

**Challenges and Constraints for Post-Soviet Committees:
Exploring the Impact of Parties on Committees in Ukraine**

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This study focuses on the impact of parliamentary parties on committees' structure and activity in the post-Soviet context. Through a case study of committees in Ukraine's Rada, the paper demonstrates that weak, fluid parties can act as a barrier to committees' efficacy by shaping their structure, leadership and by blocking ameliorating reforms. Although Ukraine's committees were formally allocated a significant role in the law-making process, in practice the realisation of this function was constrained by parties and also by context of the wider institutional uncertainty.

It is widely accepted that committees are the primary organisation by which legislatures execute their functions and that as such strong committees are an essential precondition for parliamentary influence in policy-making.¹ Moreover, it is affirmed with equal frequency that the strength of committees depends upon the party system: 'Where parties exercise only weak control over legislative committees, the committees are free to...make a strong contribution to the outputs of the legislature'.² Yet it seems there is a minimum level of party organisation in parliament required for the effective functioning of committees.³ Olson and Crowther's recent study of post-communist committees concluded that unstable, polarised party systems were the least conducive to efficient, institutionalised committee systems because frequent party splits inhibited the development of links between committees and parties as it caused low member incumbency and non-proportional representation in committees.⁴ Post-Soviet parliaments suffer from weak, fragmented party systems. How does this impact on the structure and functioning of committees? Damgaard identifies three main ways in which parties influence committees - by allocating committee leadership and membership; by initiating

and processing legislative proposals; and by applying sanctions to party members for not adhering to the party line.⁵ This paper proceeds from Damgaard's propositions by looking at committees' structure and ability to exercise their law-making functions and seeks to expand on Olson and Crowther's findings about the relationship between parties and committees by illustrating that parties despite (or even because of) their low cohesion can act as a barrier to committee efficacy and to ameliorating reforms. In addition, the wider political context will clearly affect committees' and thus the legislature's exercise of law-making and other functions.⁶

Building on previous work on post-communist parliaments, this study seeks to tackle questions about the impact of parties on committee development in weakly institutionalised post-Soviet systems by drawing evidence from Ukraine's parliament, the Verkhovna Rada.⁷ Ukraine's committee system has been subject to little prior study, but shares the key features of post-communist committee systems identified by Olson and Crowther including: poor attendance; unstable relations between committees and parties; difficulties in achieving quorum requirements and a high volume of legislation to process.⁸ Therefore, this study will contribute supplementary evidence from a new case study,⁹ seeking to assess the ability of Ukrainian committees to perform their constitutionally-designated functions and to elaborate the influence of parties on the committee system. This work has been informed by the literature on committees, directing the enquiry to consider the impact of institutional attributes (structure and competences)¹⁰ upon committees' activities, and the descriptive-analytical approach broadly follows that widely used in exploratory research of committee systems elsewhere.¹¹ The approach is open-ended and the aims of this paper are threefold: 1) to

elaborate the main contours of the committee system in Ukraine; 2) to analyse the ability of committees to execute their main functions, using the example of law-making; 3) to identify the barriers to committees' efficacy, focusing on the role played by parties. Given the exploratory nature of these research aims, qualitative research methods were most appropriate. Therefore, the research is grounded in fieldwork conducted in Kyiv in 2000 and 2003 and the study is based largely on the current convocation elected in 2002. A range of data were collected to facilitate triangulation,¹² and these included legislative figures provided by the Rada secretariat, newspaper reports, committees' 2002 end of convocation reports, observations of plenary sessions and interviews with over 50 senior parliamentary staff and elected deputies. All interviews are cited anonymously.

The paper is organised into four sections. The first section provides an overview of the institutional context as essential background for the analysis to follow. Secondly, the structure and organisation of the committee system is considered. The third section examines the process of law-making to illustrate committees' capacity to execute their functions and considers the impact of parties on committees' activity. In sum, although committees developed the procedures and capacity to exercise their defined functions in the spheres of law-making, these remained patchy and incomplete. In key areas, the exercise of committees' functions was circumscribed by the cross-cutting interests of parties in parliament and the wider political environment in a context of institutional uncertainty, suggesting that weak parties perpetuate committee weakness in certain circumstances.

The Ukrainian Rada: Committees in Context

As sub-institutions of parliaments, committees are 'nested' within other institutions, of which the wider legislature, the political system and the regime type are particularly salient. This section will map out the key features and developments in Ukraine's political landscape and locate the committee system within this picture.

In 1991 the communist elites declared independence in order to retain their positions in the Ukrainian state, which meant that the new state was characterised by continuity in institutions and personnel from the Soviet era. The election of Leonid Kuchma as president in 1994 brought a partial change of power, but by the time of his re-election in 1999, a regime was consolidating around Kuchma that could be characterised as semi-authoritarian.¹³ This regime has been convincingly categorized as a 'blackmail state', where the Kuchma regime utilised state institutions to preserve its own position, encouraging widespread corruption and monitoring it via the extensive surveillance systems inherited from the Soviet period.¹⁴ The 2002 parliamentary elections became embroiled in the regime's struggle to ensure a compliant parliament that would assist their efforts to secure power beyond 2004, when Kuchma's second term was due to expire. Therefore, the context at the regime level was one of uncertainty and growing authoritarianism, which included attempts by the president and his allies to control the elections to parliament and the behaviour of deputies once in the Rada.

The political system was established in the 1996 Constitution – a president-parliamentary system that formally balanced powers between the president and parliament,¹⁵ but lacked clarity so that the prerogatives of the two branches overlapped in terms of oversight and dismissal of the government and in law-making. However, in

many respects the president had precedence, especially regarding the formation, control and dismissal of the government.¹⁶ This arrangement meant that government survival was not dependent on the existence of a majority coalition of parties in the Rada, reducing the incentives for parties to form coalitions to support the government. The probability of a single party or coalition obtaining a majority of seats in the Rada was also reduced by the mixed electoral system, whereby half of (225) deputies were elected via party/coalition lists to parties/coalitions surmounting a 4 per cent threshold, while the other half were elected in single mandate constituencies, which facilitated the election of local notables or entrepreneurs as independents or only loosely tied to a party.¹⁷ In the context of a weak, fragmented party system, the division of powers engendered inter-branch friction and frequent attempts by president Kuchma to create a compliant parliament that would enact executive legislation. To this end, the president pursued a range of tactics, including the 'divide and rule' of parties, promoting constitutional change and twice stimulating the creation of pro-presidential coalitions (in 2000 and 2002). In March 2002, 221 deputies belonging to opposition parties or blocs were elected, compared to 149 for the pro-presidential United Ukraine bloc and the Social Democratic Party of Ukraine (United) (SDPU(o)), yet via bribery, blackmail and distributing executive posts,¹⁸ Kuchma and his allies were able to put together a pro-presidential coalition by September 2002 of 226 deputies (which later grew at the expense of the opposition – see figure 2).¹⁹

Generating pro-presidential majorities was possible because of the large number of entrepreneurs elected to the Rada.²⁰ A deputy's mandate offered immunity from prosecution and the opportunity to lobby their business interests at the highest levels. Deputies with business interests to protect/advance were natural clients for the Kuchma

regime as they were susceptible to patronage (posts, apartments etc.) and blackmail (fire and tax inspections on their businesses).²¹ Many of these deputies were affiliated to pro-presidential election blocs or elected as independents, but they were present in all parties. The high proportion of deputy-entrepreneurs in the Rada is one factor that helps to explain the incoherence of parliamentary parties and the difficulty of conceptualising them in terms accepted in Western political science.

Heidar and Koole define parliamentary party groups (PPGs) as ‘an organised group of members of a representative body who were elected either under the same party label or under the label of different parties who do not compete against each other in elections, and do not explicitly create a group for technical reasons [gaining access to offices and resources] only’.²² However, it is problematic to define the political bodies in post-Soviet parliaments in this way because of the weakness of the party system and fluidity of parliamentary bodies that locally are referred to as ‘factions’ (meaning party-based groupings) and ‘deputy groups’ (non-party based groupings). These local terms will be used due to this difficulty, but it must be stressed that the term ‘faction’ is being utilised *only* this local sense, and is not intended to imply any Western connotations of the term.

Distinct from the Western European experience, post-communist parties have tended to emerge from *within* parliament, as elite configurations largely detached from ‘society’.²³ In Ukraine, party-based factions would house non-party members, while party members could and did join factions other than their party faction. Party factions and non-party based groups were often built around prominent individuals and on a regional, non-ideological basis after the elections (e.g. Regions of Ukraine (Donetsk); People’s

Choice (Luhansk); Democratic Initiatives (Kharkiv)).²⁴ Deputies frequently changed their affiliation during the convocation, especially in the centre of the political spectrum.²⁵ Heidar and Koole's idea of 'personal kingdoms' has some resonance here, whereby low group discipline and substantial resources result in 'parliamentary medievalism' *within* a PPG where regional and sectoral (business) interests were more important in shaping deputies' affiliations. However, in Ukraine, the large number (12-15) of groups meant that some individual factions/deputy groups *themselves* resembled personal kingdoms.²⁶

After 1994 privileges and resources were extended to factions and deputy groups which permitted them to gradually increase their organisational capacity, increase levels of voting discipline²⁷ (although this was undercut by membership fluidity) and take over the parliamentary leadership from committee heads by forming the Conciliation Council of Factions and Deputy Groups (see below). This experience mirrored that of other post-communist parliaments, where paradoxically weak, fluid parties (factions) became central to parliamentary organisation and functioning, despite their limited capacity.²⁸

These circumstances shaped the trajectory of development for the Rada's committees. The Rada inherited a relatively well-elaborated committee system from the Soviet period, but the 'rubber stamp' nature of republican Supreme Soviets meant that these institutions were chronically underdeveloped to deal with the demands of a newly independent state. A committee system had been created in 1937, but committees gained little experience of legislative work. Therefore, after 1991 committees were compelled to elaborate the rules, procedures and norms for their legislative roles at the same time as performing them. The system that emerged and its role in law-making will now be examined.

Structure and Organisation

A consensus in the legislative studies literature is that strong committees are at least a necessary condition for effective parliamentary influence in the policy-making process.²⁹ As the primary specialist bodies in a legislature, a strong committee system requires a highly differentiated structure and stable membership, which creates incentives for the acquisition of policy expertise. Although the Rada's committee system formally shared many features with Western European parliaments such as a permanent structure that paralleled executive agencies and membership allocation based on proportional representation of factions, overlapping jurisdictions and factions' membership fluidity acted as constraints on the emergence of a more streamlined and representative committee structure.

Jurisdiction

Formally, the activity of standing committees was regulated by the law 'on committees' (1995) and the Rada's standing orders (1994). However, new laws were required to bring the legal framework for committees' activities into conformity with the 1996 constitution. Nevertheless, substantial formal powers were allocated to committees compared to their western European counterparts.³⁰

- Consideration of bills by committees prior to their first plenary session debate (art.5.1, law 'on committees')³¹

- The power to redraft bills and to prepare draft legislation on their own initiative (art.5.1)
- Strong information acquisition powers: state officials and entrepreneurs were obliged to provide committees with information and to attend committee meetings (art.10.2).

This model of strong committees grew out of rules inherited from the Soviet-era, where committees were the formally main parliamentary sub-institution (and factions/deputy groups did not exist), but was also influenced by the experience of Western legislatures, especially US Congress.³² However, committee powers were circumscribed by the right of an amendment's author to insist on a plenary vote on his/her amendment and by the removal of the right of legislative initiative from committees with the passage of the new constitution in 1996.³³

As in Western legislatures, committees' jurisdictions tended to parallel the structure of executive agencies, but the number of committees had to be decided at the start of each convocation. In 1994 and 1998 the Rada opted for 23 standing committees, and 24 in 2002 (see figure 1), a large number by European standards (10-20 is the norm),³⁴ but closer to the Russian model (28 committees).³⁵ Olson and Crowther suggest that having more than 20 committees is an indicator of a weak committee system³⁶ and in the Russian and Ukrainian cases the maintenance of a high number of committees was the product of inter-faction competition for committee leadership posts.³⁷ This led to the persistence of committees with overlapping jurisdictions and militated against numerous attempts at streamlining.

INSERT FIGURE 1 ABOUT HERE

For instance, three committees existed in the sphere of social policy: on social policy; on health, motherhood and childhood, and on pensioners', the disabled' and veterans' affairs (see figure 1). Moves to streamline the jurisdictions and reduce the overall number of committees were strongly resisted by factions/deputy groups, as this would have reduced the size of the 'pie' to divide between them (see below). In 2002, an additional committee was created on European integration with a vague remit that impinged heavily on that of the foreign affairs committee. This was not only inefficient, but engendered inter-committee conflict. A member of staff from the European integration committee felt that 'the [foreign affairs] committee does not know how to cooperate with our committee ...The foreign affairs committee does not respect us ...'.³⁸ Although conflict between committees is to some extent to be expected, in developed legislatures this tends to concern substantive issues of legislation (e.g. between an energy committee and an environmental one) but in the Rada, additional conflict was generated over jurisdictions. Deputies and staff generally reported that they were able to negotiate overlapping jurisdictions by holding joint committee meetings or informal arrangements, suggesting that the process was marked more by duplication than conflict *per se*.³⁹ Nevertheless, such cases illustrate the pitfalls of an unclear division of labour and the way that weak parties can shape the structure of the committee system.

Membership

Across Europe, committees' compositions are based on the principle of proportional representation of parties represented in the chamber and on a deputies' professional

experience in order to maximise committees' authority in terms of representativeness and expertise in the wider legislature, while there is no prevalent trend in the procedure for allocating committee chairs.⁴⁰ In the Rada, the formal procedure for forming both committees' leadership and membership was based on the idea that committees' leadership and membership composition should proportionally reflect the chamber as a whole, but as in Russia in practice this was 'an elastic guide'⁴¹ and the distribution of committee chairs tended to be a product of inter-faction bargaining while committee membership was not solely determined by the faction/group 'quota', but also depended on the degree of faction/group membership cohesion, policy preferences and on individual deputies' preferences.

As argued above, committee chairs were a key 'prize' for factions and after 1994 their distribution was decided by inter-faction bargaining where a temporary coalition of factions and deputy groups agreed on a 'package deal'. The negotiations over the distribution of committee chairs in May 2002 were particularly torturous because of the divided composition of the Rada (by May there were 209 'pro-presidential' deputies belonging to United Ukraine and SDPU(o) and 227 'opposition' deputies – see figure 2), the internal divisions both within and between these groups⁴² and the fact that the recent election of the speaker was regarded by the opposition as illegitimate: a positive vote (226 votes) for President Kuchma's choice of speaker (Volodymyr Lytvyn, head of the United Ukraine bloc) plus two pro-presidential deputy speakers was found using bribery and blackmail.⁴³ The loss of the speaker and deputy speakers' positions due to their own internal divisions initially made the opposition cooperate more effectively over the division of committee chairs, which were widely recognised as important for lobbying

sectoral interests as well as providing material benefits like an apartment, cars, offices and staff.⁴⁴ Thus, the debate about committee chairs' distribution was quite openly framed in lobbyist rather than ideological terms.

Neither of the two competing camps in the Rada had the 226 votes necessary to adopt a package alone, but the situation was further complicated by 'internal' battles especially within the two largest groups United Ukraine and Our Ukraine, the former contained significant competing regional lobbies, while the latter housed several parties vying for key committee positions.⁴⁵ As neither camp could adopt its own package, the Rada faced impasse. After nearly two weeks, the opposition won a key concession that the speaker's and deputy speakers' posts would be taken into account in distributing committee chairs on a basis proportional to the size of factions and deputy groups. After the failure of the pro-presidential camp to increase the number of committees, it was also agreed to elect first deputy chairs simultaneously, thus increasing the number of posts to divide. It was then possible to adopt a 'package deal' that allocated 19 chairs to opposition factions and 16 first deputy chairs to the two pro-presidential bloc.

The voting on the 'package deal' revealed divisions within United Ukraine and Our Ukraine, only the Communists and SDPU(o) voted in favour in full complement, while the Socialists and Yulia Tymoshenko Bloc abstained.⁴⁶ This indicated that voting majorities in the Rada would be *ad hoc* and that it was difficult to talk of 'pro-presidential' and 'opposition' factions/deputy groups as these were very heterogeneous formations where groups of individual deputies were prepared to make deals that cut across any pro-presidential-opposition lines. Within days, United Ukraine split into 9 factions and deputy groups along regional and party lines. As in previous convocations

frequent splits and the high degree of faction/group membership switching rapidly undermined the logic of the original package deal. Figure 2 provides an indication of faction splits, formation and membership switching after 2002.

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As in many other legislatures, committee members were formally assigned according to factions' quotas with the aim of making committees' compositions proportionally representative of the chamber. As figure 3 shows, in practice frequent faction switching and factions' limited ability and willingness to adhere to the quota mitigated against strict adherence to this rule. In March 2003, 9 of 24 committees had members drawn from 7 or less factions (of 13). The most disciplined factions (especially the Communists) were largely able to allocate deputies according to the proportional quota (see figure 3), and discouraged deputies from switching committees once allocated.⁴⁷ Other factions' lack of internal discipline made committee allocation largely dependent on deputies' individual preferences and less permanent, especially in the pro-presidential deputy groups where a large number of deputies were elected in single mandate constituencies and did not directly owe their election to a party.⁴⁸ Consequently the most prestigious committees (e.g. budget; finance and banking; energy policy) were oversubscribed, while the least prestigious (e.g. culture and spirituality; human rights) struggled to attract members and were the most unrepresentative of the wider legislature (see figure 3). This was also reflected in the size differentials between committees, which were broadly consistent over time (see figure 1).

INSERT FIGURE 3 ABOUT HERE

Figure 3 illustrates how certain factions had a clear preference for certain policy areas, and this was most marked in the Agrarian faction, where over half of its members joined the agriculture committee. In addition, deputies switched factions regularly, but did often not change committee as a result, so any initial semblance of proportionality was rapidly eroded. Such a pattern was common in post-Soviet parliaments, as most factions lacked the institutional coherence to ensure proportional membership representation across committees.⁴⁹ This had the effect of reducing the representative authority of the committee when its reports were examined by the whole chamber and also increased the potential for partisan conflict between committees.

Resources

In general, committees were comparatively well-resourced and staffing levels were high – around 16 persons per committee. This was closer to the US experience, where strong committees are seen as 'legislative workhorses', while committees in other parts of the world have just one or two consultants.⁵⁰ After 2002, the situation improved markedly as speaker Lytvyn proved much more adept than his predecessors (who had been predominantly from the left opposition) at persuading the executive to release resources to the Rada to tackle long-standing problems.⁵¹ Thus, networked computers, internet access and more staff were suddenly made available. Nevertheless, deputies and staff continued to complain about insufficient experts to deal with the workload effectively, especially as the enormous volume of legislation to process was growing (see below).⁵²

In sum, committees in Ukraine exhibited a number of formal attributes associated with a strong committee system. These included significant powers in law-making and informational acquisition, considerable resources and procedures for proportional membership to reflect the whole legislature's composition. In practice, the committee system was characterised by a number of features that limited the Rada's potential to play an influential role in the policy-making process: overlapping and unclear jurisdictions that engendered duplication and inter-committee conflict; unstable membership that reduced incentives for expertise accumulation and compositions that deviated significantly from the proportional principle, reducing committees' representative authority. The effects of these organisational attributes on committees' capacity will now be considered.

Law-making Activities

Law-making is one of the most crucial functions performed by committees around the world and is defined by the 1996 Constitution as the main task of committees in Ukraine (art.89). Therefore, while acknowledging that committees perform other functions such as oversight,⁵³ an examination of committees' role in law-making provides a valid indicator of committee (and wider legislative) capacity. This section considers whether committees were able to influence the content of adopted legislation, which will be approached by considering committee's role in the legislative process, before moving to examine committees' interaction with factions and deputy groups, assessing how they impacted on committees' law-making activities.

If we look at the parliament as a whole, Olson places autonomy from the chief executive as central to the analysis of legislatures and draws attention to the '90 percent rule' whereby 90 percent of legislation is initiated by the executive and 90 percent of this is passed by the legislature.⁵⁴ In Ukraine, as in other post-communist cases such as Russia and Poland, the legislature in general and committees specifically were much more active in initiating and adopting their own bills as well as amending government-drafted legislation. During the 4th session (September 2003-February 2004) 82.3 per cent of all bills examined were initiated by deputies. Of laws adopted, government bills comprised only 39 per cent, while most (55 per cent) were initiated by deputies.⁵⁵ Those initiated on behalf of committees by a (usually cross-faction) group of their members were more likely than other deputies' bills to be passed.⁵⁶ The large proportion of legislative acts originating from the Rada rather than the executive can be interpreted as indicating significant legislative autonomy from the executive. The Rada's committees also became adept at processing very large quantities of draft legislation.⁵⁷ However, the quality of legislation (including that initiated by the government) remained a cause for concern (see below).⁵⁸ Committees can be seen as contributing significantly to the content and passage of legislation by examining bills prior to their first reading, preparing bills for second and third readings, producing so-called alternative bills that competed with government legislation and by influencing the timetable for a bill's passage.

The constitution and standing orders outlined a major role for committees in the deliberation and scrutiny of legislation. Committees recommended whether bills should be excluded in first reading and took primary responsibility for the preparation of bills for second and third reading. The main debates on bills, where amendments would be

included or excluded, increasingly took place in committees, rather than on the floor of plenary sessions.⁵⁹ This can be seen as indicating the growing influence of committees on legislative work. There were also constant complaints about the quality of government drafted bills, which deputies and staff argued were frequently rushed and sometimes internally contradictory. One staff member encapsulated these feelings: 'They are rushing and send it [to the committee] before it is ready. Often [a bill] needs 2-3 amendments to one article and sometimes bills are [internally] contradictory'.⁶⁰ It was therefore common for committees (or rather groups of 2-4 committee members) to draft and initiate alternative bills and present these for examination alongside or instead of government bills, and government bills were often amended substantially by deputies. While this placed greater pressure on committees' time and resources, it also gave them (and the Rada more generally) significant scope to shape the resultant legislation. Furthermore, deputies believed that committees' authority in plenary sessions was significant. Of 193 deputies surveyed for USAID's Parliamentary Development Project February-April 2002, 50.8 per cent of deputies expressed the belief that the committee was the most important actor influencing the adoption of a bill, compared to 21.1 per cent who said it was the faction.⁶¹

Committees also had considerable autonomy to control their own timetable. According to committee staff, committees themselves generally decided when to present bills to the Rada for plenary consideration by reporting on its status at the Conciliation Council of Factions (see below) and it was rare for a bill to be examined by the Rada without the committee's agreement.⁶² Control over the timetable is a powerful resource

for committees and indicates that committees play an important role in the legislative process, but as with many procedures in the Rada this power was not formally laid down.

The shift of the main debate on draft legislation from plenary sessions to committees, timetable control and the authority of a committee's recommendation suggests that committees played a major role in Ukrainian law-making, although the quantity and quality of laws remained problematic, factors which were influenced by the interaction of committees with factions and deputy groups in the legislative process.

The influence of Factions, Deputy Groups and the Pro-presidential Coalition

The influence of factions on committee's legislative activities and on law-making more generally is complex and will be examined along three dimensions – majority-opposition; the faction system as a whole; and at the level of individual factions. It will be argued that in the absence of meaningful parliamentary participation in government formation, factions saw committees as a key resource for lobbying and obtaining benefits for their constituencies – both electoral and corporate, which created incentives for factions to block any attempts to reform the committee system. Committees were therefore flooded with hundreds of bills to process, many of them ill-conceived, populist or advancing a particularistic cause. Factions also played a key role in the setting the agenda and adopting legislation, although some were themselves influenced by the presidential administration.

As stated above, the pro-presidential majority of 8-10 factions and deputy groups (see figure 2) was formed 'artificially' at the behest of president Kuchma as he sought to control the Rada in the run-up to the October 2004 presidential elections. However,

during its existence (September 2002 – September 2004), this majority proved to be ineffective due to competing regional and corporate interests between various factions that did not always coincide with the president's preferences⁶³ and the fact that many deputy-entrepreneurs belonging to the majority had businesses to run and did not attend either committee meetings or plenary sessions regularly.⁶⁴ However, to talk of the opposition as a cohesive unit is also inaccurate. Distinct ideological differences existed between the communists and the national-democratic Our Ukraine which made it difficult for them to co-operate. Moreover, as in Russia, the communists were willing to play the role of 'official opposition', maintaining close links with the presidential administration and pro-presidential oligarchs that helped to fund them.⁶⁵ As in previous convocations, communists regularly supplied votes to enable the ill-disciplined majority to adopt laws.⁶⁶ At other times, *ad hoc* majorities were found by Our Ukraine (or sections of it) with parts of the so-called majority. In most cases, staff and deputies reported that there was a trade-off: the opposition could influence the content of legislation and opposition factions regularly provided the necessary votes to enable the (poorly-attending) majority to pass bills.⁶⁷

The system of factions and deputy groups in the Rada shaped committees by allocating their leadership and membership, by taking precedence in agenda-setting and by blocking any attempts to reform the committee system. As argued above, factions were strongly interested in maximising the number of committee chairs 'owned' by their faction and this blocked all attempts at reform. The repeated failure (at least six times in 1997, 1999, 2000 and 2002) to adopt a new law on standing committees that would have brought committees' operation and jurisdiction in line with the constitution can be

understood in this context. The proposed bills laid down a list of just 17 or 19 committees and deputies and staff consistently reported that this was the most controversial provision which prevented its adoption on each occasion.⁶⁸ This affected the structure of the committee system as a whole, leading to the preservation of an excessively large number of committees, often with overlapping and unclear jurisdictions, which in turn engendered inter-committee competition.

Factions also took precedence in setting the legislative agenda via the Rada's coordinating organ, the Conciliation Council of Factions and Deputy Groups (CCoF). This body comprised the speaker and heads of factions as voting members, and deputy speakers and committee heads with an 'advisory vote' and could be attended by presidential and government representatives.⁶⁹ Committee chairs reported which bills were ready for plenary examination, and in this way they were able to expedite or delay bills. As the majority was insufficiently disciplined to remove the opposition committee chairs in December 2002, this meant that opposition factions could exert considerable influence on the content and passage of legislation even after the formation of the pro-presidential majority, and this was reinforced by the composition of committees, where the pro-presidential forces had a majority of members in only 12 of 24 committees (see figure 3). This helps to explain why individual opposition factions were willing to vote with their pro-presidential counterparts.

Shifting the analysis to individual factions and deputy groups indicates that they were able to influence the work of committees and the adoption of legislation in a range of ways, but that in turn faction decisions were sometimes shaped by presidential preferences. Although most deputies believed that committees were the most important

actor influencing a law's passage, the analysis of roll-call votes conducted by the independent NGO Laboratory F-4 indicated that the faction's decision was the biggest influence on deputies' voting.⁷⁰ As the quantity of legislation examined in plenary sessions was high, factions would provide deputies with instructions on how to vote on each bill.⁷¹ This meant that voting could be rather automated, and in more than one case the wrong bill was passed by mistake.⁷² Decisions on voting were taken not only on principle or by weighing the committee's recommendation at faction meetings. There was evidence that on key votes the president (or his chief of staff) instructed the speaker to deliver a certain result. For example, a vote on a bill to change the electoral law was postponed because two pro-presidential factions who had been in favour of the bill refused to support it after an instruction from the president.⁷³ Sometimes such votes were encouraged by direct payments or by the threat of a problem with a deputies' business. Ex-president and pro-presidential deputy Leonid Kravchuk was matter of fact about the former process 'If some-one is for sale, [pro-presidential oligarchs] will buy him. [In the Rada] everything occurs in this manner – voting and [faction] switching.'⁷⁴ In this way, the wider political context of the 'blackmail state' directly influenced the passage of legislation. Although this suggests that factions themselves were weak actors, reminiscent of Heidar and Koole's 'personal kingdoms', this was less true of opposition factions (socialists, Yulia Tymoshenko Bloc and Our Ukraine) and factions' impact on the operation of committees was still substantial, by initiating and lobbying bills and by taking faction directives to their committee meetings.

Interviews with deputies and parliamentary staff overwhelmingly suggested that the position of a faction or group was most crucial not only in determining deputies'

voting decisions, but also in shaping their behaviour in committees. Committee chairs were increasingly beholden to the faction for their position, while deputies would find out the faction's position on a bill prior to its discussion at committee.⁷⁵ Therefore, factions had a direct input into the deliberation of legislation, a relationship reinforced by the faction basis of committee assignments. However, due to the frequent faction switching, this link was not always a stable one.

Some factions (Socialists, Communists and Our Ukraine) were eager to demonstrate their activeness to potential voters and encouraged deputies to exercise their right of legislative initiative by circulating statistics on this.⁷⁶ This, along with deputies' corporate interests helped to stimulate a deluge of bills for committees to process. 1928 bills were initiated in the third session (February-July 2003) alone. The opinions of committee staff expressed in interviews were exemplified by a senior figure from an economic committee:

'There are so many unprofessional, empty bills. Factions should filter out their members' bills. The problem is ... that legislative initiatives are directed to [deputies'] own interests. Of 339 bills [currently in the committee], half of them are on tax ... and we have to examine them.'⁷⁷

Some bills were directed towards constituents and others to corporate interests. For example, the socialists were alleged to have insisted on heading the education committee because teachers and lecturers were among their key constituencies.⁷⁸ Consequently, committees (especially on economic policy and on finance and banking) were overloaded with enormous quantities of bills, diluting available resources to work on individual bills

and also reducing the time available for other activities such as oversight or holding hearings.

Conclusions

Damgaard demonstrates how parties constrain and control the behaviour of their members and thus reduce committee autonomy to secure the prevalence of party goals in decision-making.⁷⁹ The Ukrainian case illustrates that even an extremely weak and fragmented faction system can act as a significant constraint on committees' autonomy in an uncertain institutional environment. Where some factions even lack a (de facto) extra-parliamentary party, where membership is fluid (and often for sale) and where, due to the transience of parties between elections, the sanctions and inducements available to parties are minimal (e.g. a party career path) – even in these circumstances factions can exert a major influence on the structure and activity of committees. In the Ukrainian case:

- Factions' interest in committee chairs and influence over spheres of the legislative process affected the structure of the committee system, leading to the maintenance of a large number of committees with overlapping jurisdictions, a factor which in turn generated duplication and inter-committee conflict.
- Factions sought to benefit their various constituencies via the legislative process, overloading committees with hundreds of bills
- Factional membership fluidity and weak discipline led to deviations from the proportional principle, so that committees were unrepresentative of the wider chamber

- Their control of the legislative agenda and increasing voting discipline meant that factions were increasingly instrumental in deciding on the passage of legislation
- Factions consistently blocked attempts to reform the committee system

The case study illustrates how pervasive the impact of a weak, fragmented party system can be, throwing up a range of challenges for committee development. Yet the influence was largely negative in the sense that factions could block reforms that threatened their interests, but at the same time they were incapable of pushing through an 'alternative' reform agenda to maximise their interests. This supports Olson and Crowther's proposition that unstable, polarised party systems are least conducive to a strong, effective committee system, while problematising the under-theorised relationship between parties and committees. This and other research on post-Soviet parliaments⁸⁰ has shown this relationship to be a complex one that is structured by the wider institutional context. As such, equations about weak committees coexisting with strong parties and *vice versa* may obfuscate more than they reveal. Comparative research into the impact of party systems on committees' structures, activities and capacity needs to be undertaken to underpin more theory building about the most important relationship inside legislatures.

Figure 1: Committees in Ukraine's Parliament

Committee	No. of members, 1994-8	No. of members, 1998-2002	No. of members, March 2003
Legal policy	16	22	23
State-building & local councils	13	21	21
Social policy & labour	15	13	10
Health, motherhood & childhood	9	11	10
Youth, sport & tourism	8	17	10
Science & education	18	16	11
Culture & spirituality	13	11	10
Economic policy	27	23	27
Budget	30	26	39
Finance & banking	28	29	35
Industrial policy and enterprises	22	17	22
Fuel-energy complex, nuclear policy and safety	Ω	27	33
Construction, transport and communication	Ω	17	24
Agricultural policy and land relations	37	24	23
Ecological policy and Chernobyl		12	17
Law-enforcement	15	17	16
Organised crime & corruption	25	17	16
Defence & national security	27	21	14
Standing Orders, deputies' ethics and organisation of Verkhovna Rada	9	17	14
Freedom of speech and mass media	10	21	13
Human rights and minorities	16	16	12
Pensioners, veterans & disabled	-	13	9
Foreign policy	20	27	21
European Integration	-	-	10

Figures show end of each convocation, with the exception of 2003, where the committee size on 25 March 2003 is given, at the time of the fieldwork.

Ω indicates that these committees did not exist in this form between 1994-8. Instead there was a committee on fuel-energy complex, transport and communication (25 members), one on nuclear policy and safety (9) and one on the Chernobyl' catastrophe (8).

Source: www.rada.gov.ua

Figure 2: Changing Parliamentary Composition, 2002-4

Faction	21 May 2002	15 July 2002	11 July 2003	2 July 2004	No. of committee chairs May 2002	No. of committee chairs Mar 2003
Social Democratic Party (United) (SDPU(o))	31	34	37	40	1	1
United Ukraine	178	11	-	-	4	
Party of Industrialists and Entrepreneurs/Labour Ukraine	-	38	43	-	-	2
Labour Ukraine	-	-	-	29	-	
Regions of Ukraine	-	36	47	63	-	2
European Choice	-	18	20	-	-	
Democratic Initiatives	-	17	23	-	-	
People's Power	-	17	19	-	-	
Democratic Initiatives – People's Power	-	-	-	30	-	
Agrarian Party of Ukraine (APU)	-	16	16	21	-	
People's Democratic Party (NDP)	-	17	15		-	1
People's Democratic Party and Party of Entrepreneurs	-	-	-	17	-	
People's Choice/Union* Centre	-	15	14	17	-	
	-	-	-	17	-	
Total Pro-presidential Majority	-	-	234	234	-	
Our Ukraine	119	110	102	100	10	10
Bloc of Yulia Tymoshenko	23	23	18	19	2	2
Socialist Party (SPU)	21	21	20	20	1	1
Communist Party (KPU)	64	63	60	59	6	5
Total Opposition	227	218	200	198		
Non-affiliated deputies	11	11	16	18	-	

* Changed name to Union in May 2004

Source: www.rada.gov.ua NB. For 2002, only 447 deputies had mandates according to the Rada website.

¹ For example, I. Mattson and K. Strøm, 'Parliamentary Committees', in H. Døring, ed., *Parliaments and Majority Rule in Western Europe* (NY: St Martin's Press 1995), p. 250; M. Shaw, 'Conclusion' in D. Lees and M. Shaw, eds., *Committees in Legislatures* (Oxford: Martin Robinson, 1977), pp.366-77.

² M. Shaw, 'Parliamentary Committees: A Global Perspective', *Journal of Legislative Studies*, 4(1), 1998, p.228.

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- ³ D.M. Olson and M. Mezey, *Legislatures in the Policy Process: The Dilemmas of Economic Policy*, (Cambridge: Cambridge University Press, 1991), pp.14-15.
- ⁴ D.M. Olson and W.E. Crowther, eds., *Committees in Post-Communist Democratic Parliaments: Comparative Institutionalisation* (Columbus: Ohio State University Press, 2002), p.194.
- ⁵ E. Damgaard, 'How Parties Control Committee Members', in H. Døring, ed., *Parliaments and Majority Rule in Western Europe* (NY: St Martin's Press, 1995), pp.308-325.
- ⁶ Shaw, 'Conclusion', p.416.
- ⁷ For example, Olson and Crowther, *Committees in Post-Communist Democratic Parliaments*, D. Olson and P. Norton, eds., *The New Parliaments of Central and Eastern Europe* (L: Frank Cass & Co, 1996) and T. Remington, ed., *Parliaments in Transition: The New Legislative Politics in the Former USSR and Eastern Europe* (Boulder, CO: Westview, 1994).
- ⁸ Olson and Crowther, *Committees in Post-Communist Democratic Parliaments*, pp.173-189.
- ⁹ Prior research on Ukraine's parliamentary committees has been limited. The most extensive study to date is in S. Whitmore, *State Building in Ukraine: The Ukrainian Parliament, 1990-2003* (L: RoutledgeCurzon, 2004).
- ¹⁰ For example, Mattson and Strøm, 'Parliamentary Committees'.
- ¹¹ For example, Lees and Shaw, *Committees in Legislatures*.
- ¹² Practices are only reported if corroborated by at least two sources.
- ¹³ L. Way, 'The Sources and Dynamics of Competitive Authoritarianism in Ukraine', *Journal of Communist Studies and Transition Politics*, 20(1), (2004), pp.143-161.
- ¹⁴ K. Darden, 'Blackmail as a Tool of State Domination: Ukraine under Kuchma', *East European Constitutional Review*, 10(2-3), (2001), pp.67-71.
- ¹⁵ See M.S. Shugart and J. Carey, *Presidents and Assemblies: Constitutional Design and Electoral Dynamics* (Cambridge: Cambridge University Press, 1992), p.24.
- ¹⁶ See A. Wilson, 'Ukraine: Two Presidents and Their Powers' in R. Taras, ed., *Postcommunist Presidents* (Cambridge: Cambridge University Press, 1998), pp.67-105.
- ¹⁷ M. Tomenko, 'Returns of the Recent Parliamentary Elections in Ukraine (Political Orientations and Preferences of Voters)', *Political Thought*, 2 (1998), pp.115.

¹⁸ E.g. *Zerkalo Nedeli*, 31 August 2002, 26 October 2002, *Ukrayina Moloda*, 9 October 2002.

¹⁹ This majority finally fell apart in September 2004 as the presidential elections approached and certain sections of the majority sought to ‘hedge their bets’ in case the pro-presidential candidate, Yanukovych, failed to beat the opposition’s Viktor Yushchenko.

²⁰ It is difficult to establish the exact number of deputies with business interests because of the lack of a system of declaring such interests and the general opaqueness of business ownership in Ukraine. In 2000, the State Tax Administration announced that 364 (of 450) deputies derived incomes from commercial structures (*Holos Ukrainy*, 25 April 2000). The Rada elected in 2002 is widely believed to have a larger number of such deputies than its predecessor. For example see M. Tomenko, ‘Iaki parlament potriben Ukrainy?’ (What sort of parliament does Ukraine need?), www.deputat.org.ua, 21 June 2005.

²¹ For example, see ‘Tomenko: Bude opryliudnenyi spysok deputativ, iaki otrymaly kvartyry za biudzhetni hroshi’ (Tomenko: The list of deputies that received apartments from the state budget will be made public’), www.deputat.org.ua, 7 July 2005. For more on the mechanisms used by the regime, see A. Wilson, *Virtual Politics: Faking Democracy in the Post-Soviet World*, (New Haven and London: Yale University Press, 2005).

²² K. Heidar and R. Koole, ‘Parliamentary party groups compared’, in K. Heidar and R. Koole, eds., *Parliamentary Party Groups in European Democracies* (London and New York, Routledge, 1999), p.249.

²³ A. Van Der Meer Krok-Paszkowska, *Shaping the Democratic Order: The Institutionalisation of Parliament in Poland* (Leuven-Apeldoorn: Garant, 2000), p. 117-120.

²⁴ Whitmore, *State Building in Ukraine*, pp.49-50, 159.

²⁵ For instance, deputies changed their faction/group affiliation 562 times in the 1998-2002 convocation. A. Wilson and O. Protsyk, ‘Centre Politics in Russia and Ukraine: Patronage, Power and Virtuality’, *Party Politics*, 9(6), (2003) p.705.

²⁶ K. Heidar and R. Koole, ‘Approaches to the study of parliamentary party groups’, in Heidar and Koole, *Parliamentary Party Groups*, p.11.

²⁷ This is demonstrated by the longitudinal statistical analysis undertaken by the NGO Laboratory F-4 since 1994, who analysed all roll-call votes (from 2000, nearly all votes were taken on a roll-call basis) using multidimensional scaling to plot the voting of factions and deputy groups on charts where the smaller the

circle, the tighter the voting discipline. See Lapin, Ye. et al., *Ukrains'kyi Parlament 13-oho sklykannia – 2-a, 3-ia, 4-a sesii* (Ukrainian Parliament of the 13th convocation, 2nd, 3rd and 4th sessions), (Kyiv: Laboratoriia perspektyvnykh rozrobok F-4, 1996) and issues of *Verkhovna Rada – Weekly* produced by Laboratory F-4 between 2000 and 2003.

²⁸ Kopecky in Van Der Meer Krok-Paszowska, *Shaping the Democratic Order*, p.179.

²⁹ M. Mezey, *Comparative Legislatures* (Durham, NC: Duke University Press, 1979) p.64.

³⁰ For details of the powers of West European committees, see Mattson and Strøm, 'Parliamentary Committees'.

³¹ Law 'on committees of the Verkhovna Rada of Ukraine', 116/95-VR, 4 April 1995.

³² Comparative information about the experience of other legislatures was disseminated to the Rada by USAID's Parliamentary Development Project (from 1994).

³³ There is no consensus among experts on why this occurred (four Ukrainian constitutional law experts were consulted on the author's behalf by Pavlo Kutuev, July 2005). Edward Rakhimkulov (in private correspondence with the author) pointed to the desire of the drafters to limit legislative initiative to political entities, thus excluding committees as a working organ of parliament.

³⁴ Mattson and Strøm, 'Parliamentary Committees', p.260.

³⁵ S. Smith and T. Remington, *The Politics of Institutional Choice: The Formation of the Russian State Duma* (Princeton and Oxford: Princeton University Press, 2001), p.79.

³⁶ Olson and Crowther, *Committees in Post-Communist Democratic Parliaments*, pp.8,14.

³⁷ On the Russian case, see M. Haspel, 'Committees in the Russian State Duma: Continuity and Change in Comparative Perspective', *Journal of Legislative Studies*, 4(1), (1998), pp.192-3.

³⁸ Interview with a senior member of staff of the European Integration Committee, Kyiv, Feb 2003.

³⁹ Interviews with deputies and senior committee staff, Kyiv, 2000 and 2003.

⁴⁰ Mattson and Strøm 'Parliamentary Committees', p.276.

⁴¹ Smith and Remington, *The Politics of Institutional Choice*, p.81.

⁴² On factions/groups internal divisions, see *The Day*, 5 and 18 June 2002, *Ukrains'ka Pravda*, 8 June 2002.

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- ⁴³ The election of the former head of the presidential administration Lytvyn was seen as critical for Kuchma to control the parliament and thus the conditions of his exit in 2004. For details of the tactics used, see I. Pohorelova, 'The Price of Lytvyn', UNIAN news agency, 20 May 2002.
- ⁴⁴ For example, see *Zerkalo Nedeli*, 8 June 2002 and *Den*, 1 June 2002.
- ⁴⁵ *Den*, 5 June 2002, *Ukrains'ka Pravda*, 8 June 2002.
- ⁴⁶ Roll-call vote on resolution no.1174, 7 June 2002, www.rada.gov.ua.
- ⁴⁷ Interviews with Communist deputies and staff, Kyiv, June 2000 and March 2003.
- ⁴⁸ There was a general consensus of feeling on this issue. Interviews with deputies from the pro-presidential majorities, Kyiv, June and July 2000 and March 2003 and communist faction, June 2000.
- ⁴⁹ On Russia, see J. Ostrow, *Comparing Post-Soviet Legislatures: A Theory of Institutional Design and Political Conflict*, (Columbus: Ohio State University Press, 2000), p.105-6, on Estonia, see J. Ruus, 'The Estonian Riigikogu and Institutionalization of its Committees' in Olson and Crowther, *Committees in Post-Communist Democratic Parliaments*, pp. 125.
- ⁵⁰ In the US House of Representatives, committees are authorised to have 18 specialists and 12 clerical staff. At the other end of the spectrum, committees in Canada, Argentina and Mexico have just one member of staff. (National Democratic Institute, *Committees in Legislatures: A Division of Labour* (National Democratic Institute: Legislative Research Series, No.2, 1996), pp.15-17).
- ⁵¹ By 2003, in interviews with the author, most deputies were quick to credit Lytvyn with successfully attracting more resources to the Rada. Also see Pohorelova, 'The Price of Lytvyn'.
- ⁵² Interviews with the author, Kyiv, Feb-Mar 2003. For more on resources and workload differentials between committees, see Whitmore, *State Building in Ukraine*, pp.136-142, 169-70.
- ⁵³ R. Packenham, 'Legislatures and Political Development' in P. Norton, ed., *Legislatures* (Oxford: Oxford University Press, 1990), pp.97-124.
- ⁵⁴ D. Olson, *Democratic Legislative Institutions: A Comparative View* (Armonk, NY: ME Sharpe, 1994), p.134.
- ⁵⁵ The other 6 per cent were initiated by the president. Indiana University Parliamentary Development Project, *Weekly Update on the Verkhovna Rada of Ukraine*, January 19 2004, p.2.

⁵⁶ This was mentioned by deputies and staff in numerous interviews (Mar-Aug 2000 and Feb-Mar 2003) and in the finance and banking committee report: S. Buriak and Ie.Diatlov, *Zvit pro robotu komitetu Verkhovnoi Rady Ukrainy z pytan' finansiv i bankivs'koi diialnosti za II sesiiu (veresen' 2002-sichen' 2003 roku)* (Report on the work of the committee of the Verkhovna Rada of Ukraine on questions of finance and banking activity for the 2nd session (September 2002-January 2003), p.3.

⁵⁷ For example, in the 7th session (Feb-July 2005), the Rada examined 680 laws and adopted 122 of these. 'S'oma sesiia zakinchylasia' (The 7th session has finished), www.deputat.org, 11 July 2005.

⁵⁸ V. Lytvyn, 'Speech at the opening of the third session of the Supreme Rada of the fourth convocation', www.rada.kiev.ua/Lytvyn-Speech-Feb03.htm, 7 February 2003.

⁵⁹ This was evident in observations of parliamentary sessions in 2000 and 2003, but is supported by deputies' opinions. In a survey of 193 deputies (of 450) proportionally representing all factions and committees conducted by the Kyiv International Institute of Sociology 10 Feb-15 April 2002, 70.5 per cent of deputies stated that the key deliberations on legislation took place in committees, while only 6.4 per cent believed it to take place in plenary sessions and 3.4 per cent thought this occurred in factions.

Parliamentary Development Project, *Opinions of the Verkhovna Rada of Ukraine; Comparative Survey Results of the 2nd and 3rd convocations of the Verkhovna Rada of Ukraine* (Kyiv: PDP, 2002), p.9.

⁶⁰ Interview with a head of a committee staff, February 2003.

⁶¹ Parliamentary Development Project, *Opinions of the Verkhovna Rada*, p.33.

⁶² Interviews with heads of committee secretariats, Kyiv, Feb-March 2003.

⁶³ 'Ukraine's parliament: The main lines and stages of evolution', *National Security and Defence*, No.2, 2003, p.11.

⁶⁴ For plenary attendance, see www.rada.gov.ua. Regarding committee attendance, in interviews deputies from the majority and opposition commented on this, Mar-Jul 2000 and Feb-Mar 2003.

⁶⁵ Wilson, *Virtual Politics*, pp.177, 236-245.

⁶⁶ For example, see *Holos Ukrainy*, 28 December 2002.

⁶⁷ Interviews with committee staff and deputies, March 2003.

⁶⁸ Interviews with a committee head of secretariat (June 2000 and March 2003) and the deputy who drafted the version of the bill that failed in 2000 (July 2000).

⁶⁹ Article 4.2.4 of the standing orders, amended 16 March 2000.

⁷⁰ Laboratory F-4, *Verkhovna Rada – Tyzhden*’, weekly bulletins 2000-3. See footnote 27.

⁷¹ Interviews with senior faction staff, May 2000 and February 2003.

⁷² For example, see *Ukrains’ka Pravda*, 26 November 2003.

⁷³ *Zerkalo Nedeli*, 5 April 2003.

⁷⁴ *Den*’, 21 September 2000.

⁷⁵ Deputies were very consistent on this in interviews, Feb-Mar 2003.

⁷⁶ Materials given to the author by staff of the Socialists, Our Ukraine and Communist factions, February 2003.

⁷⁷ Interview with a head of a committee secretariat, February 2003.

⁷⁸ *Zerkalo Nedeli*, 8 June 2002.

⁷⁹ Damgaard, 'How Parties Control Committee Members', p.312.

⁸⁰ Ostrow, *Comparing Post-Soviet Legislatures*