people of their right to decide their own destiny; given the unsatisfying quality of parliamentary standards of the Supreme Soviet and the Congress of People's Deputies of the Russian Federation; bearing in mind the security of Russia and its people—a higher value than the formal adherence to contradictory rules established by the legislative branch; in order to preserve the unity and integrity of the Russian Federation; in order to lift the country out of economic and political crisis; in order to support state and public security; in order to restore the authority of the government; based on Articles 1, 2, 5, 121-5 Constitution of the Russian Federation, the results of the referendum of April 25 1993, I decree: …[86]

The Supreme Soviet immediately denounced the actions of the president, deferred all presidential powers to the vice-president Alexander Rutskoi, and called an extraordinary session of the CPD for the following day to discuss the "coup in the Russian Federation."[87] Additionally, during an emergency meeting, the Constitutional Court sided with the legislature in declaring that Yeltsin's decree was unconstitutional.[88]

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[86] Ibid., pp. 456-457.

[87] "Postanovlenie Prezidiuma Verkhovnogo Soveta Rossiiskoi Federatsii ot 21 sentiabria 1993 g. № 5779-1 'O nemedlennom prekrashchenii polnomochii Prezidenta Rossikoi Federatsii B. N. Yel'tsina' (Resolution of the Presidium of the Supreme Soviet of the RF "On the immediate suspension of the powers of the President of the Russian Federation B. N. Yeltsin")," in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 4/3, 481; "Stenogramma vystuplenia predsedatelia Verkhovnogo Soveta Rossiiskoi Federatsii R.I. Khasbulatova pered narodnymi deputatamy Rossiiskoi Federatsii, pressoi, obshchestvennost'iu (Stenogram of Supreme Soviet Chairman R.I. Khasbulatov's address to people's deputies, the press, and the general public)," in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 4/3, 472-478.

[88] "Zakliuchenie Konstitutsionnogo Suda Rossiiskoi Federatsii 'O sootvetstvii Konstitutsii RF deistvii i reshenii Prezidenta RF B.N. Yel'tsina, sviazannykh s ego Ukazom 'O poetapnoi konstitutsionnoi reforme v Rossiiskoi Federatsii' ot 21 sentyabrya 1993 goda i Obrashcheniem k grazhdanam Rossii 21 sentyabrya goda' (Decision of the Constitutional Court of the RF "On the constitutionality of B.N. Yeltsin's actions and decisions relating to his decree No. 1400 'On stage-by-stage constitutional reform in the RF' from

The responses from the legislative and judicial branches resembled the events of the previous March, except that this time there would be no compromise. When Khasbulatov, Rutskoi, and the deputies that supported them refused to leave the "White House," even after power and water had been cut off, Russian special forces stormed the building, leading to a bloody end to the crisis on October 4 with hundreds of casualties among the supporters of the parliament. The balance of power had dramatically shifted to one side of the constitutional bargaining table.

In the aftermath of the crisis, the presidency was the only remaining institution branch of government; the parliament and the higher courts were defunct. Yeltsin, along with Prime Minister Chernomyrdin and presidential adviser and architect of "shock therapy" Gaidar, publicly defended "the disbandment of the parliament, the suspension of the constitutional court, and the crackdown on the opposition" as necessary measures for speeding up the reform process (Tolz 1993b: 1). However, even prominent "democrats" were concerned; Yurii Afanasev, who had been the leader of the Democratic Russia electoral bloc during the 1990 parliamentary election, warned "that there are signs that Yelsin's 'total victory' over his opponents could create a 'dangerous situation' in which political discourse is 'reduced to a monologue of one political force' (ibid.)."

Further presidential resolutions completed the basis of the country's future constitution. First, the resolution "On the Federal Organs of Power during the Transitional Period" [89] outlined the nature of government during the "transition" period. It stipulated power arrangements that were, not surprisingly, greatly weighted in favor of the president. It was based on the Constitutional Convention draft, where the president

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September 21, 1993 and his address to the citizens of Russia on September 21, 1993") in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 4/3, 486-487.

[89] "Polozhenie 'O federal'nykh organakh vlasti na perekhodnyi period' (Resolution "On the Federal Organs of Power during the Transitional Period")," in *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 4/3, 461-466.

would nominate the prime minister, and the soon-to-be-elected lower chamber[90] of the new legislative body, the State Duma, would not be able to contradict his decrees, although he could overturn any government resolution that contradicted his decrees. Furthermore, according to Decree No. 1400, the new constitution that would be put to a referendum on December 12 was to be prepared "jointly by the Constitutional Convention and the Constitutional Commission," whose members were no longer deputies but could continue to attend as "experts." Rumiantsev immediately resigned from this group because of its bias in favor of the presidential draft (Slater and Tolz 1993: 3). The group that, in fact, finalized the draft was, as Henderson quotes,

> …a small circle of people from the President's associates and individual scholar-experts. On controversial issues a decision was taken by the President himself, some final provision went into the text in his formulations (Avak'ian quoted in Henderson 2011: 79).

The draft that was ultimately put to a dubiously[91] successful vote provided for a semi-presidential regime with a rhetorical façade of "checks of and balances." In terms of presidential power, one of the only concessions from the initial April Presidential draft was to reduce presidential terms to four years.[92] It also included some of the content from the Constitutional Commission's draft, but these provisions were primarily "social" and

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[90] The upper chamber would be an "advisory-consultative" body, comprised of the heads of the executives and legislatures from the country's then 87 constituent regions.

[91] Many reports of ballot stuffing occurred, but because the Central Election Commission had the ballots destroyed soon after the referendum, they were impossible to confirm. What's more, there were reports that the head of the CEC, Nikolai Riabov, admitted privately that the turnout rate had only been 46.7 percent, when the official results claimed that it was 54.8, with 58.4 percent of those ballots approving the constitution (Henderson 2011: 79-80).

[92] In 2008, in a first major constitutional amendment, the term was increased to six years, effective after the next presidential election in 2012. Journalists and other observers remarked on the rather obvious strategy on Putin's part to return to the presidency with even more expansive powers after Medvedev's four-year term. This was an alternative to the more controversial option of amending the constitution to allow an individual to serve more than two consecutive terms.

did not affect the nature of executive-legislative power relations. Article 80 in the constitution summarizes the role of the president: he is "the guarantor of the Constitution (80-2), he defines the basic direction of the domestic and foreign policy of the state (80-3) and represents the Russian Federation domestically and internationally (80-4) (White 1997: 47)." According to article 83, he

> "appoints with the agreement of the State Duma the Chairman of the Government of the Russian Federation," has the right to preside at government meetings and "takes decisions on the resignation of the Government of the Russian Federation"; he nominates candidates for the Chairmanship of the State Bank; on the recommendation of the prime ministers, he appoints and dismisses deputy premiers and federal minister; he nominates candidates for the Constitutional Court, the Supreme Court and the Procuracy General; he forms and heads the Security Council, appoints and dismisses his plenipotentiary representatives in the regions as well as the high command of the armed forces and diplomatic representatives in foreign states and international organisations (ibid.).

He also "calls elections to the State Duma, dissolves the Duma in appropriate circumstances, calls referenda, initiates legislation, and reports annually to the Federal Assembly on 'the situation in the country' and the 'main directions of the domestic and foreign policy of the state' (article 84) (ibid.). Furthermore, "he is commander in chief and can declare a state of war (article 87) as well as a state of emergency (article 88); he declares amnesties (article 89) and issues decrees that have the force of law throughout the territory of the Federation (article 90) (ibid.). What is more, the president can cancel any governmental decrees and regulations that are inconsistent with his own decrees, in addition to his ability to suspend legislation issued by the regional governments (articles 115 and 85) (Henderson 2011: 127).

Included among the "appropriate circumstances" under which the president can dissolve the State Duma is the provision in article 111 that states that if the Duma rejects a president's nominee for Government Chairman (the "prime minister") three times, the president can dissolve the legislature and call new elections. Because the constitution says nothing about whether or not the president can propose the same candidate three times, he has extraordinary leverage over the Duma in terms of both full control over the appointment of the prime minister and as a tool to dissolve the legislature by nominating a candidate that would have no chance of being confirmed (Henderson 2011: 114). Yeltsin, in fact, used this provision to force his choice of prime minister—Sergei Kirienko—on the parliament several years later, nominating him for the second and third time within less than an hour after the parliament failed to confirm him. However, only months later, after the country was shaken by the severe economic crisis of 1998 and impeachment had become a viable prospect, the opposition was able to deprive Yeltsin of his choice of Chernomyrdin as prime minister in favor of left-leaning Yevgenii Primakov. For the first time since the passage of the constitution, Yeltsin came close to potentially agreeing to change the constitution in a way that would strengthen the prerogatives of the legislature in exchange for ending the impeachment proceedings against him.

TIME 4: CHALLENGES TO SUPER-PRESIDENTIALISM

The snap elections held in the wake of the fall 1993 crisis brought in a range of ideological persuasions during hasty campaigns for which political parties and candidates had little time to prepare and very little ability to compete fairly in terms of their media exposure. Zhirinovsky's right-wing nationalist "Liberal Democratic Party of Russia"

(LDPR) won an alarming 14.3 percent, which was only slightly less than Gaidar's liberal reformist "Russia's Choice" party that received 15.6 percent of the vote.[93] Chernomyrdin continued in the role of prime minister, but neither he nor the president had the support of a majority coalition in the parliament. As a result, the country was primarily being governed on the basis of presidential decrees[94] and the policies of a prime minister and government that Duma deputies could not "fire" without risking their own seats in the parliament.[95] Even after the next elections to the Duma presented more of a challenge to Yeltsin because of its large leftist plurality, he had the constitutional prerogatives to override their opposition, as evidenced by the Kirienko appointment. It took the external shock from the Ruble crisis of 1998 to destabilize the status quo, so that Yeltsin was forced to acquiesce to the Duma's demands with regard to his nomination of Chernomyrdin, in addition to considering constitutional reforms that would level out the powers of the two branches in order to avoid his potential impeachment.

The Communist Party of Russia, which had come in third with only 10.7 percent of the vote in the December 1993 election, came back strongly with a substantial plurality of 34.9 percent during the December 1995 elections. Chernomyrdin's moderate reformist "Our Home is Russia" party came in a distant second with 12.2 percent of the vote, which

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[93] Source: "Results of Previous Elections to the Russian State Duma," Centre for the Study of Public Policy, University of Strathclyde, http://www.russiavotes.org/duma/duma_elections_93-03.php, accessed June 17, 2013. Results include the SMD (in addition to the PR) tier, which listed candidates' party affiliation.

[94] The Duma was very active during this time and, in fact, passed a substantially higher number of laws than Yeltsin issued decrees. However, the majority of the laws that passed had both presidential and parliamentary support (Remington, et al. 1993, quoted in McFaul 2001: 237).

[95] The "loans for shares" program that created Russia's oligarchs in 1994 is an example of a government policy that the Duma had no control over. Chernomyrdin's government gave temporary control of the shares in the country's most profitable companies to a small group of banks in exchange for loans. Because the government could not repay the loans, these private banks acquired control of vast national oil, gas, nickel, etc., industries worth billions more in projected profits than the loans they had provided the government.

was only a slight edge over LDPR's 11.3 percent.[96] Once the dust settled after the elections, and the many independents elected in the first-past-the-post tier of the country's then SMD-PR mixed-member system aligned themselves with factions, the makeup of the Duma after the 1995 election was much closer to a "divided majority" situation. The factional makeup of the Duma after the 1993 and 1995 elections is represented in Tables 14 and 15, respectively.

Table 14: Faction Membership in the State Duma 1993-1995

Faction	Percent Seats
Total Liberals – "Radical Reformists"	*23.7*
Russia's Choice (Gaidar)/Liberal-Democratic Union of December 12	17.6
Yabloko (Yavlinskii)	6.1
Total Centrists – "Reformists"	*13.6*
Party of Russian Unity and Agreement ("PRES" – Shakhrai)	5
"Center" - Women of Russia/Group of New Regional Politics	8.6
Total "Leftists"	*17.8*
Communist Party of Russia	9.5
Agrarian Party of Russia	8.3
Total Radical "Rightists"	*15.5*
Liberal Democratic Party of Russia (Zhirinovskii)	14.4
Russian National Union/Russian Way	1.1
Source: "*Politicheskii Altas* (Political Atlas)," http://www.pe-a.ru/ru/main, accessed June 15, 2013.	

Although Gaidar's and Yavlinskii's "radical reformist" factions had a small plurality in the first Duma with 23.7 percent of the seats between them, they represented just 12 percent of the parliament after 1995. Similarly, the leftist Communist and Agrarian parties held 17.8 percent of the seats after the first Duma election, compared to their near majority of 49.1 percent after the second Duma election. The more moderate

[96] Source: http://www.russiavotes.org/duma/duma_elections_93-03.php, accessed June 17, 2013.

reformist "centrists," including deputies representing the interests of the regions, fared better in the second Duma election, with 23.5 percent of the seats, than they had in the first with 13.6 percent of the seats.

Table 15: Faction Membership in the State Duma 1995-1999

Faction	Percent Seats
Total Liberals – "Radical Reformists"	*12*
Russia's Democratic Choice (Gaidar)	1.8
Yabloko (Yavlinskii)	10.2
Total Centrists – "Reformists"	*23.5*
Our Home is Russia (Chernomyrdin)	14.4
"Center" – Russia's Regions Deputy Group	9.1
Total "Leftists"	*49.1*
Communist Party of Russia	33.1
Agrarian Party of Russia/Agrarian Group	7.8
People's Power Deputy Group	8.2
Total Radical "Rightists"	*11.3*
Liberal Democratic Party of Russia	11.3
Source: "*Politicheskii Altas* (Political Atlas)," http://www.pe-a.ru/ru/main, accessed June 15, 2013.	

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What's more, the communist candidate Gennadii Ziuganov came in a close second to Yeltsin in the first round of the presidential election in 1996; the former received 32.5 and the latter 35.8.[97] The margin of victory was wider in the second round, however, with Ziuganov at 40.7 percent compared to Yeltsin at 54.4 percent. These election results were surprising, especially considering the margin of victory in the second round, because the first few years of liberalizing economic reforms had dramatically affected voters' livelihoods. In fact, the country had experienced a 14.5 percent drop in GDP in 1992; a further 8.7 percent decline in 1993; yet a further 12.6

[97] "Results of Previous Presidential Elections," Centre for the Study of Public Policy, University of Strathclyde, http://www.russiavotes.org/president/presidency_previous.php, accessed June 17, 2013.

percent drop in 1994; and two more years of subsequent negative GDP "growth" of -4.1 and -3.6 percent in 1995 and 1996 respectively.[98] According to the extensive literature on the relationship between economic hard times and election outcomes, Russian voters "should have" rejected the incumbent Yeltsin as a result of the deteriorating economic circumstances under his administration, or turned to a candidate like Ziuganov who was associated with the greater stability of the previous era and had a much stronger social protection agenda (see for e.g. Tucker 2006). However, the basic assumption that material self-interest is the strongest predictor of vote choice was not very strong in the Russian (nor the Ukrainian) context. As Chapter 5 of this dissertation shows, voters in both of the countries were motivated to a greater extent by ethnicity, which helped Yeltsin survive the challenges to his presidency even in the face of economic catastrophe.[99]

Up until Ziuganov's defeat by Yeltsin in the 1996 presidential election, the communist opposition's much weaker status relative to the president gave them an incentive to work within the system to achieve either a different constitutional outcome or even win the ultimate prize of the presidency. As McFaul (2001) wrote:

> (Communist officials had) highlighted the transitional nature of the constitution and the new Duma. In underscoring the temporal nature of the new political order they could reassure more militant forces within their ranks that they were not giving in to Yeltsin and his system but just gathering strength for the next battle. As communist commentator Yevgeny Fochekov wrote soon after the December 1993 election, "Two years is a sufficient period in which to prepare without haste

[98] Source: "Growth GDP (annual %), The World Bank, http://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG, accessed June 19, 2013.

[99] Many observers attribute his victory to the financial backing and strategizing of the oligarchs who profited from the "loans for shares" program.

> a draft of a constitution which would represent the will of the majority." Fochenkov and others saw the Duma and Federation Council as transitional bodies that could use their new electoral mandates to create a more just and long-lasting political system. Zyuganov also made repeated statements urging his comrades to seek power by "civilized ways…through the ballot box."…Zyuganov obviously saw his part as working with the rules—even if those rules were dictated by Yeltsin…(he) grew increasingly supportive of the new political rules of the game when it looked more likely that he might be able to come to power through the ballot box (McFaul 2001: 240-241) .

After Ziuganov's defeat, the potential gains for the opposition to pursue a confrontational approach to the president and the constitutional order now outweighed the potential costs. Their window of opportunity came with the "Ruble crisis" that further devastated the economy. On August 17, 1998, Russia defaulted on its debt, which produced a sharp spike in inflation with especially devastating effects for the country's pensioners and others on fixed incomes. The crisis was the result of many internal and external factors coming to a head, including the mounting cost of the war in Chechnia, and the extremely high levels of unemployment, as well as the recent Asian crisis that affected the price of Russia's natural resource exports. Yeltsin immediately fired Kirienko, but as mentioned above, his attempts to reinstall Chernomyrdin as prime minister failed. He was forced to accept the left-leaning Primakov or else risk a potential vote of impeachment.

Under the constitution, the requirements for impeachment are extremely stringent. He (or she) can only face an impeachment vote for "commission of high treason or another grave crime" and only after a lengthy process, whereby: (1) at least one-third of the members of the Duma support a measure to indict the president; (2) at least two-thirds

of the members of the Duma support the initiative (at this stage of the process the Duma is protected from dissolution); (3) within five days the Supreme Court must agree that the charge (or at least one of multiple charges) is an impeachable offense; (4) the Constitutional Court confirms that the impeachment procedure has been followed correctly; and finally (5) a two-thirds majority in the Federation Council must confirm the decision within three months (Henderson 2011: 138). The proceedings against Yeltsin ultimately failed at "stage 2" of this process. However, the real possibility of impeachment due to the recent crises had opened up prospects for compromise for the first time since Yeltsin's complete victory over the parliament in 1993.

Earlier in the year Duma deputies Lev Rokhlin and Victor Iliukhin, the chairmen of the Defense and Security committees, respectively, formally launched the impeachment process. Whereas the latter was a conservative communist, the former had previously been a member of Chernomyrdin's pro-government Our Home is Russia party. After Kirienko's "forced" appointment as prime minister, the disgruntled Duma expedited the process: on May 20, Ziuganov put out a statement that the CPRF had gathered sufficient signatures to begin the impeachment proceedings, and a Duma Commission was formed to investigate five possible counts against the president as grounds for impeachment. The accusations included "high treason" for the "Belozheva" (or CIS) Agreement that dissolved the Soviet Union in 1991; for the improper use of force in resolving the constitutional crisis in 1993; for abusing his office with regard to initiating and waging the war in Chechnia; for allowing the disintegration of the military; and even for "genocide against the Russian people" due to the rapid decline in population since the initiation of his economic policies (Baumgartner 2003: 101-102).

Of the charges, the allegation of abuse of office for unilaterally starting the war in Chechnia had a realistic chance of securing the support of a two-thirds majority of the

Duma, and this possibility became an even likelier prospect in the wake of the August financial meltdown. The Duma called for both President Yeltsin's and Prime Minister Kirienko's resignations. Yeltsin, of course, refused to step down, but he did fire his prime minister. However, he could not replace him with his ally Chernomyrdin, because he was prevented from nominating him for a third time when the Duma threatened to move on to the next stage of the impeachment process, which, if successful, would have protected the parliament from dissolution. The uncertainty about the outcome had given Yeltsin a strong incentive to compromise by nominating Primakov.

The position of the opposition had improved significantly: they had finally achieved a concession from the president and continued to move forward with a confrontational strategy. In the fall, there were indications that the Duma would begin debating impeachment in January. Around this time, Yeltsin summoned his former legal adviser and one of the main authors of the current constitution, Sergei Shakhrai, to discuss a process of amending the constitution in return for an end to the parliament's impeachment efforts.[100] The president would "oversee" the process, but because the prime minister and government would take the lead, Shakhrai became Primakov's legal adviser. One of his main proposals was to bring the government under the control of a majority coalition in the Duma, a concession that would lessen some of the president's non-legislative powers and create a more "parliamentary-presidential" rather than "presidential-parliamentary" semi-presidential system.

As these discussions were occurring, Primakov tried to broker a truce between Yeltsin and the Duma that would guarantee that each would remain in office until their respective terms ended in 2000. The opposition, however, was not persuaded to abandon

[100] Natal'ia Timakova, "Konstitutsionnaia anarkhia (Constitutional Anarchy)," *Kommersant' Vlast'*, No. 41 (293), November 27, 1998, http://www.kommersant.ru/doc/14883, accessed June 20, 2013.

the impeachment process. As previously mentioned, if the impeachment vote on at least one of the charges succeeded in the Duma, the parliament would be protected from dissolution (at least temporarily). The Chechnia charge appeared to have sufficiently broad support across Duma factions for the process to advance to the next stage. When the vote was finally imminent, after several postponements, Yeltsin abruptly fired Primakov, who was on the verge of creating a majority coalition in the Duma. Within hours, the parliament passed a non-binding resolution by an overwhelming 243-20 calling on Yeltsin to resign, which proved meaningless: Yeltsin did not resign and the Chechnia charge—on which the opposition had pinned its hopes—fell seventeen votes short of the 300 needed for the impeachment process to advance to the next stage. The opposition had miscalculated the odds of a successful vote of impeachment in the Duma; its leaders pressed ahead rather than compromise and they ultimately failed. Prior to the vote, Ziuganov stated that he was confident that he had the votes of 312 deputies, and Yeltsin later admitted in his memoirs that he had been "rather worried" (Baumgartner 2003: 106).

Why did Yeltsin survive in spite of his extreme lack of popularity in addition to his failing health? And why did the opposition fail in spite of its increasing cohesion under Prime Minister Primakov? The events surrounding the executive-legislative struggle in 1998-1999 stress the importance of the "interactive" effects of the institutional and structural contexts in which the different actors pursued goals. For Yeltsin this meant survival and the ability to choose his successor, and for the opposition this meant impeachment and the potential for a candidate like Ziuganov or Primakov (or Luzhkov) to become president. On the one hand, Yeltsin had the institutional advantages afforded by his super-presidential office. He fired Primakov just days before the vote of impeachment was supposed to take place, which served two potential purposes: first, to prevent Primakov from forming an anti-Yeltsin majority coalition in the Duma, which

would have created a situation of "cohabitation" and produced a "check" on Yeltsin's authority; and, second, to possibly exploit his prerogative to dissolve the Duma if it failed to accept his new nominee for prime minister. Furthermore, offers of patronage from the executive branch trumped some deputies' partisan loyalty;[101] a legislative coalition supporting the president was persuaded to either abstain or else vote against impeachment with promises of rewards for their support. In the end, the impeachment vote was very close—just seventeen votes short of the two-thirds majority necessary for the process to go forward. Yeltsin's term was ending and his health was failing; the thwarted impeachment vote—figuratively and literally—*bought* Yeltsin and his small remaining trusted inner circle[102] the time they needed to ensure the succession went to someone of their choosing rather than to Primakov, who had the support of both the leftist camp as well as the support of an "army" of regional governors (Gessen 2012: 22). On the other hand, the opposition was trying to mobilize anti-Yeltsin support among voters, but its constituency was not coherent or unified enough to present a challenge to the very insulated elite contest that was occurring in Moscow.

CONCLUSION: SUPER-PRESIDENTIAL DURABILITY AND DEMOCRATIC DECLINE

After their loss, the opposition once again had a greater incentive to return to a non-confrontational strategy. The costs associated with pursuing a confrontational

[101] Indeed, the president had already been using patronage to keep parliament at bay. As Huskey (1999) noted: "In return for the support or forbearance of the parliament, deputies extracted—or the president proffered—a variety of "goods," some benefitting the parliament as a whole, others targeting individual leaders…including apartments, transportation, and vacation packages allocated to deputies by the president's Administration of Affairs, and posts on the presidency's Security Council, granted to the leaders of the Duma and the Federation Council (Huskey 1999: 171)."

[102] Yeltsin's trusted inner circle by then was so small and "cloistered" that the media referred to it as "The Family" (Gessen 2012: 12). It was comprised primarily of Yeltsin's daughter Tatiiana, current and former Chiefs of Staff Anatolii Chubais, Alexander Voloshin, and Valentin Yumashev (Tatiiana's future husband), as well as the oligarch Boris Berezovsky.

approach seemed too high compared to the relative benefits of maintaining the status quo. The consequence was that Yeltsin and his inner circle had the ability to orchestrate the presidential succession; Yeltsin nominated the little-known former KGB officer Vladimir Putin to be prime minister and then resigned early on New Year's Eve in 2000. The new prime minister became acting president. In the end, the effort to eliminate competition—by ensuring that Primakov[103] or any other left-leaning politician would not win the presidency—produced a steady democratic decline in the country (see Figure 8). Under the new president's administration, the influence of the regions in national politics via the Federation Council—the upper chamber of the parliament—was reined in over a series of reforms; regional governors became Kremlin appointees[104] and "super-governors" were installed to ensure that local governors within each of their seven districts remained in step with the president. Additionally, civil society organizations faced huge obstacles to forming and operating; any independent national television stations were closed or brought under Kremlin control; the energy industry was re-nationalized; less-than-loyal oligarchs were exiled or imprisoned; party-lists with very high barriers for entry and winning seats became the exclusive means for elections to the Duma; and other reforms served to further concentrate political authority in the Kremlin. The indicators of levels of democracy deteriorated in tandem with this centralization of political power to the point that it now makes more sense to call the regime "authoritarian" rather than "super-presidential."

[103]Whom the oligarch and member of Yeltlsin's inner circle purportedly described as a "monster who wanted to reverse everything that had been accomplished…" (Gessen 2012: 21).

[104] Dmitrii Medvedev had pushed a law through the Duma during his final year in office to restore the direct election of governors, but in April 2013 Putin signed a new law whereby governors would be selected by the local (usually United Russia-dominated) legislatures from a list of candidates approved by the Kremlin.

The challenges to presidential authority were fruitless in Russia largely because of the detachment between politics and society. This facilitated a "rule by the strongest" approach to politics that the constitution—and ultimately politics—came to reflect. The intuitive part of the argument in this dissertation is that competition among diverse interests is the basis for the creation of an inclusive and representative constitutional order. A rather less intuitive aspect of this argument is that real competition may well include interests that are purportedly "non-democratic," which in the case of Russia was the leftist opposition. At the time of the October 1993 crisis in Russia, many outside observers, including western leaders, defended the actions of the president simply because he was considered to be a "democrat," or at the least because he was not a leftist. The general consensus in the western press was that the country's fledgling democracy would have been at greater risk of deteriorating if the leftist opposition in the CPD had the upper hand. However, had the basic conditions of a democracy—competition among diverse ideas and interests and the compromise that that entails—not been threatened by a president and presidential entourage intent on "total victory," then arguably the institutional foundations would have been designed in a more inclusive and democratic manner, and authoritarianism would have been more difficult to consolidate over the long term. Indeed, the communist resurgence in the mid-1990s in several former communist countries, including Poland, Hungary, Slovakia, Lithuania, and Bulgaria, did not mark the end of democracy, but was rather a sign that democracy was working.

In the case of Russia, a counterfactual could include a scenario in which the constitutional debates would have continued and eventually resulted in a new constitution. The outcome almost certainly would have been less super-presidential. Whether or not Russian democracy would have fared better is, of course, more difficult to answer. However, based on experience of the post-communist countries, every successful

democracy established either a parliamentary system or a semi-presidential system with weak presidencies (see Fish 2006). The conditions that foster a sufficient level of competition are the subject of the following chapter. Societal mobilization was certainly key (McFaul 2004), but what caused divergent levels of mobilization in Ukraine compared to Russia? The following assessment of the electoral foundations of elite competition stresses the difficulties Russian voters faced in presenting a unified and mobilized voice, both for and against the incumbent, which facilitated the creation of a system of "rule by the strongest" rather than one that fosters the liberal democratic hallmark of compromise and checks on any one interest exerting disproportionate authority.

Chapter 5: The Structure of Constitutional Creation in Russia and Ukraine

Taken as a whole, the narratives of the constitutional processes in the Russian and Ukrainian cases presented in the preceding two chapters are consistent with O'Donnell and Schmitter's (1986) proposition that competition from opposing political forces would cause incumbent autocrats to enter into power-sharing "pacts" that would, in turn, engender institutions with "checks and balances" and other liberal democratic characteristics. However, "transitology" arguments are based almost exclusively on the actions and interactions among elite groups, where at best the involvement of "the masses" does not matter and at worst could spoil democratic prospects. McFaul (2004) by contrast has stressed the importance of societal forces for democratization in the post-communist region. According to his argument, anti-regime popular uprisings in the waning years of Soviet dominance help explain the consolidation of democracy in many post-communist states. Yet in his argument only the "democrats" among elite factions would be motivated to create more liberal democratic institutions. He also does not account for the conditions under which initially elite-driven transitions from authoritarian rule are more or less likely to ultimately result in democracy. The argument developed in this dissertation has similarities and differences with both the O'Donnell and Schmitter and the McFaul contentions: the mobilization of societal forces makes it impossible for elites to survive politically unless they adopt inclusive institutions and policies; and the concentration of power in a super-presidency would be an irrational choice for incumbents, when an opposing faction could just as easily win election to that office in a subsequent election as a result of voter mobilization. Such conditions would cause elites of any political stripe to be responsive to diverse societal demands in order to increase

their chances of winning reelection, and make them prefer an institutional framework that would not shut them and their interests out of the political process if their opponents happened to win a subsequent election. The cases in this dissertation did not start off with mobilized societies; even severe economic hardship failed to engender a mobilized opposition force. However, the continual reinforcement of concentrated executive power in Russia compared to the interruptions to a similar trend in Ukraine can be explained at least partially by the fundamental structures in these two ethnically heterogeneous states. Whereas in the case of the former, major societal cleavages were poor predictors of electoral outcomes, in the case of the latter, elite competition began to reflect societal preferences as the major groups began to mobilize along ethnic, linguistic, and regional lines. The corresponding changes in elite preferences for more or less inclusive constitutions in Ukraine stress the significance of the structural context for moderating elite actions; a mobilized society fostered political competition among elites that, in turn, gave them the incentive to act as if they were behind a "veil of ignorance" when creating new institutions of government. This raises a crucial question for countries in transition from authoritarian rule: When do "the masses" begin to matter? In other words, under what conditions are elite-driven regime transitions from authoritarian rule more or less likely to *themselves become democratized* with the participation of social forces in the politics of transition? This would occur when the balance of power among elite factions becomes a more accurate reflection of the balance of forces in society. The above questions grapple with the broader issue of why some elite-led transitions from authoritarian rule eventually fully democratized while others *de*-democratized. They fit into the puzzle investigated in this dissertation, because the eventual democratization of the regime transition in Ukraine toward the mid-2000s—as voters became more mobilized—created a more balanced distribution of power among elite forces that, in

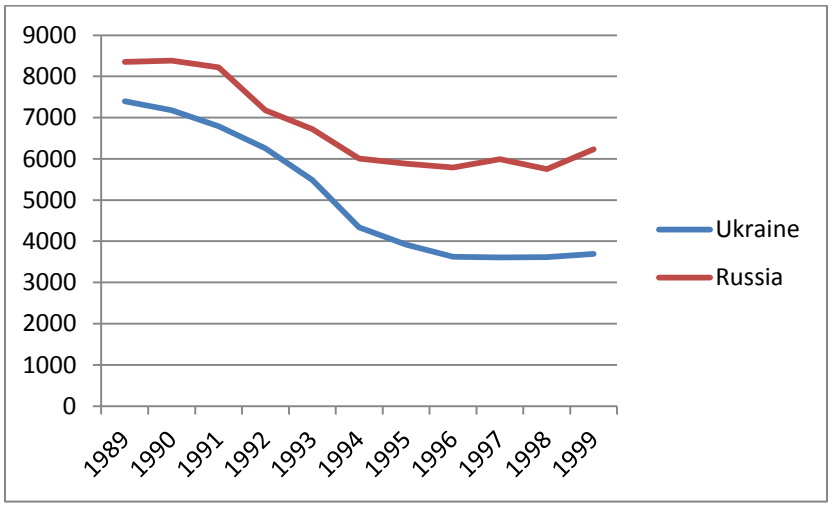
turn, promoted the preference for institutional inclusivity among elites with diverse interests and ideologies.

According to the extensive literature on election outcomes during times of economic hardship, Yeltsin and Kuchma should have lost their reelection bids during the 1990s (for e.g., Lewis-Beck, et al. 2000), especially because they both faced opponents who were associated with greater economic stability and stronger social protection platforms (for e.g., Tucker 2006; Fidrmuc 2000). The basic assumption in this literature is that voting behavior is largely a function of material self-interest, and therefore, socioeconomic cleavages should be the most powerful predictors of electoral outcomes, given the extreme inflation, wage arrears, and plummeting living standards that Russian and Ukrainian citizens were experiencing as a result of the drastic economic changes that were occurring as their countries transitioned toward market-based economies. Indeed, throughout the 1990s annual per capita purchasing power parity (PPP) was in an almost yearly decline in both of the cases; in 1990 Russians and Ukrainians had 8,218 and 6,794 dollars of PPP on a per capita basis, respectively, but by 1996 these figures declined to 5,793 and 3,626 dollars (see Figure 9).[105] These countries were experiencing the worst part of Przeworski's (1991) "J-curve," which predicted a steep initial decline in economic performance after the enactment of market reforms before any long-term gains from efficiency could take effect. However, even though there was clear evidence of class-based and "pocketbook" voting in the two country cases during the 1990s, it was not sufficient to unseat the incumbent or foster substantial uncertainty over electoral outcomes. The losses from the economic downturn were too dispersed throughout the

[105] Source: The World Bank, http://databank.worldbank.org/data/home.aspx, accessed July 6, 2013.

majority of the population for the losers to overcome their "collective action dilemma" (for e.g., Hellman 1998).

Figure 9: Annual Purchasing Power Parity (in U.S. Dollars) in Russia and Ukraine (1989-1999)



Such circumstances promoted the concentration of political power, because insulated reformist elites were fairly certain they could hold on to power. However, as political discourse became more and more defined by the question of "national identity" in Ukraine during the 2000s, ethnic, linguistic, and regional divides proved to be far more powerful predictors of electoral outcomes than the more traditional socioeconomic cleavages. Conversely, even though ethnicity proved to be an equally important voting cue for Russian voters during the country's first few democratic elections (Goodnow and Moser 2012), it never became a significant predictor of electoral outcomes, due in part to the structure of its ethnicity-based cleavages.

Ukraine has a well-defined, well-balanced, and even quite *dichotomous* national identity cleavage, in which ethnic Russians and Russophones tend to identify more closely with Russia and ethnic Ukrainians and Ukrainian speakers tend to identify more closely with the West. In Russia, by contrast, ethnic and language differences are dispersed throughout the country. According to the latest census (2010),[106] 23 percent of the country's population identified as belonging to one of dozens of non-Russian ethnicities. However, the Tatars, who represent the largest of these groups, comprised just 3.72 percent of the country's total population. Similarly, the diverse set of the next largest ethnic minority groups—Ukrainians, Bashkirs, Chuvash, Chechens, and Avars—comprised just 1 percent each of the population. Nevertheless, politics were, in fact, strongly affected by demands from ethnic federal regions for greater autonomy in the early post-soviet period. Yeltsin recognized the need to make concessions to the regions early in his tenure in order to bolster his bargaining capacity, when the nature of the balance of power appeared especially murky, which was reflected in The Federation Treaty signed on March 31, 1992 that gave considerable power to the regions.[107] The fact that the Soviet Union had been based on "ethnic federalism" was a key reason these cleavages survived the Soviet period more so than other cleavages in the first place; the nationalities that had their own ethnic homelands had managed to preserve their languages and resist assimilation into Russian culture, and soviet "affirmative action" policies such as "Korenizatsiia" (indigenization policy) in the 1920s had promoted the advancement of ethnic minorities in local government often at the expense of ethnic Russians. Historical research has demonstrated the lasting legacy of such policies (Martin

[106] Source: "Natsional'nyi sostav i vladenie yazykami, grazhdanstvo (Composition of Nationalities and Languages Spoken, Citizenship)," http://www.gks.ru/free_doc/new_site/perepis2010/croc/perepis_itogi1612.htm, accessed July 6, 2013.
[107] See *Iz istorii sozdania konstitutsii Rossiiskoi Federatsii,* vol. 3/3; the Federation Treaty was later trumped by the 1993 constitution.

1991). However, in the post-Soviet period, these deeply forged, enduring cleavage lines only served to balance out elite competition in cases where they reflected consistent, cohesive, and balanced underlying structures.

The following sections in this chapter test a set of hypotheses designed to determine the most powerful predictors of vote choice in the two cases. The goal is to gauge whether the "politics of region" (and/or ethnicity and language) were more important than the "politics of class," which arguably promoted the more inclusive 2004 constitutional bargain in Ukraine compared to the consistent reinforcement of constitutional exclusivity in Russia.

THE SOCIAL BASES OF ELITE COMPETITION: CLASS VERSUS ETHNICITY

The broad consensus in the literature on voting behavior is that economics and elections are closely intertwined; although the hows and whys are often debated, voters are expected to punish incumbents for poor economic performance and reward incumbents for good economic performance (for e.g., Lewis-Beck, et al. 2000; Kiewiet and Rivers 1984; Tucker 2006; Fidrmuc 2000). Beyond the "pocketbook voting" literature, the literature on social cleavages demonstrates that the structure of political divisions shapes electoral outcomes and defines political discourse in democracies (Lipset and Rokkan 1967). Socioeconomic cleavages have received the greatest amount of attention within this literature (Zuckerman 1975: 239), largely because the majority of the literature on cleavages and democratic elections has focused on Western Europe, where political parties formed within the context of the class-based divisions that resulted from the Industrial Revolution. Even though industrialization under communism did not establish the capital-labor divisions that have dominated politics in Western Europe

(Tavits 2005), class interests have certainly been present in post-communist politics. Urban-rural cleavages, which overlap heavily with richer-poorer divisions in these countries, have tended to predict support versus lack of support for former communist and other left-wing parties.

Was the failure of the leftist challengers during the 1990s in Russia and Ukraine, at a time when political competition was primarily defined by class, a result of weak socioeconomic cleavages? Or did voters' regional, ethnic, and/or linguistic identities simply supersede their socioeconomic interests? If voter behavior indicates a lack of definition between the supporters of presidential candidates on different points of the traditional left-right spectrum—specifically radical neoliberalism versus gradual reform—this would support hypothesis 3 presented in the theoretical chapter of this dissertation that states:

> *Hypothesis 3: voting in the first election cycles in Russia and Ukraine did not significantly reflect rich/poor and urban/rural societal divisions.*

Likewise, hypothesis 4 would be supported because these early electoral contests were effectively plebiscites on the contestants' reform agendas:

> *Hypothesis 4: voting in the first election cycles in Russia and Ukraine did not significantly reflect societal divisions based on region, ethnicity, and language.*

The underlying assumption is that the voter base for a socioeconomic contest was not sufficiently mobilized to present a challenge to the incumbent despite the very real economic hardships the citizens in these countries were enduring. It could also mean that other factors—such as ethnicity or region—are stronger predictors of vote choice. Therefore, when subsequent elections began to appeal to the ethnic and language identities of voters, a more salient cleavage was activated. In other words, the data would support hypothesis 5 that states:

Hypothesis 5: voting in subsequent election cycles in Russia and Ukraine primarily followed societal divisions based on ethnicity, language, and region.

In addition to

Hypothesis 6: voting in subsequent election cycles in Russia and Ukraine was less defined by socioeconomic divisions, including differences among income levels and rural compared to urban divisions.

What is more, this would be the case in Ukraine to a greater extent than it was in Russia, because opposition groups had begun actively mobilizing voters along these lines in the early 2000s. By contrast, any regional threats to the center were cut off almost as soon as the Putin administration gained its footing. It therefore makes little sense to consider vote choice during subsequent Russian elections because, according to multiple measures, electoral fraud and other authoritarian methods later became the means to ensure that there could not be a "balancing" of political forces, but rather a continual reinforcement of the incumbent's authority with few vestiges of the democratic experiment that had begun with Gorbachev's reforms in the late 1980s. Additionally, if these final two hypotheses hold up to empirical testing, the study could confidently argue that the structural component of constitutional bargaining matters, because during the volatile phases of early democratization, only clear-cut lines of mass mobilization can ensure that political elites face the need to *act like democrats* in order to ensure their own political survival, in the event voters choose to reject them at any given electoral juncture.

The following section presents the data and methods to be used by the subsequent sections that analyze the two country cases in turn. The analyses uncover a story of electoral competition that can help explain the greater ease with which Russian elites consolidated their power, even as their country was undergoing democratization in the 1990s, and the greater electoral competition that fostered the conditions for changing—

even if temporarily—a similarly steady course of re-authoritarianization in Ukraine. These data suggest that, depending on the nature of deep historically forged societal structures, elites in new democracies will be more or less constrained in their ability to concentrate political power.

DATA AND METHODOLOGICAL APPROACH

The data used to assess the above hypotheses are based on a variety of sources, including electoral data from the Central Election Commissions of Russia and Ukraine, the 2001 All-Ukrainian National Census, the 2000 All-Russia National Census, and socioeconomic data from Derzhkomstat and Rosstat, the State Statistics Committees in Ukraine and Russia. The Ukrainian census reports the ethnicity as well as the primary language of the populations in each raion[108] throughout the country, which makes it possible to address the issue of ethnicity versus language as primary factors of identification in Ukraine. For Russia, this distinction is based on the population of ethnic minorities compared to ethnic Russians in each raion. The 2001 Ukrainian census is the first and only census to be published since the country's independence from the Soviet Union. Russia's most recent census is from 2010, but this study uses the 2000 version because, it is closer in terms of time to the elections of interest.

The socioeconomic data for both countries account for the percentage of the rural population in each raion, reported by their censuses, as well as regional measures of relative financial well-being. For the case of Russia, this latter measure accounts for the relative percentage of Gross Regional Product (GRP) each region contributes to the national GDP as reported on the Rosstat website.[109] For the case of Ukraine, the analyses

[108] Raions are roughly equal to the precinct-level in the U.S. context.
[109] http://www.gks.ru, accessed July 7, 2013.

use information about the average salary and wage arrears across Ukraine's regions, as reported on the Derzhkomstat website[110] to develop a measure of relative socioeconomic welfare in each oblast.[111]

Electoral results from the following five presidential elections are included in the analyses: Ziuganov-Yeltsin in 1996, Ziuganov-Putin in 2000, Symonenko-Kuchma in 1999, Yushchenko-Yanukovych in 2004, and Yanukovych-Tymoshenko in 2010. The first two pertain to the Russian case and comprise raion-level data. The observations for the Russian case, therefore, include 2,611 raions across two elections for a total of 5,222 observations. The last three elections pertain to the Ukrainian case and comprise district-level data. The level of the electoral district—at which the Ukrainian election results are reported—is a slightly higher level of aggregation than the level of the raion. Districts contain between one and nine raions with the majority containing no more than two or three raions. All analyses for the Ukrainian case are conducted at this level; the data comprise all of Ukraine's 225 electoral districts for three election years for a total of 700 observations.

These analyses are based on all the data that I was able to gather. Ideally, the analyses would include the 1991 election in Russia and the 1991 and 1994 elections in Ukraine, but even without these election years, the five elections that are included provide a substantial amount of information for the study. A study of voter characteristics and vote choice would also preferably be based on individual-level data such as surveys

[110] http://www.ukrstat.gov.ua, accessed July 7, 2013.

[111] Specifically, voters' financial wellbeing across regions is a composite of the average wages earned in the region and the average wage arrears in the region (weighted equally). Due to inflation and other factors, the variables were transformed into a measure of relative financial wellbeing that ranges between 0 and 1 in the following manner: x-min(x)/[max(x)-min(x)] and then divided the cell values for the transformed income and (reversed) wage arrears variables in half in order to combine them into a single measure.

or exit polls. For Russia and Ukraine these types of data are not available, and therefore, aggregated data have to serve as the basis for the study. However, to compensate for the less-than-ideal structure of the data, I deal explicitly with the risk that can arise when making inferences about the behavior of individuals on the basis of aggregated data: that is, the risk of committing the ecological fallacy.

This problem occurs when relationships observed at the aggregate level do not hold at the individual level. A commonly cited example of a study that risked committing this error is Durkheim's inference that Protestantism must encourage suicide based on the fact that, in the nineteenth century, suicide rates were higher in predominantly Protestant countries (Durkheim 1881). This inference, in effect, could be correct, but there is no way of knowing for certain whether Protestants in particular were committing suicide at higher rates than members of other denominations in these countries. In the case of this chapter, if I failed to correct for this problem, I would only be able to show, for example, that heavily ethnic Russian districts in Ukraine lent greater support to pro-Russia candidates, but I would not be able to report with much certainty that this support came specifically from the ethnic Russians in the district.

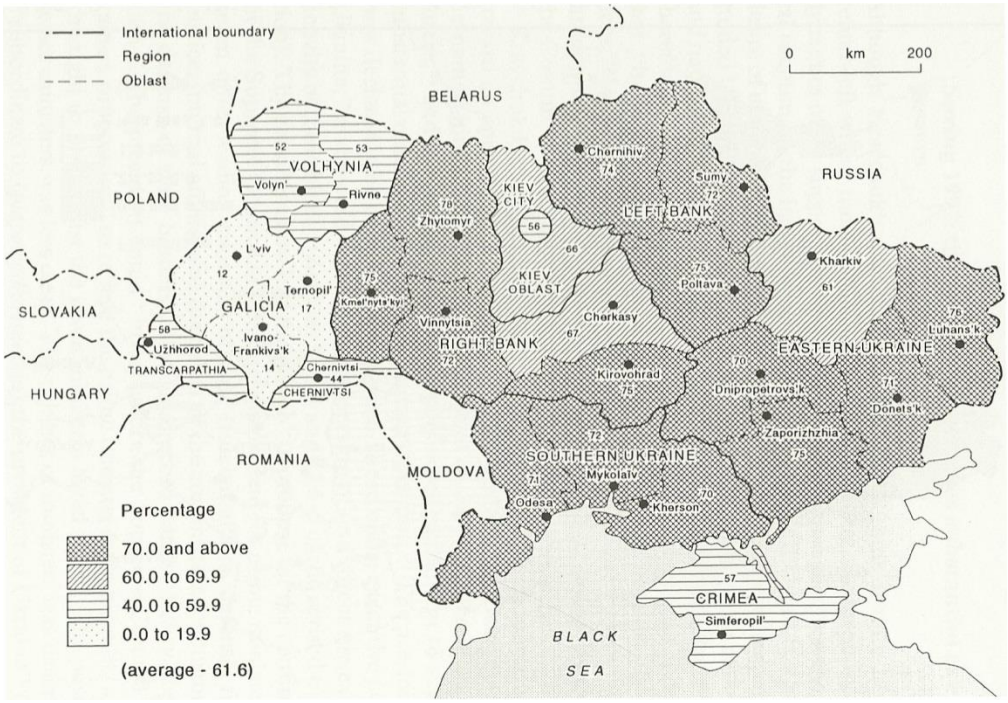
For this reason, I rely on King's (1997) ecological inference solution to disentangle voting patterns across Russian and Ukrainian territorial units for different groups of voters. For the case of Russia these include: (1) ethnic minorities and ethnic Russians, (2) richer and poorer voters, and (3) rural and urban voters. The categories are similar for the case of Ukraine, with the exception that the distinction in the first category is between ethnic Russians and ethnic Ukrainians; I have also added a category for distinguishing between Ukrainian speakers and Russophones. In addition to ecological inference models, I use multilevel models that can account for key contextual effects, while parsing out the predictors of voter support for presidential challengers that

represented socioeconomic interests distinctly different from the incumbents'—including Ziuganov in 1996 and 2000 and Symonenko in 1999—and for challengers representing regional and ethnic interests distinctly different from the incumbents'—including Yushchenko in 2004 and Yanukovych in 2010.

ANALYZING VOTER CHARACTERISTICS AND VOTE CHOICE IN UKRAINE

Before delving into the specific predictors of vote choice using the data described above for the 1999, 2004, and 2010 presidential elections in Ukraine, the maps in Figures 10 and 11 offer a general regional overview of what the electoral landscape looked like in the preceding two presidential elections in the country.

Figure 10: Support for Leonid Kravchuk (1991)



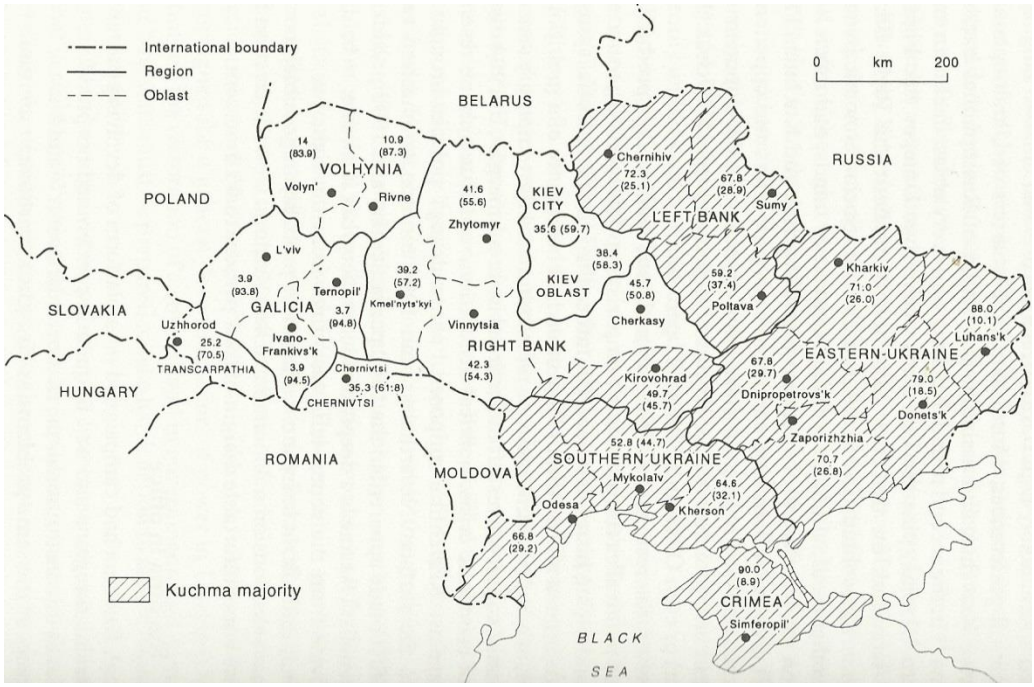
Source: Andrew Wilson (1997b:73)

In the first election, social interests appeared rather less defined—at least regionally—as Leonid Kravchuk drew support across a rather undefined electoral landscape (see Figure 10). The high level of support for Kravchuk compared to the more nationalist presidential candidates was quite uniform throughout the country, with the exception of the three Galician oblasts[112] that primarily supported one of the candidates fielded by the "national democrats" (see Chapter 3), in particular Rukh Chairman Viacheslav Chornovil (Wilson 1997: 72-73).

The stark orange-blue, west-east cleavage that separated support for Yuschchenko and Yanukovych roughly down the middle of the country in the 2004-2005 election cycle first started to take shape during the following (early) presidential election in 1994, portrayed by the map in Figure 11. As chapter 3 described, the dynamics of the campaign were interesting: neither candidate had particular appeal in the west; whereas Kuchma was an east-oriented Russophile, he also supported the neoliberal reforms popular among Ukrainians with a closer affinity with Western Europe; and whereas Kravchuk was a former communist and supported a much more gradual course of reform, he also had nationalist stripes that appealed to voters in the west. The decision to hold early elections was part of a compromise between then President Kravchuk and Prime Minister Kuchma designed to overcome intense conflict over their differences regarding the reform agenda. The broad support Kravchuk received in the west was likely motivated by anti-Kuchma regionalism.

[112] The Galician region, comprised of the Ivano-Frankivsk, Lviv, and Ternopil oblasts, was incorporated into the Soviet Union after WWII and several decades later than other Ukrainian regions. Ukrainian nationalism is deeply rooted in this part of the country, where OUN-UPA separatists (Orhanizatsiya Ukrayinskykh Natsionalistiv-Ukrayinska Povstanska Armiya--Organization of Ukrainian Nationalists and its militant wing) fought the Soviets during World War II and contemporary nationalist parties and movements took root shortly before and after the country's independence.

Figure 11: Support for Leonid Kuchma (Second Round, July 1994)



Source: Andrew Wilson (1997b: 84)

This pattern, however, was oddly different in the following election in 1999, when Kuchma faced a communist opponent in the second round of the elections, Petro Symonenko; the distinct patterns of regional support for the different candidates disappeared. The following analyses systematically demonstrate this shift; *when* the electoral contest between elites highlighted socioeconomic issues, neither candidate had clear bases of support among social groups; by contrast, *when* the contest between elites highlighted regional differences, their support from voters was clearly defined across social groups. Moreover, this pattern held even in the face of the severe economic crisis in the late 2000s, which had a particularly devastating effect on Ukraine and should have spurred more class-based voting. These patterns emerge vividly in the ecological inference estimates of voter support for each candidate in the 1999 "socioeconomic

plebiscite" election and the 2004 "regional and ethnic plebiscite" election across groups comprised of ethnic Russian compared to ethnic Ukrainian voters, Russian-speaking compared to Ukrainian-speaking voters, urban compared to rural voters, and relatively richer compared to relatively poorer voters.

The Ecological Inference Solution

King's solution to the ecological inference problem described above estimates the values of the cells in a matrix for which only the row and column totals are known. It uses a random-coefficients approach that allows the parameters to vary randomly across—in the current case—Ukraine's electoral districts to derive local parameter estimates (sub-i's) for each district. Because the ecological inference solution is bivariate, I estimated a series of eight models for the four groups of voters in each of the three elections in order to tap the nature of voter support for the candidates. Specifically, in the first model the goal was to estimate the proportion of ethnic Ukrainians who supported Symonenko and, correspondingly, the proportion of ethnic Russians who supported Symonenko during the 1999 election. To this end, I used observed data, represented by T_i and X_i in Figure 12, to estimate these two unobserved β_i proportions, where T_i reflects the observed proportion of votes for Symonenko in district *i*, and X_i reflects the observed proportion of the total population that is ethnic Ukrainian in district *i*.[113]

[113] Ideally, these proportions would be based on voting age population (VAP) data, which I do not have. However, according to the census, the two ethnic groups have very similar demographic characteristics, and thus proportions based on the total population are likely to closely reflect proportions based on the VAP.

Figure 12: King's Ecological Inference Solution Applied to Voter Ethnicity and Support for Symonenko in the 1999 Presidential Election

T_i = Support for Symoneko in District *i*			
	Supported Symonenko	Did not support Symonenko	
Ukrainian	$\beta_i^{Ukrainian}$	$1-\beta_i^{Ukrainian}$	X_i
Russian	$1-\beta_i^{Russian}$	$1-\beta_i^{Russian}$	$1-X_i$
	T_i	$1-T_i$	

The second model would then tap the differences among Ukrainian-speaking and Russian-speaking voters, and thus, in this case, X_i would reflect the fraction of Ukrainian speakers in each district. Likewise, the β_i 's would be estimates of the proportions of Ukrainian-speaking and Russian-speaking voters that contributed to Symoneko's vote share in district *i.* In a similar fashion, I proceeded to estimate differences in patterns of voting for Symoneko in 1999 among poorer and richer voters, as well as among rural and urban voters. I then, in subsequent steps, repeated these analyses to derive ecological inference estimates for the four different voter groups (the X_i 's) that comprise the bases of support for the different candidates, but replaced the columns of T_i 's to reflect the extent of Kuchma's electoral support in 1999. The whole process is repeated for each of the candidates in the subsequent elections in 2004 and 2010 (see Figure 13 for the general overview).[114]

[114] The EI estimates were derived using Benoit and King's EzI program for ecological inference, available at http://gking.harvard.edu/category/research-interests/methods/ecological-inference, accessed June 28, 2013.

Figure 13: King's Ecological Inference Solution Applied to Voter Characteristics and Vote Choice in Ukrainian Electoral Districts

T_i = Support for Candidate in Ukrainian District *i*			
	Supported Candidate	Did not support Candidate	
Ukrainian	$\beta_i^{Ukrainian}$	$1-\beta_i^{Ukrainian}$	X_i
Russian	$1-\beta_i^{Russian}$	$1-\beta_i^{Russian}$	$1-X_i$
	T_i	$1-T_i$	

	Supported Candidate	Did not support Candidate	
Ukrainian speaking	$\beta_i^{UkrSpeaker}$	$1-\beta_i^{UkrSpeaker}$	X_i
Russian speaking	$\beta_i^{RuSpeaker}$	$1-\beta_i^{RuSpeaker}$	$1-X_i$
	T_i	$1-T_i$	

	Supported Candidate	Did not support Candidate	
Relatively Richer	β_i^{poor}	$1-\beta_i^{poor}$	X_i
Relatively Poorer	β_i^{rich}	$1-\beta_i^{rich}$	$1-X_i$
	T_i	$1-T_i$	

	Supported Candidate	Did not support Candidate	
Rural	β_i^{rural}	$1-\beta_i^{rural}$	X_i
Urban	β_i^{urban}	$1-\beta_i^{urban}$	$1-X_i$
	T_i	$1-T_i$	

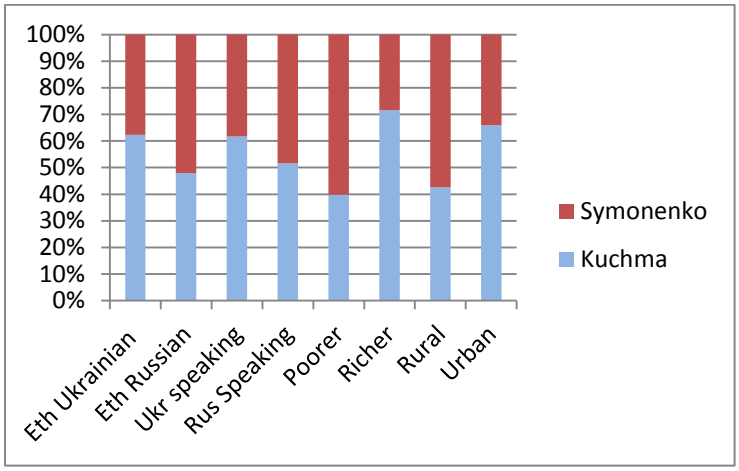
Table 16 includes the averages of the point estimates for each sub-group of voters for the candidates in the first election—Symonenko and Kuchma in 1999—and Figure 13

shows the proportion that the average EI point estimate from each category contributed to the total votes.

Table 16: Ecological Inference Estimates of Voter Support for Kuchma Compared to Symonenko (1999)

	1999: Support for Kuchma	1999: Support for Symonenko
Ethnic Ukrainian	58%	35%
Ethnic Russian	45%	49%
Ukrainian speaking	58%	36%
Russian speaking	48%	45%
Worse-off Financially	37%	56%
Better-off Financially	68%	27%
Rural	40%	54%
Urban	62%	32%
N	*225*	*225*

Figure 14: Proportions of EI Averages of Voter Support for Symonenko Compared to Kuchma (1999)



What's most interesting is not so much the estimates themselves, but the way that they compare to similar estimates from the next two elections, when the electoral

discourse shifted from socioeconomic to regional issues. On their own, the 1999 estimates show a slightly greater inclination toward class-based voting; richer regions supported Kuchma at higher levels than poorer regions and vice-versa. Similarly, urban regions supported Kuchma at higher levels than rural regions and vice-versa. There was a lesser but still perceptible amount of ethnic and language-based voting compared to class-based voting, but these results are dwarfed in comparison to the change that occurred in the next election, when discourse shifted from the question of economic reform to the question of whether Ukraine should be more Russia-oriented or more west-oriented. Table 17 and Figure 14 include the results from the 2004-2005[115] election.

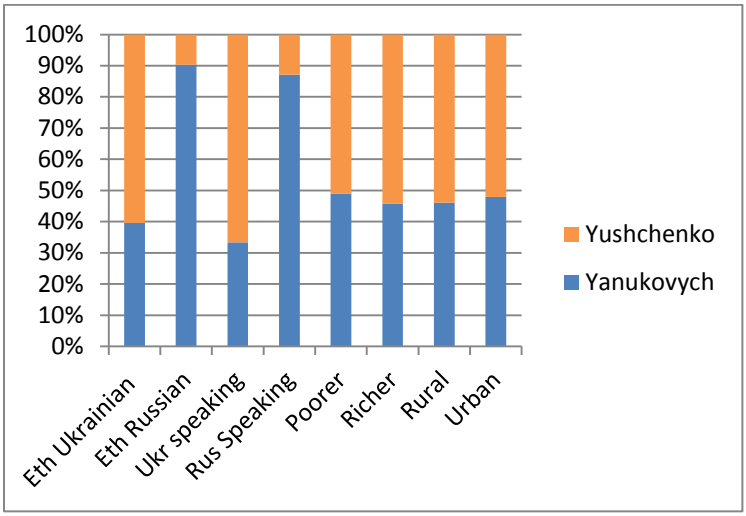
The extent of ethnic-based voting is striking, especially the extent to which ethnic Russians and Russian speakers voted against the west-oriented "Orange" candidate Yushchenko, at just 9 and 12 percent respectively. Equally striking are the relatively imperceptible effects from socioeconomic difference among voters. The dramatic effect of this clear-cut societal divide was the perhaps-not-surprising newly found effort among elites to change the constitution in a way that would ensure that whichever side won, neither side would be totally excluded from the policy-making process.

[115] The (repeated) second round was held in January 2005, but because the election was first held in 2004, I refer to it as the "2004 election."

Table 17: Ecological Inference Estimates of Voter Support for Yushchenko Compared to Yanukovych (2004)

	2004: Support for Yanukovych	2004: Support for Yushchenko
Ethnic Ukrainian	38%	58%
Ethnic Russian	84%	9%
Ukrainian speaking	32%	64%
Russian speaking	81%	12%
Worse-off Financially	47%	49%
Better-off Financially	44%	52%
Rural	41%	48%
Urban	47%	51%
N	*225*	*225*

Figure 15: Proportions of EI Averages of Voter Support for Yushchenko Compared to Yanukovych (2004)



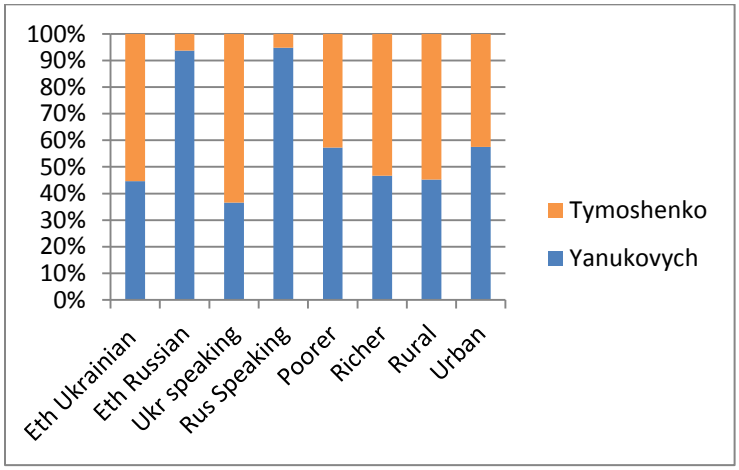
What may be even more striking is that as the country emerged from the shock of the 2008 economic crisis—when economic voting should be expected to dampen the effect of the ethnic and language cleavages—the gap in levels of support from ethnic Russians for the Russia-oriented candidate Yanukovych compared to his west-oriented opponent was even wider: an estimated 90 percent of ethnic Russians supported

Yanukovych compared to the estimated 6 percent who supported west-oriented Tymoshenko (see Table 18 and Figure 16). A parallel pattern of candidate support among Russian-speaking voters stands out. This sharp divide in candidate support was less pronounced among ethnic Ukrainians and Ukrainian speakers in 2010 than it was in 2004, but it nonetheless continued to stand out as an especially strong indicator of vote choice, especially when viewed in contrast to the slight voting differences among socioeconomic groups.

Table 18: Ecological Inference Estimates of Voter Support for Tymoshenko Compared to Yanukovych (2010)

	2010: Support for Yanukovych	2010: Support for Tymoshenko
Ethnic Ukrainian	42%	52%
Ethnic Russian	90%	6%
Ukrainian speaking	34%	59%
Russian speaking	90%	5%
Worse-off Financially	55%	41%
Better-off Financially	43%	49%
Rural	43%	52%
Urban	54%	40%
N	*225*	*225*

Figure 16: Proportions of EI Averages of Voter Support for Tymoshenko Compared to Yanukovych (2010)



The EI estimates also indicate that Yanukovych, as the opposition candidate, received higher levels of support from all the voter groups, except for relatively better-off voters in 2010. At the same time, Tymoshenko received less support in 2010 than Yushchenko did in 2004 across nearly all the voter categories, including a 6 percent decline in support from ethnic Ukrainians, which could be an indication of economic voting among one of her primary constituencies. These changes indicate that in the post-2008 crisis context "pocketbook" voting was occurring to a greater degree than in the previous election, but the extent to which it occurred remained nevertheless quite slight in comparison to the intensely sharp divide among ethno-linguistic groups. Thus, the data continue to emphasize that socioeconomic cleavages were relatively poor supporters of vote choice.

To get a sense of regional variation, I divided the country into five sub-regions—west, central, east, south, and Crimea[116]—and compared the results from the final two

[116] The "west" comprised the oblasts of Ivano-Frankivsk, Lviv, Ternopil, Volyn, Zarkapattya, Chernivetsk, Vinnytsia, Zhytomyr, Rivne, and Khmelnytskyi; the "center" included the oblasts of Kirovohrad, Sumy,

elections, where the national identity cleavage was so strongly pronounced. These analyses confirm that location, in addition to ethnicity and language, was a powerful predictor of vote choice in Ukraine, with an important caveat: it mattered substantially less for ethnic Russians and, to an extent, Russophones, than for ethnic Ukrainians and Ukrainian speakers. In other words, ethnic Russians and Russophones were more likely to vote along national identity lines regardless of the region in which they lived—a finding that corroborates the significance of the national identity cleavage for these minority groups in Ukraine. The results of the regional analyses are reported in Tables 19 and 20.

Table 19: EI Estimates of Regional Support for Yanukovych in 2004 Compared to 2010

	West		Central		East		South		Crimea	
	2004	2010	2004	2010	2004	2010	2004	2010	2004	2010
Ethnic Ukrainian	9%	16%	18%	34%	79%	75%	59%	67%	52%	40%
Ethnic Russian	69%	73%	45%	31%	88%	85%	71%	72%	93%	92%
Ukrainian speaking	10%	17%	20%	31%	65%	72%	59%	68%	2%	7%
Russian speaking	61%	67%	22%	29%	89%	82%	67%	66%	91%	87%
Poorer	1%	8%	28%	42%	60%	90%	25%	39%	58%	83%
Richer	23%	34%	17%	21%	87%	58%	87%	98%	99%	76%
Rural	14%	25%	19%	35%	81%	%	68%	78%	67%	63%
Urban	10%	16%	21%	28%	78%	76%	59%	62%	91%	89%
N	*64*	*65*	*51*	*51*	*75*	*74*	*23*	*23*	*12*	*12*

Poltava, Cherkasy, Chernihiv, and Kyiv, as well as the city of Kyiv; the "east" consisted of Luhansk, Donetsk, Dnipropetrovsk, Zaporizhia, and Kharkiv oblasts; the "south" contained the oblasts of Mikolayiv, Odessa, and Kherson; finally, "Crimea" includes the Crimean Autonomous Republic in addition to its major city Sevastopol, which I designated as a separate region because of its unique history and culture. It is particularly distinct from western Ukraine as it only became part of Ukraine in 1954, when Soviet authorities transferred the peninsula from the Russian to the Ukrainian Soviet Socialist Republic.

Table 20: EI Estimates of Regional Support for Yushchenko (2004) Compared to Tymoshenko (2010)

	West		Central		East		South		Crimea	
	2004	2010	2004	2010	2004	2010	2004	2010	2004	2010
Ethnic Ukrainian	89%	79%	83%	70%	24%	23%	43%	32%	35%	44%
Ethnic Russian	24%	14%	5%	1%	0%	1%	0%	4%	8%	7%
Ukrainian speaking	88%	79%	79%	66%	38%	37%	40%	30%	91%	93%
Russian speaking	25%	12%	47%	42%	2%	2%	18%	17%	6%	8%
Worse-off Financially	69%	66%	66%	55%	1%	1%	74%	17%	1%	1%
Better-off Financially	97%	83%	79%	69%	29%	40%	4%	30%	23%	34%
Rural	87%	78%	79%	65%	16%	17%	37%	29%	26%	29%
Urban	82%	70%	72%	61%	18%	17%	27%	21%	8%	9%
N	*64*	*65*	*51*	*51*	*75*	*74*	*23*	*23*	*12*	*12*

The differences in the relative importance of location for ethnic Ukrainians compared to ethnic Russians across Ukraine's regions stand out substantially. Whereas in the west, for example, an estimated 89 percent of ethnic Ukrainians voted for Yushchenko in 2004 and an estimated 79 percent voted for Tymoshenko in 2010, the EI estimates of support for these candidates in the east (in both elections) among ethnic Ukrainians was at just 24 and 23 percent, respectively. In fact, ethnic Ukrainians in the eastern and southern regions were more likely to vote in step with ethnic Russians. On the other side of the coin, ethnic Russians and Russian speakers were more likely than ethnic Ukrainians and Ukrainian speakers to vote along ethnic-based lines regardless of region.[117] While the minority ethnic Russian and Russian-speaking groups were slightly more inclined to vote for westward-oriented candidates in the western oblasts, the estimated support for such candidates among ethnic Russians approached zero percent in eastern and southern Ukraine. Therefore, according to the EI estimates of vote choice,

[117] Russian speakers in central Ukraine are an exception, perhaps because many ethnic Ukrainians speak Russian in this part of the country.

location was important insofar as it affected voting among the majority ethnic Ukrainian and Ukrainian-speaking populations.

The regional EI estimates also suggest that socioeconomic cleavages may have had greater influence in the post-crisis election in certain parts of the country. Specifically, support for Yanukovych among poorer voters increased by 30 percent in Crimea and 25 percent in the east. Conversely, voting patterns across urban and rural areas did not change much between the two elections in any region. In fact, they seemed to reflect rather closely ethno-linguistic voting patterns, with lower levels of support for Yanukovych from both rural and urban voters toward the western parts of the country and higher levels of support for this candidate from both rural and urban voters toward the eastern part of the country.[118]

The analysis of voting patterns using models of ecological inference provides compelling evidence of the predominance of voting along national identity lines in Ukraine despite economic conditions that should have spurred greater economic-based voting. This is especially true for Ukrainians in the western and central parts of the country and for minority Russians and Russian speakers throughout the country as a whole. These analyses confront the potential risk of committing the ecological fallacy when making predictions about individual behavior on the basis of aggregated data, but because they are bivariate models, they do not "control for" economic versus ethnic and ethnic versus economic factors in their estimations. Therefore, the following section presents a series of multilevel models that comprehensively assess the relative importance of the different cleavages as predictors of vote choice within different regional contexts. These analyses begin with the 1999 election.

[118] An interesting anomaly is the high level of support for Yushchenko among poorer voters in the south.

Multilevel Models of Candidate Support

In this section, I use a series of multilevel models to consider the effects of districts' varying proportions of ethnic and rural populations on the likelihood of support for the opposition candidate, in addition to the contextual influence of particular regional characteristics on these variables' intercepts and slopes. The regions vary according to their relative wealth, whether they are in the east and southeast of the country, and whether they are in the western part of the country. The regional locations are based on the same specification used above (see footnote 10). The approach is most appropriate because of the nested structure of the data, whereby some of the data occur at the district level and some of the data occur at the regional level. Ignoring this nested structure could result in overestimating the strength of the effects for the variables at the regional levels and underestimating their respective standard errors, thereby causing them to be "significant" when they are not. The multilevel approach is a useful way to test the direct effects of variables at each of the two levels of analysis in addition to the cross-level interactions among variables at the different levels. A particular advantage of the multilevel approach, compared to standard regression analysis, is that the differences in intercepts and slopes for the variables at the second regional level can vary randomly across regions.

As with the above EI analyses the goal is to disentangle the predictors of vote choice when the contests were about economic issues, which in the Ukrainian case was the 1999 election, when the communist party leader challenged the reformist Kuchma, and when the contests were primarily about national identity issues, as they were in the following two elections. The goal is to grapple with the structural underpinnings of elite competition: under what conditions do voters shape the balance of power among elite forces, creating greater or lesser incentives to choose inclusive institutions? The EI

analysis confirms that the *real* crisp shift in voter support for or against incumbents was the activation of the "national identity" cleavage in the 2004 election, when opposing candidates were not defined by traditional left-right, nonreformist-reformist lines, but rather by appeals to well-defined social groups that *when activated*, because of the nature of the presidential campaigns would, in fact, upset the incentive for incumbents to maintain a super-presidential regime.

For the first level of analysis the equation is

$$Y_{ij} = \beta_{0j} + \beta_{1j}\text{minority}_{ij} + \beta_{2j}\text{rural}_{ij} + r_{ij}$$

where Y_{ij} reflects the vote share for the incumbent challenger in district i in region j. β_{0j} is the constant term and β_{1j} and β_{2j} are the region (or "j")-specific effects on a one-percent increase in support for the challenger in response to a one-percent increase in districts' Russian minority and rural populations, respectively. r_{ij} is the level-one error term, which is assumed to be distributed normally with a mean of zero and variance σ^2. Adding region level variables re-specifies the level-one intercept β_{0j} and slope coefficients β_{1j} and β_{2j} as

$$\beta_{0j} = \gamma_{00} + \gamma_{01}\text{region}_j + u_{0j}$$

$$\beta_{1j} = \gamma_{10} + \gamma_{11}\text{region}_j + u_{1j}$$

$$\beta_{2j} = \gamma_{20} + \gamma_{21}\text{region}_j + u_{2j}$$

where γ_{01} and γ_{11} are the region's (either wealthier, east-southeast, or west, depending on the model) respective direct and interactive effects on the challenger's vote shares. The level-two residuals (u_j's) reflect the effect on support for the challenger from districts located in region j. The other parameters are the region-level intercepts. Combining the above system of equations produces the following, more compact "mixed-effects" model showing the fixed effects (the gammas) in the first set of brackets and the random components in the second set of brackets (the u_j's and the r_{ij}) (see Luke 2004:10)

$$Y_{ij} = [\gamma_{00} + \gamma_{01}\text{region}_{j} + \gamma_{10}\text{minority}_{ij} + \gamma_{11}\text{region}_{j} * \text{minority}_{ij}$$
$$+ \gamma_{20}\text{rural}_{ij} + \gamma_{21}\text{region}_{j} * \text{rural}_{ij}]$$
$$+ [u_{0j} + u_{1j}\text{minority}_{ij} + u_{2j}\text{rural}_{ij} + \text{r}_{ij}]$$

Table 21 contains the results of the first set of models assessing support for the incumbent Kuchma's challenger Symonenko in 1999. Model 1 in the first column includes only the level-one variables—percent ethnic Russian and percent rural, the first of which is an ethnic-based predictor of vote choice and the second of which is a socioeconomic-based indicator of vote choice. Models 2-4 incorporate the various regional effects.

When controlling for the ethnic component, the "percent rural" variable remains statistically significant—the socioeconomic status of vote choice was, in fact, a better predictor of vote choice in an election with candidates representing piecemeal conservative economic reform and a stronger social protection agenda and, on the other hand, a much more rapid reform program. Whereas voters' location in the east and southeast had neither a direct nor an interactive effect on either of the level-one variables, voters' location in the west had a significant negative direct effect on support for Symonenko, in addition to an effect on the slope of "percent rural." A similar moderating effect on the slope of "percent Russian" was not present. In other words, although poorer rural voters in the country as a whole supported the leftist challenger at a higher rate than their urban counterparts, poorer rural voters in the west were less likely to exhibit similar voting behavior. The regional cleavage is apparent even when the electoral contest was defined along more traditional ideological lines. Finally, when accounting for the relative income levels of the region, "percent rural" as a predictor of support for the leftist challenger vanishes; in relatively better-off regions, districts with lower levels of urbanization were not associated with higher levels of support for Symonenko.

Table 21: Multilevel Analysis of Voter Support for Incumbent Opponent (Symonenko 1999)

	Model 1	**Model 2**	**Model 3**	**Model 4**
Intercept	.3329 (.0353)***	.3192(.0394) ***	.4211(.0327)***	.4573 (.1868)**
Raion-level:				
Percent Russian	-.0001(.0005)	-.0010(.0013)	-.0006(.0005)	-.0017(.0018)
Percent rural	.1111(.0181)***	.0896(.0274)***	.1667(.0211)***	-.0895(.1143)
Region-level intercept effects:				
East-south region		.0682(.0472)		
Western region			-.2063(.0551)***	
Wealthier region				-.2138(.3110)
Region-level slope effects:				
Percent Russian				
*East-south region		.0009(.0014)		
*Western region			.0016(.0016)	
*Wealthier region				.0029(.0033)
Percent rural				
*East-south region		.0297(.0369)		
*Western region			-.1463(.0386)***	
*Wealthier region				.3488(.1967)
Model fit:[119]				
Df	*5*	*8*	*8*	*8*
AIC	-473	-471	-504	-471
BIC	-456	-444	-477	-443

Notes: The reported coefficients were estimated in STATA using full maximum likelihood; the dependent variable is the votes share of the challenger (Symonenko) to the incumbent (Kuchma); level-1 n=250, level-2 n=27; ***p<.01, **p<.05, *p<.1.

The predictors of voter support for Victor Yushchenko, who challenged Victor Yanukovych—Kuchma's chosen successor—in the following election were dramatically different (see Table 22). Both candidates were pro-reform, but they reflected radically

[119]The deviance-based measures of model fit—the Akaike (AIC) and Bayesian (BIC) Information Criteria—indicate a relatively closer fit between the data and their respective models when their values on models with additional parameters are smaller than their values on the least constrained (in this case, first) model.

different visions of Ukrainian "national identity" as closer to Russia or closer to the West. In the absence of level-two regional variables, ethnic Russians were substantially less inclined to vote for the west-oriented challenger. The socioeconomic predictor "percent rural," moreover, was statistically insignificant; indications of economic voting were nonexistent. When accounting for geographic differences, these effects are dramatically enhanced. Voters in the east and southeast were far less likely overall to have supported Yushchenko (see Model 2 in Table 22). However, ethnic Russians in the region were more likely than in other regions to have supported the challenger than in other parts of the country, based on the effect the east-south variable had on the slope of "percent Russian." This finding is consistent with the regional variation of the EI estimates presented in Tables 20 and 21: the location in which ethnic Russians live mattered less as a predictor of vote choice than it did for ethnic Ukrainians. Minority ethnic Russians were more likely than their ethnic Ukrainian counterparts to be affected by region. However, the results show that ethnic Russians living in the west were less inclined than their counterparts elsewhere in the country to support the challenger (see Model 3 in Table 22). Interestingly, when western oblasts were taken into account, rural voters were less inclined to vote for the west-oriented challenger. Finally, the negative sign on the coefficient for "percent Russian" still held when wealthier regions were taken into account. The negative sign on the interactions between wealthier regions and "percent rural" is an indication that rural voters were more likely to support the east-oriented candidate in poorer regions than in wealthier regions. A modest sign of class-based voting showed up in this model, but it was overwhelmed by the relatively massive effects of ethnic-based voting.

Table 22: Multilevel Analysis of Voter Support for Incumbent (Successor) Opponent (Yushchenko 2004)

	Model 1	Model 2	Model 3	Model 4
Intercept	61.90(5.513)***	87.36 (3.006)***	56.15(5.101)***	71.08(6.629)***
Raion-level:				
Percent Russian	-.2232(.0762)***	-1.201(.1381)***	-.3068(.0797)***	-.6082(.2024)***
Percent rural	-.0083(.0218)	-.0276(.0251)	-.0593(.0275)**	.0632(.0385)
Region-level intercept effects:				
East-south region		-52.38(5.114)***		
Western region			29.99(9.911)***	
Wealthier region				-.3336(.2423)
Region-level slope effects:				
Percent Russian				
*East-south region		.8917(.1574)***		
*Western region			-1.424(.6012)**	
*Wealthier region				.0073(.0064)
Percent rural				
*East-south region		-.0921(.0387)**		
*Western region			-.0307(.0680)	
*Wealthier region				-.0064(.0018)***
Model fit:				
Df	*5*	*8*	*8*	*8*
AIC	1570	1468	1557	1550
BIC	1587	1496	1584	1578

Notes: The reported coefficients were estimated in STATA using full maximum likelihood; the dependent variable is the votes share of the challenger to the incumbent (or the incumbent's successor); level-1 n=250, level-2 n=27; ***p<.01, **p<.05, *p<.1.

In the final model for the case of Ukraine, the challenger in 2010 was the east-oriented loser in the 2004-2005 "Orange Revolution" election, Victor Yanukovych, who ran against Yushchenko's Orange coalition ally, Yuliia Tymoshenko, in the second round of the 2010 election. The signs on the "percent Russian" minority variable are, therefore, expectedly reversed in the four models presented in Table 23 compared to Table 22. The estimated coefficients are also consistently statistically significant. During this election, however, the "percent rural" socioeconomic predictor also retained a significant and

positive effect, with the exception of the fourth model that accounts for wealthier regions. Geography was a particularly strong predictor of vote choice in Models 2 and 3. Voters in oblasts in the east and southeast were dramatically more likely to support Yanukovych; and voters in oblasts in western regions were dramatically less likely to support Yanukovych. The effects on the rate of support among minority ethnic Russians were also significant in the expected direction depending on the region. Rather surprisingly, moreover, voters in the rural districts in the western part of the country were more likely to support the challenger to west-oriented Tymoshenko. This is another indication of the politics of class in fact mattering, but it is overwhelmed by the saliency of ethnic-based cleavages. Lastly, there is a very slight indication of greater voter support for the challenger in wealthier regions. Whereas the finding of higher rates of support among rural than urban voters in the west was an indication of economic voting (see Model 3), given that the economic crisis should have spurred anti-incumbent[120] voting, especially among poorer voters, the effect appears somewhat muted by the fact that voters in regions with higher income levels were more likely to lend support to the challenger. Yet again, ethnicity appeared to trump class as a vastly more powerful predictor of vote choice.

[120] Tymoshenko had been prime minister during that period.

Table 23: Multilevel Analysis of Voter Support for Incumbent (Successor) Opponent (Yanukovych 2010)

	Model 1	Model 2	Model 3	Model 4
Intercept	35.16(4.556)***	14.62(2.8357)***	46.70(4.7461)***	31.88(4.934)***
Raion-level:				
Percent Russian	.4110(.0864)***	1.057(.1304)***	.3333(.0811)***	.7222(.2230)***
Percent rural	.0809(.0258)**	.0945(.0263)***	.0952(.0284)***	.0004(.0446)
Region-level intercept effects:				
East-south region		51.75(4.482)***		
Western region			-50.35(8.095)***	
Wealthier region				.0330(.1063)
Region-level slope effects:				
Percent minority				
* East-south region		-.8017(.1502)***		
*Western region			3.009(.4292)***	
*Wealthier region				-.0058(.0071)
Percent rural				
*East-south region		.0171(.0404)		
*Western region			.2037(.0583)***	
*Wealthier region				.0068(.0020)***
Model fit:				
Df	*5*	*8*	*8*	*8*
AIC	1635	1492	1577	1618
BIC	1652	1519	1605	1646

Notes: The reported coefficients were estimated in STATA using full maximum likelihood; the dependent variable is the votes share of the challenger to the incumbent (or the incumbent's successor); level-1 n=250, level-2 n=27; ***p<.01, **p<.05, *p<.1.

In sum, the three Ukrainian elections analyzed in this section represent different types of electoral contests. The first is closest to the first of the two elections assessed in the following section on Russia; it was a contest between platforms representing the leftist position of gradual, piecemeal economic reform and the neoliberal position of rapid, radical economic reform. The second reflected a complete shift in the nature of the campaign; it was no longer about reform—both candidates were on the same page in that respect—it was about the country's national identity with issues that appealed to very

fundamental aspects of voters' identities, especially their ethnicity and primary language. The third is perhaps closer to the second of the two elections assessed in the following section on Russia; it was a test of the relative power of "pocketbook" voting—that is, anti-incumbent voting in the face of severe economic crisis. All three elections in the Ukrainian case indicated an existing but quite muted effect of voters' socioeconomic characteristics, especially when contrasted with the dramatic effect from introducing a "national identity" component to the election. There is very little doubt that the nature of the Ukrainian political cleavage structure—as well-defined, coherent, dichotomous, *and ethno-linguistic*—created a powerful balancing effect on elite politics. It was in the wake of the uncertain outcome from the 2004-2005 election that the Kuchma/Yanukovych camp dramatically reversed their preference for concentrated political authority. This effect was sustained during the 2010 election, where its "uncertain" nature produced a victory for the east-oriented camp, which has since, much like the Putin administration, taken steps to undermine the democratic component of elections in order to preempt similar uncertainty in the future (see Chapter 3).

ANALYZING VOTER CHARACTERISTICS AND VOTE CHOICE IN RUSSIA

This section uses the same strategy as the previous section to grapple with the reasons Russian political competition continued to favor the radical reformist incumbent in spite of the hardships voters faced as a result of the shocks from the economic transition. This went against expectations based on the literature regarding the relationship between economic hard times and electoral outcomes. The goal is to determine which voter characteristics served as better predictors of vote choice in order to get a sense of the structural underpinnings of elite competition. In the Russian case this

would reflect the reasons political elites remained quite insulated from society even as elections were introduced as the basis for selecting the country's leaders and policymakers. I begin by applying King's (1997) ecological inference solution to aggregated percentages of minority and rural populations across raions in relation to the vote share received by each of the candidates in the 1996 and 2000 presidential elections.

The Ecological Inference Solution

In this case, I estimated three bivariate models for each of the candidates in each of the elections for a total of twelve models. The first model estimated the proportion of ethnic minorities who supported Ziuganov and, correspondingly, the proportion of ethnic Russians who supported Ziuganov in raions during the 1996 election. Thus, in Figure 17, T_i is the observed proportion of votes for Ziuganov in raion i and X_i is the observed proportion of the total population that is ethnic minority in district i. The β_i 's (beta sub-i's) for this particular model are, therefore, estimates of the proportions of ethnic minority voters and ethnic Russian voters that contributed to Ziuganov's vote share in raion i.

Figure 17: King's Ecological Inference Solution Applied to Voter Ethnicity and Support for Ziuganov in the 1996 Presidential Election

T_i = Support for Ziuganov in District *i*			
	Supported Ziuganov	Did not support Ziuganov	
Minority	$\beta_i^{Minority}$	$1-\beta_i^{Minority}$	X_i
Russian	$\beta_i^{Russian}$	$1-\beta_i^{Russian}$	$1-X_i$
	T_i	$1-T_i$	

Correspondingly, the subsequent model assessed the differences among voters in regions with lower contributions to the country's GDP, and so in this case, X_i reflects the fraction of voters from poorer regions in each raion. The β_i 's (beta sub-*i*'s) for this second model are therefore estimates of the proportions of poorer and richer voters that contributed to Ziuganov's vote share in raion *i*; and so forth for rural and urban voters and across the various categories and for each candidate in turn (see Figure 18).

Figure 18: King's Ecological Inference Solution Applied to Voter Characteristics and Vote Choice in Russian Raions

T_i = Support for Candidate in Russian Raion *i*			
	Supported Candidate	Did not support Candidate	
Minority	$\beta_i^{Minority}$	$1-\beta_i^{Minority}$	X_i
Russian	$\beta_i^{Russian}$	$1-\beta_i^{Russian}$	$1-X_i$
	T_i	$1-T_i$	

	Supported Candidate	Did not support Candidate	
Low GRP	β_i^{poor}	$1-\beta_i^{poor}$	X_i
High GRP	β_i^{rich}	$1-\beta_i^{rich}$	$1-X_i$
	T_i	$1-T_i$	

	Supported Candidate	Did not support Candidate	
Rural	β_i^{rural}	$1-\beta_i^{rural}$	X_i
Urban	β_i^{urban}	$1-\beta_i^{urban}$	$1-X_i$
	T_i	$1-T_i$	

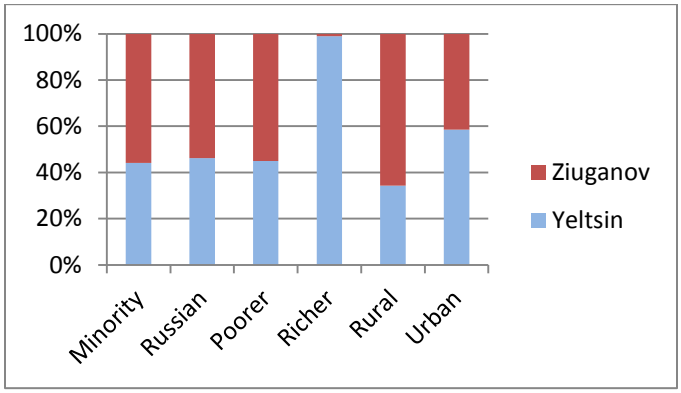
The IE estimates from the 1996 election show that class-based voting was certainly occurring (see Table 24 and Figure 18). The estimates indicate a dramatic difference in support for the leftist challenger compared to Yeltsin among voters in regions with the lowest contributions to the country's overall GDP. The rural-urban divide is also quite distinct, where Zuiganov not surprisingly had substantially greater support from rural as opposed to urban voters, at 48 compared to 27 percent respectively. This trend was reversed for Yelstin; an estimated 38 percent of urban voters supported Yeltsin compared to an estimated 25 percent of rural voters. Regarding the ethnic

component of vote choice, the differences were not especially pronounced, although minorities appear to have supported the leftist challenger at a slightly higher rate than they did Yeltsin.

Table 24: Ecological Inference Estimates of Voter Support for Yeltsin Compared to Ziuganov (1996)

	1996: Support for Yeltsin	1996: Support for Ziuganov
Ethnic Minority	34%	43%
Ethnic Russian	31%	36%
Worse-off Financially	31%	38%
Better-off Financially	98%	1%
Rural	25%	48%
Urban	38%	27%
N	*2611*	*2611*

Figure 19: EI Estimates of Voter Support for Yeltsin Compared to Ziuganov (1996)



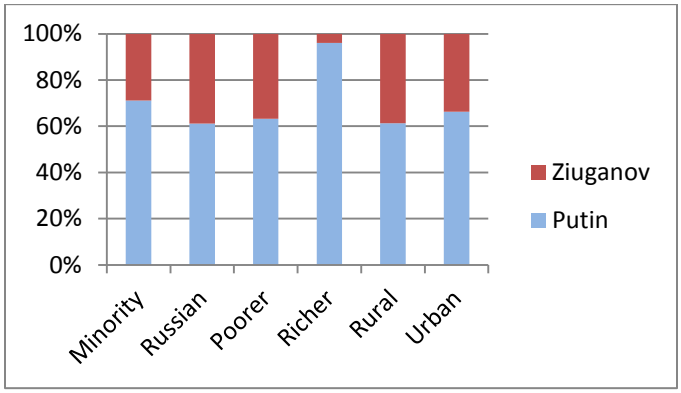
In the following election, where Ziuganov challenged Yeltsin's chosen successor Vladimir Putin, the results were similarly indicative of class-based voting. However, this finding only concerned the relative wealth of the region; the urban-rural divide appears to

have weakened significantly (see Table 25 and Figure 18). The ethnic component of vote choice moreover differed from the previous election; in 2000 minority voters were more likely to support Putin than Ziuganov.

Table 25: Ecological Inference Estimates of Voter Support for Putin Compared to Ziuganov (2000)

	2000: Support for Putin	2000: Support for Ziuganov
Ethnic Minority	64%	26%
Ethnic Russian	52%	33%
Worse-off Financially	55%	32%
Better-off Financially	24%	1%
Rural	57%	36%
Urban	53%	27%
N	*2611*	*2611*

Figure 20: EI Estimates of Voter Support for Putin Compared to Ziuganov (2000)



A potential cause of this surprising reversal is that this election marked the start of pervasive electoral fraud that would come to characterize Russian elections in the 2000s. Indeed, electoral fraud in Russia has been more prevalent in areas with denser ethnic

minority populations compared to Russian populations (Goodnow, et al. 2012). Arguably, this observed pattern resulted from efforts to preempt the regions from presenting a counter-balance to the concentration of power at the Kremlin center that arose with key challengers to Yeltsin (such as Primakov and Lushkov) in the late 1990s, whose bastion of support came from left-leaning regional leaders (see Chapter 4). It moreover occurred in tandem with the concerted effort by the Putin administration to "rein in" the regions; the policy of "vertical power structure" (Smith 2003) was designed to eliminate the remaining layer of checks and balances on executive authority produced by the country's federal structure. The potential fraud that emerged in the ethnic federal regions, in addition to the subjugation of the regions in the power structure, began almost as soon as Putin took office and was arguably a means for ensuring that democratic forces would not even out the relative strength of incumbent and opposition elites in a manner resembling what took place in Ukraine shortly thereafter. The results of the multilevel analyses that follow reveal this shifting nature of support for the challenger in the country's ethnic federal regions between the 1996 and 2000 elections.

Multilevel Models of Candidate Support

This section uses models similar to those applied to Ukraine to consider the influence of different voter characteristics on vote choice with appropriate contextual "controls." The general equations presented earlier in this chapter for the Ukrainian case are identical for the Russian case. There are, however, a few differences to note for the current case: the first level of analysis is at the raion rather than the district level; additionally, whereas "percent minority" accounted for the population of the ethnic Russian minority in Ukraine, "percent minority" accounts for the non-Russian population

in Russian raions; finally, the region-level effects considered in the Russian case include the relative wealth of the region, which is measured as the percentage of the regional contribution to the country's GDP, and whether or not the raion is located within an ethnic republic or autonomous orkrug instead of a non-ethnic oblast or krai.

Table 26: Multilevel Analysis of Voter Support for Incumbent Opponent (Ziuganov 1996 and 2000)

	Zuiganov 1996a	**Zuiganov 1996b**	**Ziuganov 1996b**	**Ziuganov 2000a**	**Zuiganov 2000b**	**Ziuganov 2000c**
Intercept	27.85 (1.48)***	27.87 (1.77)***	29.19 (1.64)***	28.29 (1.06)***	28.30 (1.25)***	28.45 (1.18)***
Raion-level:						
Percent minority	.0185 (.0128)	.0376 (.0184)**	.0036 (.0195)	-.0006 (.0107)	.0422 (.0153)***	.0122 (.0161)
Percent rural	.1483 (.0046)***	.1582 (.0051)***	.1565 (.0077)***	.04684 (.0038)***	.0588 (.0043)***	.0610 (.0065)***
Ethnic region		-.1148 (3.246)			.1822 (2.338)	
Wealthier region			-1.140 (.5954)*			-.3304 (.4296)
Region-level intercept effects						
Percent minority *Ethnic region		-.0030 (.0271)			-.0400 (.0226)*	
*Wealthier region			.0107 (.0118)			-.0129 (.0098)
Region-level slope effects						
Percent rural *Ethnic region		-.0479 (.0116)			-.0558 (.0097)***	
*Wealthier region			-.0064 (.0048)			-.0115 (.0040)***
Model fit:						
Df	5	*8*	*8*	5	*8*	*8*
AIC	18738	18724	18739	17797	17752	17790
BIC	18767	18771	18786	17826	17799	17837

Notes: The reported coefficients were estimated in STATA using full maximum likelihood; the dependent variable is the votes share of the challenger (Ziuganov) to the incumbent (Yeltsin in 1996 and Putin in 2000); level-1 n=2611, level-2 n=87; ***p<.01, **p<.05, *p<.1.

Table 26 contains the results of three multilevel models pertaining to the 1996 election and the three multilevel models pertaining to the 2000 election. Voters living in more rural areas—a characteristic that overlaps to a good extent with their relative poverty—were consistently more likely to support the leftist challenger than voters living in more urban areas. What's more, in 1996 the relative wealth of the region had a negative direct effect on the intercept, but no perceivable influence on the relative rate at which rural and minority voters lent support to the challenger. In 2000, however, rural voters in wealthier regions supported Ziuganov at a lower rate than in poorer regions. Controlling for regions' ethnic federal status indicated that minorities were on average more inclined to vote for the challenger in 1996 if they resided in the non-ethnic regions. But the direct and slope effects of such regions were nonetheless nil in the first election. However, minority as well as rural voters were less likely to support the challenger in such regions in 2000. As indicated above, this may have a basis in the relatively higher occurrence of electoral fraud, but the overall expectation is that the absence of a clear "periphery" effect made electoral challenges to the incumbent very difficult. These results greatly resemble the dynamics of the 1999 leftist-reformist electoral contest that occurred in Ukraine (see Table 21); the rural cleavage was certainly apparent, but it was vastly overwhelmed by the power of the ethnic and regional cleavage that had been activated by the time of the next Ukrainian election.

CONCLUSION: THE STRUCTURE BEHIND CONCENTRATED VERSUS SHARED POLITICAL POWER IN ETHNICALLY HETEROGENEOUS STATES

This was where the paths toward concentrated political authority diverged in the two cases. Opposition groups in Ukraine subsequently actively mobilized the "national identity" cleavage in order to challenge the incumbent east-oriented regime. Opposition

groups in Russia never achieved a similar momentum. Therefore, even though both incumbent regimes were actively trying to undermine the ability for "peripheral" forces to challenge their dominance via electoral fraud and other methods, such efforts were thwarted in only one of the cases. The strength of the east-west cleavage in Ukraine presented itself with vast levels of societal mobilization for both sides. The ambiguity over which side would win promoted a constitutional compromise for greater inclusivity.

The parties in this case had actively mobilized these fundamental underlying cleavages, which created far greater political competition than the previous efforts to activate the "economic vote" on the part of the leftist Symonenko. Whereas the incumbents Kuchma and Yeltsin managed to stay in power despite the dire economic hardship voters were experiencing, an incumbent's chosen successor, Yanukovych, was successfully challenged by a society that had mobilized along ethnic and regional lines. This subsequently became the primary basis of electoral competition in the country. Although economic divides remained perceptible, their effects on vote choice were vastly overshadowed by the far more substantial effects from ethno-linguistic divides. The nature of the country's cleavage structure was more conducive for the mobilization of voters; *and* when the more easily mobilized cleavages were activated, the decision to reduce the powers of the president and increase the powers of the legislature became an imperative for all elite parties in competition for political power.

The devastating effects of the economic transition on Russian and Ukrainian voters during the 1990s should have strengthened socioeconomic cleavages. Yet the socioeconomic foundations of vote choice proved to be far weaker than ethnic and regional components of voters' identification. These findings offer a piece of the puzzle about why elected leaders of some new democracies are more liable to adopt the inclusive institutions that are the hallmarks of liberal democracy, while others would

choose to consolidate power at the expense of other societal interests. In some cases the inclusive choice is reflected in the first constitutional bargain, and in other cases it is reflected in amendments to the constitution at a later point in time. This difference depends on societal levels of mobilization at the time of the initial constitutional choice. Whether underlying structures begin to matter at a later point in time, as the result of newfound voter mobilization, initially exclusive constitutions can, in fact, change over time in ways that are more or less conducive for the consolidation of democracy.

Chapter 6: Conclusion

In her book, *Understanding Institutional Diversity,* Elinor Ostrom (2005) presented a multi-layered model of institutional change. It is based on choices made by actors within "action arenas" in which they face a set of variables affecting their preferred institutional outcomes and the strategies for achieving their goals. These individual-level variables are nested within broader institutional and structural layers that moderate their effects; therefore, whenever the higher-level contextual parameters change, actors within the action arenas will reassess the costs and benefits associated with a particular institutional choice. Constitutional choice is especially fundamental, because it becomes the broader institutional framework within which lower institutional levels are nested. The choice of this higher layer of rules in a newly democratizing state is also more likely to be affected by the extent to which the basic societal context can, in fact, shape the variables affecting the constitutional action arena, because the institutional constraints that govern the process of constitutional creation—at the "meta-constitutional" level (see Figure 5 in Chapter 2)—are often ambiguous and subject to frequent and arbitrary change. This was the case in the constitutional processes in Russia and Ukraine, where intense conflict surrounded the "meta-constitutional" rules by which the new constitutions would be ratified.

Within this framework of institutional change, elites are expected to act strategically: to maximize their personal political and/or economic gains at minimum cost. Therefore, variables such as values, ideology, and culture are not expected to have a significant effect. Indeed, in the Russian and Ukrainian cases, actors with diverse political persuasions adjusted their preferences for a more or less inclusive constitutional

outcome whenever changes in the electoral environment changed the composition of the parliament and, in turn, changed actors' perceptions of the costs and benefits associated with their preferences. That fact underscores the relative importance of strategic-based explanations of institutional choice. If choices are based primarily on rational self-interest, where any normative commitments to liberal democratic principles among the key actors pale by comparison, the goal then becomes to uncover the conditions under which inclusive constitutional outcomes would, in fact, maximize the "utility" of the key actors. Such conditions—this dissertation argues—are based on the relative balance of power among the different elite factions; when it is more balanced there will be greater uncertainty over which faction will control the presidency, and so it makes the most rational sense to adopt a constitution that can include a greater diversity of interests in government; by contrast, if the balance of power overwhelmingly favors one interest or elite group, the choice to concentrate power in a singular presidency reflects the most powerful group's "maximized utility."

The balance of power among elite factions is, therefore, the key individual-level "action arena" variable in this study. Furthermore, the external conditions that determine the balance of power are critical for understanding new constitutional outcomes *in addition to* the reasons constitutions can later change in ways that are more or less conducive to democracy (see Chapter 2). If action arenas can be more or less constrained by external conditions, questions about when, how, and why "structure" begins to matter become equally important in an explanation of constitutional choice, durability, and change. In other words, when do insulated elite-led transitions toward democracy turn into "democratized" reflections of the major issues that separate voters in the country? The contextual effect of "structure" only matters, however, if voters can overcome the collective action dilemma and make their voices heard in the governing of their country.

The groups most affected by economic hardship in the two cases evaluated in this study were arguably too diverse and dispersed to act collectively. Moreover, ethnic and regional groups only managed to overcome the problems associated with acting collectively in the case of Ukraine, because the "orange" and "blue" voter groups represented very cohesive and unified voices. In the case of Russia, even though the regions were arguably among the most important counter-balances to the centralization of power in the Kremlin, they reflected a very diverse range of nationalities and economic interests that were far less inclined to mobilize around a single important issue. Therefore, elites at the helm of Russia's political transition have remained insulated from societal interests, which has resulted in the continual concentration of political power to the point that the regime is no longer a super-presidential semi-democracy, but is now at best a competitive authoritarian regime. Ultimately, with the demobilization of the "orange" forces in Ukraine, beginning with the dissolution of the Yuschenko-Tymoshenko Orange Coalition and the pervasive disappointment with the Yushchenko administration (see Chapter 3), Ukraine has reverted toward the centralization and consolidation of political power in the hands of a small group of elites. However, due to the quite balanced and coherent underlying structure of the ethno-linguistic pro-versus-anti-Russian cleavage, the current Yanukovych administration may not be able to maintain power as easily. At the least, attempts to falsify presidential election results in the future may well be met by a reaction similar to the events surrounding the "Orange Revolution," characterized by mass mobilization and the newfound incentive for the different elite factions to compromise.

The reasons that a particular newly democratized state creates an inclusive system of government and another one chooses to concentrate political power are, therefore, arguably highly dependent on the particular social structural context in the country.

Broadly speaking, societies in which groups of voters can more easily transcend the collective action problem at the ballot box are more likely to produce a balance of power among elite factions that more accurately reflects diverse societal interests. This inclusivity will then likely be institutionalized in the new constitutions. More specifically speaking, Ukraine had a very distinct dichotomous and balanced ethno-linguistic cleavage structure, which may seldom occur in other places. This explained the challenges to super-presidentialism for this particular case and cannot easily be applied elsewhere. The part of the argument that can extend to other cases, however, is the actor-centered first level of analysis, in which the *key* variable in whether or not elites will make the choice to adopt a more or less inclusive constitution is *the relative balance of power* among the different ideological factions. How that balance is achieved—that is, how elite-led transitions themselves become *democratized*—is a crucial part of any one country's story of transition. But looking at the balance of power itself is a step toward a basic general understanding of the vital process of institution-building in new democracies.

It is a conventional notion that a balance of power among elites fosters "pact-making" and power-sharing arrangements that can result in democratization (O'Donnel and Schmitter 1986). It challenges the general perception that only "democratic" interests should direct the process of transition from authoritarian rule (McFaul 2004). Similarly, it challenges the inverse of this perception that implies that "non-democratic" or old regime elites are more liable to concentrate political authority wherever they have a disproportionate amount of power (Easter 1996). According to the argument in this dissertation, values and ideology are secondary at best for determining the preferences of elites. "Democrats" are not expected to have a normative bias toward inclusivity any more than "non-democrats" are expected to necessarily have a preference for exclusivity;

elite actors in general are expected to act in their self-interest regardless of their ideology.[121]

This was the case across numerous junctures in the stories of constitutional creation in Ukraine (Chapter 3) and in Russia (Chapter 4). The trail of events in both of the cases revealed continuously changing preferences, including some rather dramatic "flip-flops," on the part of both "democrats" and "non-democrats," depending on their assessments of the costs and benefits associated with a particular constitutional outcome at a given moment in time. What about other countries in the post-communist region? Are inclusive constitutions associated with the representation of a greater diversity of interests in government at the time of their adoption? The following section assesses how well the basic "balance of power" component of the argument in this dissertation fares in countries throughout the post-communist region.

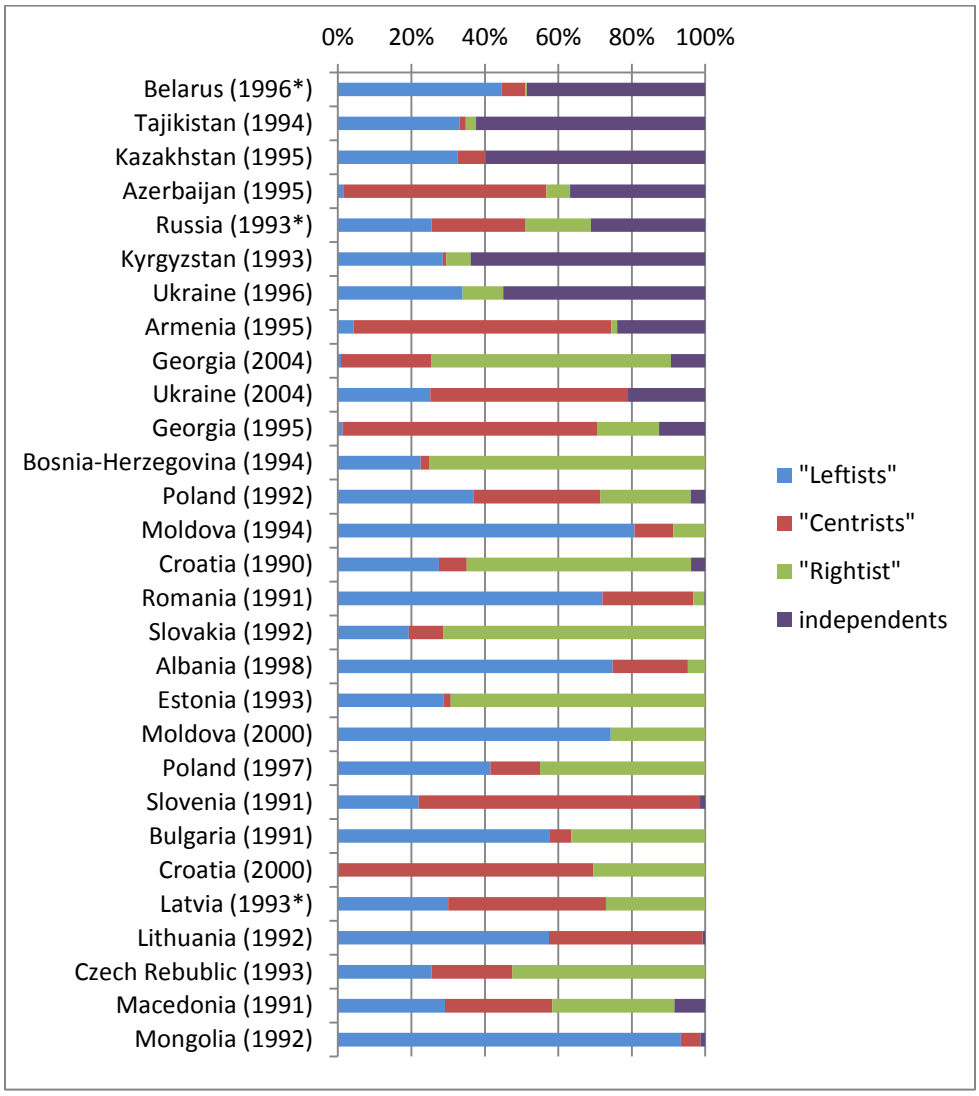
POLITICAL COMPETITION AND CONSTITUTIONAL OUTCOMES IN THE POST-COMMUNIST REGION

A comparison of the composition of post-communist parliaments and the extent of legislative compared to executive strength institutionalized in their new constitutions indicates that a balance of *ideological* differences certainly matters. The data for the latter include Fish and Kroenig's (2009) measure of legislature powers—the "parliamentary powers index" (PPI)[122]—and the data for the former are based on the ideological coding assigned to the members of the legislatures in all twenty-eight post-communist countries

[121] With the exception perhaps of the quite rare Vaclav Havels and Nelson Mandelas of the world.
[122] The index ranges from 0 to 1, where 0 is the lowest level of parliamentary power and 1 is the highest level of parliamentary power. Instances with the highest concentrations of presidential power are therefore closer to 0.

in Central and Eastern Europe and the former Soviet Union at the time the respective constitutions were adopted (Armingeon and Careja 2004).

Figure 21: Balance of Power in Post-Communist Legislatures at Time Constitutions were Adopted[123]



[123] Source: Klaus Armingeon and Romana Careja, *Comparative Data Set for 28 Post-Communist Countries, 1989-2004*, Institute of Political Science, University of Berne, 2004, http://www.ipw.unibe.ch/content/team/klaus_armingeon/comparative_political_data_sets/index_eng.html, accessed July 4, 2013.

Figure 21 ranks the countries from weakest legislature to strongest, indicating the year of adoption of the constitution in parentheses, and the proportion of "leftists," "centrists," "rightists," as well as independents in countries' respective parliaments at the time of the adoption of their respective constitutions. What immediately stands out in this chart is that, in the countries in which the constitutions concentrated power in the executive and provided scant power for the parliament, the composition of the legislatures consisted of substantial contingents of "independent" deputies (indicated by purple in the chart).[124] Indeed, in the case of Ukraine, the contingent of independents in the parliament was mostly comprised of pragmatic rather than programmatic-oriented deputies who tended to back the president in exchange for patronage (see Chapter 3). This may also have been the case in Belarus, Tajikistan, Kazakhstan, Azerbaijan, Kyrgyzstan, and the other cases that similarly had large numbers of independents *and* similarly adopted exclusive constitutions, although further research into the specific cases would be needed to confirm this. Regardless, it is striking that diverse balances of *ideological interests* are associated with more inclusive constitutional outcomes. The exceptions are Moldova and Mongolia, which were overwhelmingly dominated by leftist forces but adopted stronger legislatures; the Mongolian legislature is actually the strongest in the post-communist region. In the other cases, sometimes the majority tended toward the left, in others toward the right, and in others toward the center, but the fact that these groups were representative of societal interests—unlike the general pragmatism associated with independents—appears to have promoted the choice for more representative and inclusive constitutions.

[124] The Russian case, marked with an asterisk, does not fit well with the other cases because the legislature was elected the same day as the adoption of the constitution, after the traumatic events that followed the dissolution of the parliament in the autumn of that year.

For example, the factions in the Polish Sejm at the time it reached an interim agreement on the balance of power between the president and the parliament in 1992—its "Little Constitution"—were distributed quite equally across the ideological spectrum, with 36.9 percent on the left, 34.5 percent in the center, 24.5 percent on the right, and just 3.9 percent of deputies remaining unaffiliated. That initial interim constitutional bargain resulted in a quite balanced division of powers between the executive and legislative branches. Its parliamentary powers score was .65, which, for comparative purposes, was more inclusive than the bargain reached in Ukraine in 2004, which strengthened legislative powers to a PPI of .59 compared to the original Ukrainian PPI of .5 associated with the 1996 constitution. Furthermore, the final version of the constitution ultimately agreed on in the Polish Sejm on April 2, 1997, was even more inclusive—a semi-presidential system with a PPI of .75. At that time the distribution of power among factions was more dichotomized with fewer centrists, who held 13.5 percent of the seats, and stronger contingents of leftists at 41.5 percent and rightists at 45 percent. What's more, at that point every deputy in the Polish Sejm was affiliated with a faction. Likewise, in Lithuania, the constitution adopted by national referendum on the same day of the elections to its new parliament—the Seimas—reflected a very balanced cleavage comprised on the one hand of leftists and on the other of nationalists; 57.5 percent of the deputies elected that day were members of the successor party to the Communist Party of Lithuania—the Democratic Labor Party of Lithuania—and 41 percent of the elected deputies belonged to President Vytautas Landsbergis's nationalist Sajudis party; not one of the deputies belonged to a centrist faction and fewer than 1 percent of the deputies were unaffiliated. Under these quite ideologically balanced conditions, the country adopted a semi-presidential constitution with a PPI score of .78—one of the strongest parliaments in the post-communist region. The other cases present a similar picture: The

key to more inclusive constitutional outcomes was some variant of *ideological* competition among factions in government.

IMPLICATIONS FOR NEW DEMOCRACIES WORLDWIDE

The fact that very diverse constitutions emerged across the countries attempting to democratize in the wake of the demise of communism raises some fundamental questions connected to the literature on the relationship between constitutional design and democracy. First, if parliamentarism according to Linz (1990), or more broadly stronger legislatures according to Fish (2006), will help facilitate the process of democratization, then what explains the initial decision to adopt a more or less inclusive constitutional framework? Second, if initial constitutional choices are not the most conducive to democratic prospects, then what explains the potential for them to change at later points during the transition before the regime can re-consolidate as authoritarian? By then the constitution will be more likely to "stick" over the long term. What changes in the circumstances of a transition will cause elites to want to renegotiate their initial constitutional bargain? These questions get at the heart of the basic objective of this dissertation: to understand the conditions that facilitated the concentration of political power in Russia compared to the conditions that created interruptions to similar tendencies in Ukraine.

The argument is conceptualized within a general framework for understanding both questions about the origins of constitutions and the prospects for constitutional change over time. The transition from communism included the enfranchisement of voters; the introduction of elections gave voters the prerogative to determine who would run the country during the transition period. While some of these fledgling democracies

had cohesive mobilized social groups from the beginning of the transition, including the former soviet countries with strong grass-roots independence movements such as in the Baltic states, others were primarily directed by elites with minimal linkages with voters, in spite of the fact that they were in their positions of power as a result of electoral processes. In this way, depending on the level of social mobilization, some of the transitions were democratized from the start. In some other cases, however, it took time for salient political issues to begin to mobilize voters in a way that would cause the balance of power to be more equally distributed among the different elite factions; or at the least, more accurately reflect the distribution of societal interests. In some cases, such as in Russia, this never occurred and elites in control of very centralized institutions of power managed to steer the political process away from democracy to completely minimize any future risk of being removed from power. In other cases, such as in Ukraine, the balance of power has changed over time, depending on levels of societal mobilization and the cohesiveness of the opposition. At the time of this writing, as supporters and opponents of President Yanukovych hold large demonstrations, the west-oriented opposition in the Rada is attempting to build an electoral coalition similar to the Yushchenko-Tymoshenko "Orange Coalition" that successfully challenged the dominance of the east-oriented regime in 2004.[125] Whether super-presidentialism will persist over the long term in Ukraine remains an open question, but the structure of its deep historically forged divisions will arguably present a permanent challenge to attempts to consolidate power within a small group of elites.

Addressing the question of whether constitutions can change in ways that are more or less democratic introduces a new component to the extensive debate over the

[125] "Protesters Square Off In Kyiv; Opposition Joins Forces," RFE/RL, July 15, 2013, http://www.rferl.org/content/ukraine-protests-politics/24990148.html, accessed July 15, 2013.

most appropriate and conducive constitutions for democratic consolidation. An institutionalist paradigm implies that constitutions matter for the consolidation of democracy. Indeed, the case of Russia demonstrated how the "super-presidential" upper hand of the president was a key reason significant challenges to the president's authority were unsuccessful (see Chapter 4). Yeltsin used his power over the nomination and dismissal of the prime minister to regain the upper hand, and ultimately install Putin as his successor and successfully marginalize key opposition figures. In the absence of a real threat to his ability to control the presidency, neither he nor his successor ever faced the incentive to disperse some of the power of the executive to the legislature and/or the regions. In fact, quite the opposite occurred and the country's nascent democracy ultimately fizzled out. However, the broader question of why the country's failure to democratize is linked to the question of why the incentive never arose to change the constitution in a way that would incorporate a wider range of interests in the governing of the country. New constitutions are usually adopted after dramatic "exogenous shocks," such as the collapse of the Soviet Union or the regimes ousted by mass uprisings during the "Arab Spring". These constitutions, however, are not always durable. More exclusive constitutions can later become more inclusive, as occurred in Ukraine, and more inclusive constitutions can later become more exclusive, as occurred in Georgia.

The framework for understanding constitutional origins is essentially the same for understanding constitutional change; actors will assess and reassess the costs and benefits associated with a constitutional choice as external circumstances shift. These shifts are not always sudden, as with the collapse of the previous regime, but also gradual as civil society grows and voters begin to mobilize and, in turn, present a challenge to elites' incentives to maintain the status quo. The more competitive elections the more untenable it will be for elites to maintain a super-presidentialism system, because it comes with the

risk of losing power completely—at least for a time—if opposing interests were to win the presidency.

The current transitions in the "Arab Spring" countries may reflect a similar dynamic. Egypt and Tunisia, for example, have had very different recent constitutional processes. In the case of the former, initial elections created a balance of power in government that overwhelmingly favored the Islamist camp. During the January 2012 parliamentary elections, the Muslim Brotherhood's Freedom and Justice party and a conservative Salafi coalition won 70 percent of the seats between them.[126] Although the courts later dissolved that parliament, the constitutional assembly it created to draft the country's new constitution was overwhelmingly one-sided. What's more, in November of 2012, President Morsi issued a series of Yeltsinesque constitutional declarations that were designed to further concentrate power in his office. However, the budding super-presidentialism in Egypt has been at least temporarily thwarted by mass mobilization and the resulting suspension of the constitution and ouster of the president by the "*poder moderador*" of the military (see Linz 1990: 54). In Tunisia, by contrast, although the Islamist Ennahda Party won a substantial 41 percent plurality of seats during the October 2011 parliamentary election, they entered into a coalition with two center-left parties to form a majority coalition. The greater balancing effect in this case appears to have shaped elites' constitutional preferences in a dramatically different fashion from that in Egypt. The process of constitutional bargaining in Tunisia has been characterized by considerable compromise, and the country's nearly complete constitutional draft at the time of this writing reflects a very high degree of inclusivity. The different conditions and

[126] The two parties are not necessarily cohesive ideologically—the latter is particularly conservative—but the counterbalance represented by the secular groups came in at a considerable distance from the two frontrunners; the frontrunners won 47.2 and 24.3 percent of the seats, in contrast to the secular party that came in third with just 7.6 percent of the seats.

different outcomes in these two cases are consistent with the argument presented in this dissertation: initial elections in one of the cases resulted in a better reflection of societal interests in government and a constitutional process that promoted a more inclusive constitutional outcome; initial elections in the other case appear to have been biased in favor of the most organized political forces which would have excluded the interests of the secular opposition to a disproportionate degree and resulted in a more exclusive constitutional outcome. Although the outcome of the current Egyptian crisis is impossible to predict, recent events reflect a similar balancing of political forces that occurred with the mass mobilization of voters in Ukraine that at least temporarily mediated attempts to concentrate political authority to the extent observed in the case of Russia. The relatively consistent pattern of events in an environment radically different from the post-communist context helps support the basic premises of the argument presented in this dissertation.

A takeaway point for policymakers and ongoing forecasts about the democratic prospects of transitional regimes is that elites' values and ideology will likely play a secondary role to their utility-maximizing objectives. When creating new institutions, elites of any political stripe would be more likely to want to adopt a framework that represents the interests of diverse societal interests if the bargaining conditions *mimicked* a Rawlsian veil of ignorance, rather than on the basis of normative commitment to democracy. Accordingly, the level of competition *among diverse ideological interests* will likely prove to be more important than whether reformist, communist, secularist, Islamist, or whatever forces are in power during regime transitions.

Appendix A: Abbreviations and Acronyms

REFERENCES FOR ARCHIVAL MATERIALS

F. (number); Op. (number); D. (number); L. (number) – Fond; Opis'; Delo; List (Russian: Collection; Register; Folder; Sheet)

F. (number); Op. (number); Sp. (number); Ark. (number) – Fond; Opys; Sprava; Arkush (Ukrainian: Collection; Register; Folder; Sheet)

ARCHIVES

AVR Ukrainy – Arkhiv Verkhovnoi Rady Ukrainy (Archive of the Verkhovna Rada of Ukraine)

GARF – Gosudarstvennyi arkhiv Rossiiskoi Federatsii (State Archive of the Russian Federation)

TsDAHO Ukrainy – Tsentral'nyi derzhavnyi arkhiv hromads'kykh obiednan' Ukrainy (Central State Archive of Public Organizations of Ukraine)

TsDAVO Ukrainy – Tsentral'nyi derzhavnyi arkhiv vyshchykh organiv vlady ta upravlinnia Ukrainy (Central State Archive of the Higher Organs of Power and Government of Ukraine)

ORGANIZATIONS, POLITICAL PARTIES, AND FACTIONS

BYuT – Bloc of Yuliia Tymoshenko (Ukraine)

Congress – Congress of National Democrats (Ukraine)

CPSU – Communist Party of the Soviet Union

CPU – Communist Party of Ukraine

CPRF – Communist Party of the Russian Federation

LDPR – Liberal Democratic Party of Russia (Zhirinovskii)

Rukh – Narodniy Rukh Ukrainy (People's Movement of Ukraine)

SPU – Socialist Party of Ukraine

Appendix B: Transliteration and Translation

TRANSLITERATIONS

All Russian words are transliterated using the American Library Association and Library of Congress (ALA-LC) Russian Romanization Tables available online at http://www.loc.gov/catdir/cpso/romanization/russian.pdf, accessed July 12, 2013. Exceptions:

(1) Three "soft" vowels **я**, **е**, and **ю** are transliterated as **ya**, **ye**, and **yu**, when they appear as the first letter in the word. All other cases follow the ALA-LC transliteration standard **ia**, **e**, **iu**. E.g., **Ye**ltsin instead of **E**ltsin.

(2) The apostrophe sign **'** to represent the soft sign **ь** is omitted in proper names with widely accepted English language spellings. E.g., Yeltsin instead of Yel'tsin.

All Ukrainian words are transliterated using the standard for Ukrainian Romanization adopted by Resolution No. 55 of The Ukrainian Cabinet of Ministers on January 27, 2010, available online at http://zakon4.rada.gov.ua/laws/show/55-2010-%D0%BF, accessed July 12, 2013.

TRANSLATIONS

All translations are the author's, with the exception of direct quotations of translated text in secondary English-language sources.

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