

Consensus-Building and Good Governance – A Framework for Democratic Transition

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1. Introduction: Ukraine at the Crossroads

After ten years of transition, Ukraine is at the crossroads. The 2004 presidential elections may be seen as the key for the development of democracy. The key actors are not only two presidential candidates with quite different views about Ukraine's future, but also the former president including his administration, whose efforts to influence the elections have inherently damaged and endangered democratic development.

When Ukrainian transformation started in the early 1990s, the country had to face three challenges simultaneously: national consolidation, establishing democracy and building a market economy. Political actors saw themselves confronted with a difficult situation. They had to consolidate a fragmented and heterogeneous state. Independence was threatened by the Russian Federation as a dominant neighbor. A rather weak civil society and equally weak democratic traditions along with a very high degree of corruption hindered fast and sustainable political reforms. The special interests of economic groups were stronger than their interest in modernizing the country.¹

Whereas the initial phase of Ukraine's transformation was marked by the task of maintaining national unity and independence, political actors failed to create an effective and stable institutional framework. Various power struggles led to political and economic instability. As was somewhat typical for post-Soviet states, conflicts arose between the members of the administration, who styled themselves as backers of reform, and the Parliament, which was seen as an impediment to reform. (...) President Kuchma managed to put a stop to these negative trends during his second term of office. Together with Prime Ministers Yushchenko and Kinach, the president was able to establish a reform-oriented government. (...) Moderate growth and structural reform halted the economic downturn."²

In a worldwide comparative perspective, Ukraine is among the more successful transformation states—compared with other European countries, however, it is among the less successful cases.³ But even if the last five years have shown considerable progress on reform politics in Ukraine and the political system has increasingly stabilized, the country still has a long way to go on the road to consolidated liberal democracy.

Decisive Role of Elections

Altogether it seems that a defective democracy is on its way to being solidified in Ukraine. Democratic procedures and institutions have been set up; however, words must be matched with deeds in the coming years in order to establish an appropriate political culture and accompanying democratic consolidation. In this respect, democratic elections—including the presidential election in 2004—play a decisive role at these crossroads of Ukrainian development:

¹ See Country Report Ukraine, Bertelsmann Transformation Index 2003: www.bertelsmann-transformation-index.de

² *ibid.*

³ The Ukrainian Transformation Management is ranked as 39. of 116 countries in the BTI 2003 Ranking and categorized as "Successful Management with weaknesses"; See www.bertelsmann-transformation-index.de

- As a litmus test, the election process is a very strong indicator that can provide information about the status of any given democracy. Democracy in Ukraine has to assess whether and to what extent the ruling party and the related interest groups accept common rules for the division of political power. Other questions include: How free and fair are the elections? Are there equal opportunities for each candidate? Is there a free flow of public information? Are there attempts at manipulation? Is there already a sustainable political culture?
- In the transition from authoritarian rule to democracy, elections are categorized as an important step toward implementing the rules and procedures of a democratic system, and also as the mechanism for the democratic division of power. In the special situation of defective democracies, free and fair elections are the most probable opportunity to bring stagnating reform policy on track again. They force political actors to seek legitimacy, enable a broad discussion on reform perspectives and allow people and civil society to articulate their demands. The deficits of the Ukrainian political system can be best overcome if voters demand change.
- Viktor Yushchenko and Viktor Yanukovich are two candidates who can be counted within the democratic camp. It has to be emphasized that these elections are thus a kind of victory for democracy, because there is—in contrast to other CIS countries—a real democratic alternative. Citizens of Ukraine thus have democratic choices available and must carefully consider the direction of further reforms.

In earlier presidential and parliamentary elections in Ukraine, the character and results of the process indicated and reflected the political system's state of affairs. The same is true for the run-up to the 2004 campaign, which is as dramatic as a good thriller: President Kuchma tried in 2000 to extend his powers and was stopped by the Verkhovna Rada (Parliament). In 2003 he tried to extend the second presidential term to 2006 but due to growing criticism he withdrew his proposal. In 2004, Kuchma proposed a new election law and later came up with a constitutional reform that would have led towards parliamentary democracy. Both were responses to the demands of the opposition and both were also cancelled by the Rada. Foreign observers assumed in advance that Ukraine would undergo the "hardest and dirtiest elections in her short history as an independent country."⁴ As a matter of fact, these expectations were fulfilled during the campaign and after the first ballot.⁵

This state of affairs clearly indicates some shortcomings in Ukrainian democracy. On one hand, it can be seen as a farce and demonstrates clearly that many important political agents are "playing with the rules instead of playing by the rules." In a comparative perspective, however, we can view this development in a more positive light. Clearly, the president's power was not sufficient to implement his reform ideas against the will of his opponents. As in other young democracies, it seems that the current president is fighting with his back against the wall, playing for time and eventually trying to withdraw as much as possible without suffering negative personal consequences.

⁴ See: Ralf Wachsmuth and Sebastian Fiebrig: Die Ukraine sechs Monate vor den Präsidentschaftswahlen. Die Reform der ukrainischen Verfassung: eine endlose Geschichte, Kiew, Mai 2004, p. 12.

⁵ See: Thomas Urban: Wettkampf mit unfairen Mitteln; Peter Hilkes: Die Opposition lebt gefährlich, both in: Süddeutsche Zeitung, 30.10.2004, p. 2; See: Massive Behinderungen bei der Ukraine-Wahl, in: www.spiegel-online.de, download 1.11.2004.

Ukraine's future constitution remains an open question, just as one cannot predict either the results of elections or general willingness for further reforms. Therefore, as Ukrainian transition progresses, it will be of particular importance to analyze how intensely the former president tried to secure the victory of a chosen successor, one who would also guarantee Kuchma immunity. At any rate, the political alternatives for Ukraine at this crossroad seem clear: On one hand it is possible that a defective, illiberal democracy similar to Russia's could be consolidated in Ukraine. On the other hand, Ukraine still has the opportunity to advance step-by-step toward a western-style, liberal democracy.

Structure of This Paper

Like any transition country, Ukraine has special problems and unique power constellations. However, in a comparative perspective we can see that countries in transition share many characteristics as they proceed from authoritarian to democratic structures. Beyond this background, section two empirically analyzes important factors and key elements along the path to a liberal democracy. In section three, the framework for good governance will be sketched out. In 1997, this concept was introduced by the World Bank and plays a crucial role in the transformation debate. Good governance entails using political authority to achieve the best possible progress in relation to the resources available.

In our context, it is important to evaluate actors, structures and processes in order to classify where Ukraine stands today in terms of its potential for democracy. This paper discusses some theoretical and empirical findings in the field of transformation management, which might be relevant for further development in Ukraine. As a conclusion, suggested steps towards a participatory society will be offered. It will be argued that, in addition to economic growth the strengthening of the democratic consensus in all parts of society is a decisive factor supporting democratic consolidation in Ukraine.

2. Transformation to Democracy in a Comparative Perspective

The transformation of a political and economic system is one of the most challenging and difficult processes a society can undertake. Inevitably, older, customary structures are changed, resulting in winners and losers compared to the status *ex ante*. Less fortunate players may struggle against these changes. The resulting dynamics of transformation processes have undermined the control of these processes in many countries, causing complete failure in some. Two decades ago it was still debated as to whether these processes could be controlled at all: "The picture of a successful system transformation contradicts everything that sociology and political science have presented as basic, axiomatic truths regarding possibilities for extensive societal reform."⁶

Many successful transformation processes worldwide have contradicted this skepticism. Nevertheless the negative expectations reflect some truths that must be acknowledged even today.

⁶ Helmut Wiesenthal, (ed.): *Gelegenheit und Entscheidung. Policies und politics erfolgreicher Transformationssteuerung*, p. 21.

A multitude of actions comprises the process of transformation. Many of these actions bear considerable social costs. This can jeopardize the acceptance of the general objectives of democracy and a market economy, resulting in a blockade against the effective political measures that are essential to achieving these goals. Inadequate resources also aggravate these problems. Political elites in transformation countries also often lack the strategic capabilities necessary to pursue reforms, questioning or even contradicting the prevalent political culture. The following chapter discusses some important aspects that are relevant for any transformation strategy.

2.1 Functions of Legitimacy and Democracy

The crucial issue behind the success of reforms is not the difference between a democratic and an authoritarian state, but between a weak and a strong state. The most important feature of a strong state is its legitimacy. Generally, a legitimate government needs fewer devices to secure power than a government without legitimization.

There are various sources for legitimacy: (1) economic success, especially the impression that the government is able to continuously improve the wealth of a society and its individuals; (2) justice and individual rights, meaning dependable and accepted norms and laws; and (3) a high degree of consensus on important societal orientation and decisions. Depending on social development, it is therefore wise to take into account the wishes of the people, i.e. the articulate elite, whereby the process of developing an informed opinion puts limitations on a government during the course of the development process. Given a high degree of democratic consensus, elections are an ideal instrument to legitimize political decision-makers.

Particularly in the later stages of transformation, “social engineering” from above against the will of the people becomes more and more problematic. Economists and supporting institutions therefore increasingly are moving away from the idea that well-meaning authoritarian planners can implement economic reforms without opposition. Though democratic states must take articulated interests into greater consideration, normally they have greater control problems in the implementation of reforms than do authoritarian states. The old theory of the superiority of autocratic regimes cannot, however, generally be confirmed empirically.

Democracy is the political principle of law and order that unites individual free will and society in the most productive way. All in all, the 117 democratic states today⁷ show a very broad variety of institutions, practices, orientation and success. Of course, some of the most authoritarian countries refer to themselves as a “democracy” (i.e. North Korea). However, there are three minimal requirements that any “real” democracy must fulfil:

1. a basic level of freedom of assembly, freedom of opinion, freedom of the press, as well as universal suffrage and the right to campaign for public office;
2. selection of rulers through free and competitive elections (competition for political mandates), in practice as well as theory;
3. political power subordinate to law, protection against misuse of power and protection of human rights.

⁷ See Freedom House, *Freedom in the World 2003*, Washington 2004.

Democratic elections alone are not sufficient for a functioning democracy. While the governmental system can vary and should express the local social arrangements and traditions, each democracy needs a set of checks and balances that actually express both the will of the people and the competition of ideas adequately. These include a government capable of implementing policy that can be controlled by the opposition; stable institutions and an independent judiciary that watches over adherence to the procedures and the rights of all citizens; parties and interest groups that are able to participate in the political process; and consistency of the constitution and the constitutional order.

What makes liberal democracies in the long run superior to other political systems is their high degree of legitimacy. Because by nature they depend on the will of the majority, checks and balances, and the rule of law, functioning democracies are able to provide the people with democratic alternatives. To keep their power, democratic governments are forced to create decisions that are not too far from the will of the society. In addition, democracies are more flexible in terms of adapting to new challenges. However, if the democratic system fails to produce a degree of stability and wealth, its legitimacy will inevitably decrease.

2.2 Prerequisites for Successful Democracies

After the collapse of the Iron Curtain and the end of the communist regimes, the ground seemed to be prepared for democracy and market-based economic systems. Francis Fukuyama even declared “the end of history.” Time has proven this verdict to be too optimistic. Many democracies, especially in developing countries, have failed after their formal implementation. Worldwide, the phenomenon of illiberal democracy is visible. Bosnia is the classic case of democracy as prelude to ethnic slaughter. In Latin America, it is a common joke that democratic elections are “a magnificent invention that allows the people to choose the persons who will steal, plunder and lie for the next four years—and in fact with full immunity.”⁸ For a democracy to function, obviously a basic inventory of political, economic and social minimum prerequisites must be met. Even if there are no absolutely certain guidelines, some factors may be deduced from previous transformations:

- Independent of the type of regime, there can be no significant progress at any stage of a transformation without *functioning decision structures*. For this reason, the guarantee of leadership capability is the logical starting point for every further consideration and a central factor in all stages of systemic change. Hence, if the state fails to be stable, then internal and external enemies serve the purpose of power preservation. Consequently, every system needs effective structures guaranteeing the capacity to act and the monopoly of legitimate force.
- *Economic success*: Even in the initial phase, the transformation depends highly on confidence and success. In Africa, many transitions failed because they could not deliver the most basic services: security and nutrition. Any government will fail if it is not able to meet these needs. However, authoritarian regimes often are pressured to liberalize when they have achieved economic success to some extent. Correlation analyses show that democracies with an average annual per capita income less than

⁸ Nicolas Richter: Griff nach der harten Hand, in: Süddeutsche Zeitung v. 18.8.2004, p. 2.

\$1,000 are very precarious. An average annual per capita income between \$1,000 and \$3,000 raises the chances for democratization. Defective democracies have an average annual per capita income of \$3,392.⁹ If a democracy exists in a country with an average annual per capita income of more than \$6,000 the democratic system has become “impregnable” and can be expected to last.¹⁰ In a nutshell, the strong connection between economic prosperity and the success of democracy is clear.

- Without a *democratic culture*, elections could allow the winners to use state resources to exclude the losers from participation in power and rights. In such situations, election results can be the starting point for unrest or civil war. Benjamin Barber wrote that there can be no democracy without a democratic culture. “Today, we often seem to forget this simple lesson of the priority of culture to politics. We think a multiparty system or an independent judiciary will endow traditionally despotic societies with all the fruits of liberty. We FedEx Albania the Bill of Rights or we e-mail Afghanistan Australian ballots and assume democratization is underway. But culture counts.”¹¹

Different factors can be subsumed in this context: From an empirical perspective, the strength of democratic traditions is very relevant. Societies like those in Russia or Ukraine with a long authoritarian history have more difficulties adapting to democracy than do societies with shorter authoritarian episodes. Another important element is the elite consensus: Democracy must be “the only game in town” (Przeworski) for all relevant actors. This means not only to allow and hold elections, but that elites have to implement democratic rule with determination instead of manipulating democratic instruments. Especially during the time of transition, powerful veto actors and authoritarian enclaves such as the military pose a great risk to democracy. The prevalence of democratic orientations and the strength of civil society play a decisive role. “It is generally accepted: The stronger and more autonomous a civil society is, the less likely it is to accept a non-democratic regime. The strengthening of civil society’s energies from the bottom up, within a non-democratic regime, usually accelerates its decline and raises the chances for long-term liberalization and democratization.”¹²

- Also, the effect of the international environment should not be underestimated. It is not only that almost no country in the globalized world succeeds in reaching sustainable and substantial transformation successes without external support. Comparative studies prove that a democratic environment offers decisive incentives for domestic processes of democratization, because it allows direct comparisons among different systems and provides a successful model for the implementation of reforms. Good examples for this are the transformation processes in Europe. Here, the European Union has—thanks to its successful democratic and economic practice—on the one hand served as reference point for the “return to Europe,” and has on the other crucially supported such processes through integration and cooperation offers. As a matter of

⁹ See Wolfgang Merkel/Hans-Jürgen Puhle: Von der Diktatur zur Demokratie. Transformationen, Erfolgsbedingungen, Entwicklungspfade, Opladen 1999, p. 26.

¹⁰ See Przeworski et al., 1996, S. 43. Also the BTI underlines a clear relation between economic development and the level of democracy, see. Bertelsmann Transformation Index, a.a.O., Chapter 2.

¹¹ Adapting to the Culture of Democracy, in: Sondra Myers (ed.): The Democracy Reader, New York 2002, p. 191.

¹² Merkel and Puhle 1999, p. 84.

fact, geographical and cultural proximity to the democratic Europe was a very important aspect for the success of national democratization processes.

The ideal constellation for democracy can be summed up with the following key words: modern and efficient market economy, multi-layered society with a strong democratic culture, autonomous civil society with viable cultural, societal, economic and political elites as well as minimal social, ethnic and religious divergences. Furthermore, the state should be powerful and independent and be settled in a democratic environment.¹³ Of course, these factors only are beneficial, rather than exerting a mechanical influence. In Mali, for example, democracy has survived, despite extreme poverty, for more than ten years.

2.3 Defective and Illiberal Democracies

Failing democracies, however, are not the only possible outcome of transformation processes in countries lacking these prerequisites. “Across the globe, democratically elected regimes, often ones that have been re-elected or reaffirmed through referenda, are routinely ignoring constitutional limits on their power and depriving their citizens of basic rights. This disturbing phenomenon – visible from Peru to Palestinian territories, from Ghana to Venezuela – could be called ‘illiberal democracy.’”¹⁴ Illiberal and defective democracies seem to have overcome authoritarian systems irrevocably, but are poised in an unfinished status that is consolidated and shows some stability.

Russia is a perfect example. A coup d'état followed extensive reforms that lacked sufficient support. Boris Yeltsin successfully fended off this revolt. However, “what Yeltsin actually did on top of that tank was read decrees, unilateral presidential edicts that would become a hallmark of his eight-year reign. (...) The Russian path has, wittingly or not, violated the two key lessons that one can glean from the historical experience of democratization: emphasize genuine economic development and build effective political institutions.”¹⁵

Fifty-two of 116 states analyzed by the Bertelsmann Transformation Index are identified as defective democracies.¹⁶ In the long run, they pose great risks for governance and economic development. It is common in these states that they cannot safeguard political freedom and equality adequately. Instead, these basic rights are impaired in order to allow advantages for powerful groups within the state or society. The strength of these countries is evident considering the progress of political participation, especially free and fair elections. Nonetheless, there are important weaknesses that frequently appear together:

- Deficiencies concerning the rule of law prevent sufficient checks and balances, and public control over officeholders in some cases. Usually this is accompanied by abuses of authority and corruption. Presidential systems seem to be especially prone to this problem.

¹³ *ibid*, p. 101.

¹⁴ Fareed Zakaria: *The Future of Freedom. Illiberal Democracy at home and abroad*, New York 2003, p. 17.

¹⁵ Zakareea 2003, p. 90., p. 92.

¹⁶ See here and above: Peter Thiery, *Globale Trends, Entwicklung und Transformation in der Analyse*, in: Bertelsmann Stiftung (ed.): *Bertelsmann Transformation Index 2003*, Gütersloh 2004.

- In other cases, low levels of civil rights or even unconcealed human-rights abuses can be traced to insufficient rule of law. Usually this is combined with governance deficiencies.
- A third typical pattern of defective democracies is the existence of powerful groups that possess rights beyond democratic norms. In many countries the military is one of these groups and claims a special political status. But there are other groups—owners of large estates, the clergy, the mafia—that demand special rights. This can lead to a situation in which elected officeholders have no effective governmental power.

Clearly, further democratizing a defective democracy is a difficult task and certainly not a process that continues on its own. The chances for these democracies are based on advancing political participation, leading to stronger civil societies that can push for reforms, thus ousting these deficits.

2.4 Feasible Paths of Transformation

If democracy is not feasible for or not working in every country at every stage of a transition process, then the importance of adequate transformation strategies grows. Looking retrospectively at advanced development stages, it becomes clear that there are fundamentally different ways of achieving success in development and transformation processes, with cultural and historical factors having the greatest influence on the path taken. For instance, in South Korea and Taiwan, the ongoing economic development provided modernizing pressures that were actually able to spread to society and politics. In contrast, in the Central and Eastern European transformation states there are indications that the social desire for a speedy introduction of political freedom would probably not have facilitated a comparable path without violence. Viewed overall, it becomes clear that very different courses of development can be deemed effective for different societies and levels of development.

This also applies when one looks into the details. Numerous sequential models and recommendations, such as the oft-cited “Washington Consensus,” suffer from the fact that they are relatively rigid. For instance, the capability of young democracies for reform has been questioned. Statistical analyses, however, show that over the last 50 years, democracies have the same probability of achieving development progress as autocracies. Furthermore, in Eastern Europe in the early 1990s it was heavily debated as to which would have better results: a gradual economic transformation or shock therapy. However, the success of the transformation in states in Central and Eastern Europe cannot be understood empirically through the strategy carried out in each case, but rather primarily through the conditions in each state at the outset: Whoever had better conditions then is farther along today.

There is, however, an open secret to success: good governance. That is, the pace of transformation is dependent on not only the economic framework, but very much upon the capacity of the actors themselves to unite on strategies, take binding decisions and follow through on them. This becomes possible if the society has—or can be encouraged to have—a high level of acceptance of reform. Which brings us back again to the starting conditions: Experiences with democracy and democratic traditions play a decisive role in the transformation.¹⁷

¹⁷ See Wiesenthal 2001.

The upshot of this is that the development of strategies cannot simply entail finding a middle-of-the-road solution that does justice to every state. As a rule, the tasks to be mastered are too immense and the resources too limited to allow schematic rather than individual action. Prudent transformation policy must be linked to the specific fortes of states, must correct serious mistakes and achieve the highest possible level of consensus and support. The best development and transformation strategy is the one that, while most effectively implementing and stretching the available resources under consideration of the respective prevailing conditions, also achieves sustainable development targets in balance with various requirements.

2.5 Elections as a Litmus Test for Democracy

The crucial role of elections in democracies has been mentioned above. Within democracies, elections not only secure a smooth transfer of power, moreover they are a significant indicator of the state of the respective democratic order. In transforming societies, elections have yet another function. They are the most important tools forming the process of transformation itself and adapting it to social preferences.

In order to fulfil this function, it is on one hand important that elections actually enable such decisions. This not only points out the necessity of free and fair elections with equal starting positions for all candidates, but also to a choice in programmatic alternatives. Young democracies—and especially presidential democracies—however very often have underdeveloped party structures and therefore only alternative personnel can be elected. In the worst case the candidates represent the existing economic, religious, ethnic or regional cleavages in a society. Elections then might reinforce the existing power balances or conflicts.

Relevant research papers repeatedly have pointed to the specific role of founding elections. Their level of inclusiveness, fairness and competitiveness reflects whether the transition functions smoothly or is disruptive. They also show how necessary it is to allow representatives of the old regime into the election campaign,¹⁸ because young democracies need to show that the outcome of elections is representative and therefore acceptable even by the losers. Finally the election process itself expresses the extent to which the requirement has been met that democratic institutions and processes gain sufficient respect from all agents.¹⁹

Democratic elections aim not only to determine a government but also to represent appropriately all democratic powers. Election laws and electoral systems can be measured by the extent to which they secure this representation. Political parties play a special role here as they represent social trends. The more distinct and stable the parties are, the more programmatic their distinctiveness, the better they can take on their task of serving public interests as part of the transformation process.

Presidential elections play a special role within presidential or presidential parliamentary systems. Presidential elections are elections for an individual, who then as president enjoys a comparatively high level of power and in most cases has relatively weak ties to the existing

¹⁸ See Merkel and Puhle 1999, p. 118.

¹⁹ *ibid.* p. 111.

party structures. The special “winner-takes-all” position of presidential elections presents both opportunities and risks. On one hand, an elected reformer with a high degree of power and charisma can substantially advance the course of transformation. On the other hand, examples from many countries and regions show that there is no guarantee that candidates who have come to power as reformers fulfil the expectations placed on them.

Blocked decision-making or authoritarian relapses can severely impair the transformation process, especially when the institutional system is poorly constructed and does not allow for sufficient checks and balances, as is often the case in systems where presidential features mix with parliamentary aspects. It is therefore desirable that presidential candidates demonstrate a strong bond to their parties and a clear programmatic profile.

2.6. Conclusion: Consensus-building as a Decisive Factor

The various aspects of transformation into democracy converge in a fairly simple observation: Functioning democracies depend upon a basic democratic consensus. In countries where passivity or outright rejection of the democratic order are widespread, the consolidation of a liberal democracy is no more than an idealistic illusion. Dysfunctional democracies can in fact be the better alternative to the restoration of authoritarianism, chaos and civil war. They can be a temporary stop on the route toward democracy, which offers stability and leaves room for the gradual reorientation of society. But because dysfunctional democracies are in danger of relapsing into chronic authoritarianism, they are measured by the results they bring forth in the medium and long-term.

How can societies with poorly developed democratic values create a workable democratic culture and a high degree of legitimacy? The answer is simple and yet complicated: by reaching a consensus about the essential aspects of political order. Charismatic leaders and concrete visions, such as the goal of joining the European Union for Eastern European countries, can contribute to this goal, but building consensus requires much more than that. The key to all processes of democratization has been to increase general prosperity and build efficient political institutions. The goals therefore must be:

- strengthening of an elite consensus based on the fundamental requirements, democratic values and rules;
- development of organizations mediating between society and government;
- vitalization of the civil society; and
- consolidation of fair, i.e., socially acceptable, market-economy structures.

Once these goals are achieved, the political system is gradually able to offer the material goods and chances that the citizens expect. Such a system then automatically receives legitimacy from various sources and with different motivations.²⁰ The combination of responsible agents and efficient structures forms the essential element of good governance, which will be analyzed more thoroughly in the following section.

²⁰ See Merkel and Puhle 1999, p. 248/249.

3. The Urge for Good Governance and Goal-oriented Transformation Management

The term “governance” deals with strategic aspects of management by collective actors. “Governance is not only about *where to go*, but also about who should be involved in deciding, and in what capacity.”²¹ Good governance is a key factor of every functioning democracy. Democratic systems can only perform successfully and strengthen their legitimacy if they are able to fulfil the expectations addressed to them. What is decisive for politically established democracies can be a question of survival for young democracies. “The Secretary General of the United Nations, Kofi Annan, reflects a growing consensus when he states that ‘good governance is perhaps the single most important factor in eradicating poverty and promoting development.’”²² On the other hand, “bad governance is being increasingly regarded as one of the root causes of all evil within our societies.”²³

Simply speaking, the challenge during the transformation to democracy and a market economy is that weak political reform actors with a significant lack of resources have to cope with extraordinary reform challenges. If they do not succeed, not only is their power base questioned, but also in many cases the whole transformation process is endangered. The following chapter discusses key elements of good governance and then briefly analyzes consequences for policy structures and actors with a view to the situation in Ukraine.

3.1 Elements of Good Governance

Since good governance is the process of making and implementing (or not implementing) decisions, an analysis of governance focuses on the formal and informal actors involved in making and implementing policy choices, as well as the formal and informal structures set in place to reach and implement such decisions.²⁴ Eight related characteristics are relevant to good governance:

- *Participation*: The principles of participation and ownership are crucial to good governance. They require legitimate intermediate institutions or representatives. Freedom of association and expression, as well as an organized civil society are indispensable. Both men and women should be included in participatory processes. Even the most well-intentioned government is unlikely to meet collective needs efficiently if it does not know what many of those needs are.
- *Rule of Law*: As the opposite of arbitrary decrees, the rule of law guarantees both the equality of citizens and predictability of legal decisions. Good governance requires fair legal frameworks enforced impartially; full protection of human rights, particularly those of minorities; an independent judiciary that can serve as a control mechanism; and an incorruptible police force.

²¹ John Graham/Bruce Amos/Tim Plumptre: Principles for Good Governance in the 21st Century, Institute on Governance, Policy Brief No. 15 – Ottawa, August 2003, p. 2.

²² John Graham/Bruce Amos/Tim Plumptre: Principles for Good Governance in the 21st Century, Institute on Governance, Policy Brief No. 15 – Ottawa, August 2003, p. 1.

²³ What is good governance? UNESCO-Homepage, www.unescap.org, download 20.8.2004.

²⁴ See here and above: *ibid.*, p. 2.

- *Transparency:* Decisions are taken and enforced in a manner that follows specified rules and regulations. Ideally, information is freely available and directly accessible to those affected by such decisions and their enforcement.
- *Responsiveness:* Institutions and processes should serve all stakeholders within a reasonable time frame.
- *Consensus orientation:* Decisions shall be consensus-oriented. There is a need for mediation among the different interests in society to reach a broad consensus on what is in the best interest of the whole community and how this can be achieved. It also requires a long-term perspective on what is needed for sustainable human development.
- *Equity and inclusiveness:* It should be ensured that all members of society feel that they have a stake in the society and do not feel excluded from the mainstream. This requires all groups to have opportunities to maintain or improve their well being.
- *Effectiveness and efficiency:* Processes and institutions should produce results that meet the needs of society while making the best use of resources at their disposal. This characteristic also includes sustainable use of natural resources and protection of the environment.
- *Accountability:* Governmental institutions as well as the private sector and civil society organizations must be accountable to the public and to their institutional stakeholders. In general, organizations and institutions are accountable to those who will be affected by decisions or actions.

These characteristics should ensure that corruption is minimized, that the views of minorities are taken into account, and that the voices of the most vulnerable in society are heard in decision-making. However, this is an ideal that is difficult to achieve in its totality, even in consolidated democracies. Principles often may conflict, and “the devil is in the details.”

At this point it becomes especially clear that there is not only a need for well-organized institutions, but also for committed agents who pursue the goal of self-reliant and sustainable development through which social justice will be realized. On a more practical level, concrete political demands can be deduced from these principles, some of which have already been mentioned above. They all are context-oriented and must relate to particular possibilities and goals of transformation:

- *Broadening the elite consensus and support for intermediary institutions:* Democracies are doomed to fail in societies with no principal elite consensus for democratic development. Part of this elite consensus is the ability to formulate long term-visions for policy goals and to forge democratic coalitions. Since the elite consensus is but a starting point for a workable democracy and is not, in the short term, sufficient for democratic consolidation, accompanying support from a democratic civilian population is necessary. Programmatically oriented political parties that can express social demands play a particularly important role here.
- *Verification of an institutional balance among democratic institutions:* Functioning institutions are necessary to implement political programs. These institutions should define responsibilities, offer incentives to build coalitions, appear relatively invulnerable to obstacles and offer sufficient control over power. However, no political system comes into being in a vacuum. It gains stability when it takes up and develops tradi-

tional and cultural orientations and experiences. Measures for establishing legitimacy can vary considerably from culture to culture.

- *State capability:* In its development report of 1997, the World Bank concluded that the tasks of the state must first be brought into line with its abilities.²⁵ States become bogged down when they assume too many areas of responsibility. They should therefore take on fewer tasks and complete these effectively. Countries with less state productivity must concentrate initially on basic tasks that the market cannot offer: making available purely public commodities such as property rights, macroeconomic stability, control of infectious diseases, clean water, roads, and the protection of those in need.
- *Establishment of the rule of law and a consistent fight against corruption:* Many countries do have acceptable democratic constitutions that assert the rule of law, but flouting or arbitrary interpretation of the law restricts the rights of citizens and businesses. This problem is especially significant whenever corruption flourishes. Corruption impedes the equality before the law guaranteed for all. Not only do corrupt governments and administrations impede democracies, they also restrict the opportunities for generating economic growth through direct investment. In this regard an independent justice system as well as trustworthy and applied anti-corruption-laws are important indicators of the state of democratic development.
- *Promotion of sustainable economic reforms:* The economy is one of the decisive factors in the development of states. The ability to structure policy depends on the capacity for economic achievement and development. Whereas growing prosperity may compensate for deficits in other areas, systems with inadequate economic success cannot generally be transformed over the long term. Progress achieved is endangered by incessant economic crises. Alongside economic success a bare minimum of justice in allocation is necessary.
- *Broadening participation and decentralization:* With regard to the legitimacy of systems it is important, especially in societies going through transformation, to extend the possibilities of participation to all levels. Decisions must be made with the greatest possible input from the grass-roots level. Decentralization not only increases the representative nature of governmental decisions, but also improves the transparency and responsibility of political processes.
- *The central role of education:* At all stages in the development of states, the educational standard of both elites and the general population represents an important parameter in a state's capacity for change. Education is closely aligned to population growth, is essential for the establishment of civilized societies, and facilitates the establishment of competitiveness. Human capital is not only the most valuable raw material, but also the only one that can be increased almost without limit.
- *Using external support:* Without external support, most development and transformation processes would have fewer prospects for success. The success of such support, however, greatly depends on the extent to which the engagement of external support-

²⁵ See Worldbank: *The State in a Changing World*, Washington 1997.

ers rests on a foundation of trust, and whether the support is fully embraced and implemented. External support requires the consent—and if possible the participation—of those affected. Otherwise the supporters waste money and political capital.²⁶ States are well advised to make use of opportunities for cooperation with foreign partners and international organizations in every stage of the development and transformation process.

3.2 The Infrastructure of Good Governance in Ukraine

The intention here is to examine the existing pre-conditions and shortcomings in the run-up to presidential elections in Ukraine in 2004. It will also delve into what current conditions imply for the further development of democracy and good governance in Ukraine. This overview is divided into two parts: it examines the most crucial structural systems in place, then the roles of the most important figures in politics.

3.2.1 Structures

Constitution and constitutional reality: The Ukrainian constitution completely complies with democratic norms, and it can serve as a basis for an effective organization of power. The eight years of application of the constitution have shown its vulnerabilities that demand legislative regulation. First of all, it needs a more distinct separation of jurisdiction among the three branches of government. It also needs a clearer delineation of the distribution of powers and responsibilities between the state (central) government and local authorities at the level of *oblast* and *rayon*.

Another set of problems is linked to the weak nature of constitutional arrangements in terms of both political responsibility, and the interaction between the legislative and executive branches. These problems could be resolved through constitutional reforms, namely, through a transition from a presidential-parliamentary form of government to a parliamentary-presidential form. However, the contents of numerous drafts of this reform, and the nature of attempts to implement it have shown that so far this process has been driven by the aspiration of certain forces to retain their dominant position at the helm of power rather than to improve the system of government.

A more serious problem has been caused by major inconsistencies between a political reality and the norms enshrined in the constitution. In real life, the president is empowered with a broader political authority and the parliament exercises less power than is spelled out in the country's basic law. The role of local government has been deeply curtailed. Citizens cannot fully enjoy the rights and political freedoms guaranteed by the constitution. This has become particularly self-evident during the presidential election campaign.

Decision-making process: According to the constitution (Article 85), the formulation of fundamentals of foreign and domestic policy is a prerogative of the Verkhovna Rada. In practical

²⁶ See Olaf Hillenbrand: Sieben Thesen zur Außenunterstützung von Transformationsprozessen, C•A•P-working paper, Munich 2000.

terms, this function is only nominally fulfilled. The president makes most strategic decisions, often in intransparent processes. Though not a constitutionally envisaged body, the Presidential Administration enjoys artificially inflated authority in running state affairs. The activity of the highest bodies of power has been devoid of clearly structured mechanisms of oversight and has no culture of complying with officially established priorities, programs and political promises. The same can also be said about the election campaign agendas. The situation has deteriorated even more because of frequent cabinet reshuffles, changes of chief civil servants in ministries and government departments, and through instability of the parliamentary majority, deputies' factions and deputies' groups in the national parliament.

In practice, key roles in elaborating state policy are played by shadow actors and backroom schemes. Vested interests in financial and industrial sectors, as well as high officials and the president's personal entourage exert an enormous influence on official government bodies. All this has stripped the decision-making process of openness and transparency. The process of lobbying has not been regulated by laws and has often been pursued in a very uncivilized fashion.

Rule of law: The Ukrainian constitution provides for an independent judicial branch. In practice, however, the independence of the dispensation of justice is impaired. Significant control and pressure over the court system serves the interests of the Presidential Administration. As a consequence, primacy of the rule of law is called into question when legal procedures or courts are used to protect government interests. Within Ukrainian political practice, the rule of law has not yet been fully established. This lack can be accounted for by specific elements of Ukraine's political culture, as well as by miscalculations made in the course of building the state and in the conduct of reforms. The equality of citizens before the law is in doubt. Neither awareness of human rights nor a culture of standing up for their protection have been promoted among the nation's citizens. The involvement of large masses of the population in the shadow economy, their involuntary need to adjust themselves to living under conditions of imperfect laws and high fiscal pressure do not contribute to fostering a law-abiding culture of citizenship, or their willingness to live in compliance with the laws. Within government bodies and the bureaucracy at large, the direct orders of bosses play a greater role than effective laws, norms or official authority. A free interpretation and selective application of laws as well as the use of "direct control" have become widely spread practices.

The weakness of the judiciary and its lack of independence have created another serious problem. The interference of the president's instruments of power in the courts' activities has become a systemic phenomenon. In fact, the courts are not capable of performing their state and social functions in a proper manner. Moreover, the courts and the whole system of law enforcement and oversight bodies have been widely used for partisan purposes, primarily for exerting pressure on the opposition and independent mass media. The infringement of laws and contempt for the rule of law have become a particularly widespread practice during the election campaign. As a consequence, "the weak record of respect for the rule of law erodes Ukraine's ability to uphold civil and political rights as well as freedom of the press."²⁷

Corruption and transparency: According to the Corruption Perception Index, Ukraine has been among the most corrupt countries of the world for several years in a row. This is a re-

²⁷ Freedom House, Country Report Ukraine, p. 438.

flection of the state business. In particular, it is a manifestation of the fusion of business with government, in exercising an illegal administrative impact on businesses, in an enormous size of the shadow economy and in criminalization of the economy as such. Closely linked to this perception of corruption is the problem of money laundering, which has led to international sanctions on Ukraine in the past. A key factor has been the corrupt nature of government bodies. The scale of this phenomenon is so huge that all the efforts to combat it have proven absolutely futile so far. Regulations covering business activities in Ukraine are excessive, ambiguous, and sometimes contradictory, leaving entrepreneurs, business owners and managers at the mercy of government officials and their inconsistent interpretations of these rules. The problem, however, is even deeper than that. Corruption has practically been turned into a norm of life and has become a daily routine. The most corrupt institutions include not only the militia, tax authorities and the customs service, but also the whole systems of higher education and health care. In a sense, corruption has acquired features of a social phenomenon that permeates the whole system of social fabric. The use of mere administrative measures in an effort to eradicate corruption is likely to fall short of its effect.

Civil liberties: The state of civil liberties in Ukraine does not comply with democratic norms, and trends show deterioration. This has particularly come to the surface in the course of the election campaign. In particular, the freedom of expression and freedom of assembly are endangered. Over the past few years, the country has already been the focus of international public attention in the context of persecution and killings of journalists. The authorities have failed to react to such crimes properly. Instead, they have demonstrated an explicit lack of interest in promoting independent media. Moreover, the authorities have exerted every effort to exercise more stringent control over the media and to suppress the pluralism of views. In 2001, the “Committee to Protect Journalists” nominated Leonid Kuchma as one of the world’s top ten enemies of the press. In addition, “an elaborate system of censorship, including instructions emanating from the offices of the presidential administration, distorts news and skews coverage of political affairs. Mass broadcast media exhibit a high degree of uniformity and bias in their coverage.”²⁸

The bodies of state power have exercised systemic pressure on the representatives of the opposition and on NGOs that are dedicated to the promotion of democracy. Open debate of important issues by society at large has been hindered at both the national level and in specific regions of the country. All elections over the past years have been conducted with significant deviations from universally accepted democratic norms. The current election campaign has been characterized by mass violations of the right to assembly and by massive persecutions for political convictions. The authorities have ignored the violations of civil rights and liberties and, in fact, they have pretended that such violations are non-existent.

3.2.2. Actors

Government and administration: The current president has attempted to influence voting rights and the constitution to his own benefit, as discussed above. The organization of political power in Ukraine is characterized by an abnormally high autonomy of the authorities, their

²⁸ Freedom House: Under Assault. Ukraine’s New Media and the 2004 Presidential Elections, July 2004, p. 1.

independence from society and by domination of the executive over the other branches. Also, judging by the scope of its powers and the established practice, the Ukrainian state has the signs of a strong political entity. Notwithstanding these characteristics, it is far from being efficient enough. The system of power has been overlaid with shadow structures, which go hand in hand with official bodies and exert a direct influence over the content of the state policy. Thus, state structures are aggressively used in pursuance of hidden agendas from the bureaucracy and vested interests of various clans and oligarchs. This system has given birth to phenomena such as the abuse of administrative resources. It is only natural that the bodies of power enjoy a very low level of trust from the citizens, which in itself reduces the leverage for an effective system of government.

There are inherent deficiencies in both central and local government. The principle of elected representation is only partially observed, and it has serious flaws. In practice, frequent changes of heads of government and members of the cabinet, as well as changes of provincial governors has little to do with their performance in office. Instead, changes are determined by shadow schemes and arrangements among the bosses of major groupings that are close to the president of the country and are in a position to influence his actions. Due to violations of democratic norms, elections so far have not had a clear and direct impact on the formation of the bodies of power. Thus, the presidential elections of 1999 were characterized by massive interference by the executive authorities in support of the incumbent president.²⁹ Similar violations were committed during the elections to the national parliament in 2002.³⁰ The results of these elections have been largely reviewed by exerting pressure on the opposition and independent deputies. The artificial formation of the parliamentary majority and its manipulation by the president impede the establishment of a constructive interaction between the legislature and executive branches. The effective procedure guiding the formation of the Cabinet of Ministers makes the government fully dependent on the President of the country, since, according to the Constitution, the latter is not the head of the executive, and the law does not envisage the responsibility of the president for the outcome of his government's performance.

In fact, control and monitoring over the executive is non-existent. The rights of the opposition are not ensured by laws and in practice are not respected. The judiciary cannot properly regulate the relationships in political and civil areas. Endemic corruption of government bodies makes it necessary to take radical measures.³¹ However, state safeguards are, to a large degree, intended to protect power as such and some particular individuals at the helm of power, rather than to protect performance in pursuance of the people's interests.

Presidential candidates: Both of the presidential candidates, Viktor Yushchenko and Viktor Yanukovich, have been given clearly defined roles during the political debates. The former is presented as pro-Western, a reformer and a representative of the opposition, while the latter is considered Kuchma's preferred candidate. Yushchenko had, indeed, proved himself a reforming force during his term as prime minister. When he speaks, he makes progressive comments

²⁹ OSCE: Office for Democratic Institutions and Human Rights. Ukraine. Presidential elections 31 October and 14 November 1999. Final report. Warsaw, 7 March 2000, p. 33.

³⁰ OSCE: Office for Democratic Institutions and Human Rights. Ukraine. Parliamentary elections 31 March 2002. Final report. Warsaw, 27 May 2002, p. 1-3.

³¹ See: Joint report on the fulfilment of the Partnership and Cooperation Agreement between Ukraine and the EU. Cooperation between the EU and Ukraine. Analytical quarterly. Delegation of the European Commission to Ukraine. Issue 3, 2003, p. 51-60.

and vehemently criticizes the shortcomings in Ukrainian democracy. He has stated that a truly parliamentary democracy is needed; he criticizes censorship of the media; and he has supported the idea of a round table as a forum for open dialogue among various sectors of society and the government.³² One must add, however, that due to his lack of power he has to present himself as a candidate for reform to make any headway against rampant public dissatisfaction.

There are also economic powers on Yushchenko's side. They expect to reap the benefits of this support if he wins the election.³³ The acting prime minister, Yanukovych, is known as a representative of the powerful Donetsk clan, which is synonymous with being more "pro-Eastern" and therefore poses less of a threat to the current regime. While his stance on constitutional reform is similar to that of the current regime, it would be unfair to merely dismiss him as Kuchma's candidate. A positive aspect of this campaign is, without a doubt, that both candidates have, while attempting to entice voters, expressed clearly distinguishable, democratic alternatives.

Political parties: A multi-party system has emerged in Ukraine over the recent years. However, in reality it does not ensure the effective representation of genuine interests of the bulk of the entrenched electorate. All in all, only about 15 parties are, in fact, involved in election campaigns. The growth and development of the party system have been hindered by such factors as lack of articulate expression of the citizen's interests. Most people simply have neither political skills nor awareness of the need for political engagement. Deep social stratification and public passivity often go hand in hand in Ukraine. At the same time, all sorts of differing social values have become quite wide-spread and have been brought to the surface, while diversification of ideas and political views has firmly taken root. Nevertheless, this diversity has little to do with true ideological and political pluralism, which is typically inherent in a democratic society. Such diversification impedes both the emergence of strong nation-wide parties and the formation of consensus across a wide spectrum of parties.

A significant part of the political space has been filled in with artificially created parties whose aim is to protect the interests of various clans and groups of oligarchs, as well as some individual political leaders. For the most part, new parties have been created from the top, the process of choosing their ideologies has become an utterly fake business, and their organizational structures and membership are provided by the authorities using government resources and public officials. The introduction of the proportional representation election system may contribute to creating the profile of competitive and self-sufficient parties and promote their consolidation. This could be more deliverable if the constitutional reform is carried out and the transition to the parliamentary-presidential form of government takes place.

Interest groups: A characteristic feature of social and political development of Ukraine over the recent years has been the formation and strengthening of powerful informal groupings. For most part, they have emerged as a result of self-organization of the remaining elite from the ranks of the former Soviet officialdom and industrialists. The latter have managed to take control over the process of building the state and conducting privatization. Closely-knit structures incorporating government authorities and vested interests, interlocking with each other,

³² See Wiktor Juschtschenko: Politische Reformen in der Ukraine mit Blick auf die Integration in europäische Strukturen, www.fesukraine.kiev.ua, download 5.8.2004.

³³ Wachsmuth and Fiebrig 2004, p. 6.

have become quite visible both in the top echelons of power and in the local tiers of the state hierarchy. Such a system of government operates beyond any law, and it has created shadow schemes and arrangements that work to make use of public funds and resources for private profit and to misuse power.

These groups exercise control over the media and aggressively use them for the purposes of manipulating social and political processes. It is only natural that among those social groups, which play a considerable role in Ukrainian society, the citizens cite, first of all, the following: mafia and the underworld – 40.2%, businesses and entrepreneurial entities – 27.0%, leaders of political parties – 25.9%, government officials – 23.6%.³⁴ Unofficial interest groups are attempting to control bodies of power and, in fact, are impeding modernization and transformation of society in Ukraine. One can see the signs of privatization of state power.

Civil society: Civil society in Ukraine is developing slowly for a number of objective and subjective reasons. Horizontal social links have been significantly weakened. A political nation as such and civil self-identification of the people have not been completely formed yet. Only one-fourth of all citizens believes that they have enough skills to live under new conditions. The readiness of the citizens to show social activity and stand up for their rights remains low.³⁵ Until recently the country has only seen some single islands or centers of independent civil activity. They do not represent an all-embracing social force or critical mass, which would be capable of determining social sentiments.

A new quality, European-style model for the formation and functioning of NGOs is slowly beginning to take shape, overcoming the impediments created by the authorities. The survey data collected through public opinion polls regarding the reasons for the slow development of democracy and civil society have produced the following break-down of views: corruption of power and tight control over the media – 33%, inertness of Ukrainian society – 24%, lack of genuine economic reforms – 23%, imperfect legislation – 8%, state paternalism – 6%, linguistic and cultural heterogeneity of the population – 5%.³⁶

A considerable number of entities formally pertaining to “third sector” in reality operates with direct support and in the interests of particular government bodies, clans and groups of oligarchs. These entities widely resort to falsification of civil initiatives, surrogate substitutions, hijacking the functions of independent social institutions, simulating allegedly wide-ranging support for unpopular authorities. Such actions have become particularly widespread during the elections.

Nevertheless, parliamentary elections in 2002 and, especially, the current presidential elections have demonstrated a significant growth of social and political activity of the citizens. A non-conformist attitude is gaining ground; the disobedient electorate is taking on more spe-

³⁴ See Ukrainian society in 1994-2004: sociological monitoring. The Institute of Sociology under the National Academy of Sciences of Ukraine, “Socis” Gallup poll unit – Centre for social and political studies, “Democratic Initiatives” Foundation. Kyiv 2004, p. 13.

³⁵ See Ukrainian society in 1994-2004: sociological monitoring. The Institute of Sociology under the National Academy of Sciences of Ukraine, “Socis” Gallup poll unit – Centre for social and political studies, “Democratic Initiatives” Foundation. Kyiv 2004, p. 26, 18.

³⁶ See Grassroots. Civil Society in Ukraine: status and prospects for development. “Europe – XXI” Foundation. Kyiv 2003, p. 17.

cific guidelines in terms of values and ideological and political reference points. This is broadening the basis for public support for democratic forces. Overall, society is becoming noticeably more able to withstand manipulations, pressure and dirty political technologies, which involve misleading information and propaganda. A new momentum is being achieved through self-organization of citizens, development of youth and student movement, and associations of journalists standing for freedom of expression and independent media. On the whole, the elections have given a boost to the social and political development of the country, and they may become a major factor for post-communist transformations.

4. Conclusion: Towards a Participatory Society

BTI and Freedom House country reports draw a rather pessimistic picture regarding good governance and further prospects for transformation. “Events of 2003 suggest that Ukraine is on a trajectory away from genuine democracy. While this trajectory is not yet irreversible, the country is close to consolidating a political system that serves the narrow interests of a small, oligarchic group that shares authoritarian political ideas and common economic interests. In each of four areas vital to democratic governance—respect for civil liberties, rule of law, anti-corruption and transparency, and accountability and public voice—Ukraine’s commitments and *de jure* obligations have not been matched by practice.”³⁷ Moreover, “Ukraine is on the verge of losing even the most rudimentary characteristics of democracy and is in danger of becoming an authoritarian political system serving the interests of a small, privileged class.”

On the other hand, Ukraine has succeeded in stopping the economic downturn of the 1990s. It was possible to bring about changes in economic efficiency and the effectiveness of the state. Key areas of the economy were reformed. “Greater success was achieved in improving the conditions for small and medium-sized enterprises, which already has had a positive effect on their economic activities. Foreign debts were converted and repaid on time. The adoption of some significant reform legislation shows the political elite’s constructive attitude. In some sectors, NGOs are also making an important contribution to transformation management. However, further management success is being hampered by the power of interest groups.”³⁸

A positive sign is that many of the shortcomings discussed here are directly related to the way the current regime functions, while the constitution offers a good foundation for further development. In political terms, structural reforms and good governance will be crucial for democratic transformation. A much more difficult task is integrating the interest groups and clans into the formal structures of governance. To improve its resistance to the power of interest groups, the political system must become more transparent and align itself more strongly with democratic and formal processes and the rule of law. Fighting corruption and improving the investment climate are vital for further economic progress. The degree to which Ukraine seeks to bring its norms and standards in line with those of its democratic neighbors, and thus strengthening its association with the European Union, will play a very important role. Similarly, any prospects the EU offers Ukraine to tighten the bonds with the Union, to enhance possibilities for reform policy and to stabilize the transformation process, are very important.

³⁷ Freedom House: Ukraine country report, p. 437.

³⁸ Bertelsmann Transformation Index, Country report, chapter 6.

With this in mind, it is impossible to overstate the significance of the presidential elections in 2004. At times, it has seemed that the current flawed democracy would become permanent. Yet this election presents the concrete potential for change through a *competitive electoral process*. The future president, with his significant power, will play a key role. Should he view this as a chance to consolidate power for certain groups and hinder the development of opposing forces, then the current, nearly authoritarian structures will remain in place. Should he, on the contrary, decide to pursue a consistent transformation process and strengthen democratic consensus, substantial success could become a reality.

From an institutional perspective, the idea of constitutional reform appears to be crucial. Instead of the current, mixed system, it would be possible to introduce either a purely presidential system with clear institutional guidelines for how power is exercised, or the previously discussed transition to a purely parliamentary system that would increase acceptance of political decisions. Presidential systems, like those in the United States, require fewer distinctions between political parties, and they often lead to abrupt changes in government and interruptions in the transformation process. Parliamentary systems, on the other hand, stimulate consensus.

Regardless of the direction this debate takes in Ukraine, changes to the constitution could, if conducted fairly, prove to be the appropriate means of strengthening the consensus of the elite regarding the essence of democracy. This ought to be appealing to the general population as well. Should the result, in the end, be functional and efficient democratic institutions, this would also strengthen the development of a democratic culture.

Parameters for Further Democratic Development

This section can only attempt to evaluate the situation in Ukraine in the broadest of terms. It has become clear that, in the future, the issue of whether a liberal or an illiberal democracy will develop is uncertain. Good governance and furthering a democratic consensus could prove to be the decisive factors, determining whether these attempts will succeed or not. This has implications beyond the country's borders: past support from large institutions such as the IMF and the World Bank focused their efforts on the establishment of good governance and, indeed, make this a pre-condition for future support. Furthermore, the European Union strives to support efforts to unify a democratic Europe; these prospects for integration could, in the long term, be crucial to Ukraine. Against this background, it is possible to formulate key parameters as questions. The answers to these questions in the subsequent chapters of this study will evaluate the potential for reform in Ukraine:

- On a constitutional level and in terms of governmental systems, it is important to consider which figures in Ukrainian politics are interested in changing the legal framework for democratic procedures. What are their related reasons and interests? Are proposals viewed differently if they emerge through public debate or are suggested by political leaders? How can the public be mobilized to take an interest in implementing democratic standards?
- The campaign for president clearly represents, in itself, the different tendencies and movements that are significant in the process of transforming Ukraine. From this per-

spective, it is fair to inquire who and what influenced the candidates? What were the main divisive issues within the campaign, and who was setting the related agendas? How and to what extent did the relevant financial and industrial groups influence the election process? Did former President Kuchma and his supporters secure a successor of their own choosing? Are political parties setting election agendas, or are they first and foremost an instrument of other interests? What interests do the media reflect? By whom and how is the media influenced?

- In terms of content, the key lies in how far and with which instruments the candidates offered options for shaping good governance. What were the candidates' statements concerning the future transition process? What experiences and qualifications did they offer towards the goal of achieving good governance? Did they have sustainable concepts about how to strengthen the rule of law, how to provide a framework for independent media, and how to fight against corruption?
- On an international level, the various possible election results also reflected a decision between the "Russian way of doing things" or "a return to the European fold." How far was the question of Eastern or Western orientation used by the candidates? Was there an option for a close Russian versus a European external orientation? Did the candidates reflect European or Russian approaches to shaping the domestic transition process? What influences did Russia and the European Union have in terms of setting norms from the outside and the effectiveness of implementation? Did Moscow, Washington or the European capitals favor a particular candidate? And what related interests emerged through the Ukrainian election itself? Did Russian actors and influence groups have non-institutional impacts? What were the Russian and Western interests and opportunities to shape the Ukrainian transition process?
- Also relevant are additional analyses into how the political options could be strengthened. Is the society "only" interested in democratic procedures, or is there also a declared interest in active participation, the Solidarnosc approach versus a kind of Belarusian lethargy? What were the dominant divisive issues of the election campaign? Did society support particular values or orientations regarding the future of the transition? Did the candidates reflect the democratic consensus, and what position did they support regarding the most important conflicts?

Ukraine has, since independence, made much progress on the difficult road towards becoming more democratic. Both ordinary citizens and members of the political class, for their own benefit, ought to realize their own strengths and continue bravely in this vein: "Stable and sustainable democracies are not given to people by great powers. They are created by people who have the skills and the will to assume responsibility for their own destinies."³⁹

³⁹ Sondra Myers: *The Democracy Reader*, New York 2002, p. 23.