State-building in Ukraine

The Ukrainian parliament, 1990–2003

Sarah Whitmore

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Ukrainian independence thrust the challenges of state-building onto a parliament ill-equipped to deal with them. This book takes the institutional development of parliament as an essential component of the state-building process. Focusing on the institutionalisation of party caucuses and standing committees, the study explores the complex interweaving of factors impacting upon institutional change. This, the first detailed study of Ukraine's parliament, is based on extensive empirical research and moves beyond formal institutions to open out the complexities of political behaviour in Europe's second largest state.

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Key terms and abbreviations

BYuT	Bloc of Yulia Tymoshenko
CNDF	Congress of National Democratic Forces
CPSU	Communist Party of the Soviet Union
CPU	Communist Party of Ukraine
Deputatsii	Soviet-era regional groupings of deputies
DPU	Democratic Party of Ukraine
Dohovir	Usual term for the 1995 Constitutional Agreement (lit: agreement)
Korenizatsiia	Soviet 'indigenization' policy
KRB	Co-ordination Council of the Majority (*Ko-ordinatsyina Rada Bil'shosty*)
NDP	People's Democratic Party (*Narodno-Demokratychna Partiia*)
NRU	People's Rukh of Ukraine (*Narodnyi Rukh Ukrainy*)
Polozhennia	A statute or regulatory document
PDRU	Party of Democratic Rebirth of Ukraine
PZU	Green Party of Ukraine (*Partiia Zelenykh Ukrainy*)
Reglament	Parliamentary Standing Orders
SDPU(o)	Social Democratic Party of Ukraine (United)
SelPU	Peasant Party of Ukraine (*Selians'ka Partiia Ukrainy*)
SPU	Socialist Party of Ukraine
Sumisnyky	Elected deputies simultaneously holding posts in the executive state structure
Temnik	An instruction, allegedly issued by the Presidential Administration, to the media detailing how the news should be covered
UNR	Ukrainian People's Rukh (*Ukrains'kyi Narodnyi Rukh*)
URP	Ukrainian Republican Party
Verkhovna Rada (VRU)	The parliament of Ukraine, which is sometimes referred to as the Supreme Council

A note on transliteration

Transliteration from Ukrainian and Russian is based on a modified Library of Congress system, whereby 'я' is rendered as 'ia' except at the beginning of a word, where it has been written as 'ya' for greater readability. Thus, the political party 'Yabluko' rather than 'Iabluko'. Also for reasons of accessibility to non-Ukrainian/Russian speakers, the soft sign and Ukrainian apostrophe have been connoted by a single apostrophe, except in proper names, where it has been dropped. For example, the name ending '-ський' is written '-sky'. All Ukrainian political actors and place names are transliterated from Ukrainian, for example, Kyiv not Kiev and communist deputy Kocherha rather than Kocherga.

All foreign words are italicised except Verkhovna Rada, following the established convention in legislative studies.

1 Ukraine's parliament in theoretical perspective

The collapse of the Soviet Union brought monumental changes to the political world, creating 15 new states. These states were faced with the enormous challenges of building democratic state institutions at the same time as building a nation; creating a national economy; and formulating their foreign policy orientation. However, the changes within each successor state were not wholesale. Many state institutions were inherited from the Soviet period and were adapted to the new tasks of independent statehood, while Soviet-era officials continued to staff these institutions. Therefore, these institutions were not designed for sovereign, rule-of-law states and were poorly equipped to manage the wider state transformations.

Post-Soviet parliaments were central to decision-making in the new states, and in the case of these institutions the gulf between their responsibilities and institutional capacity was enormous. Parliaments were tasked with constructing the entire legal base of the polity. Rules (laws) were needed to regulate the entire sphere of political, economic and social life. As such, parliaments were central to the processes of state-building and democratization. To carry out these obligations, effective institutions were required, but the parliaments inherited from the Soviet Union were weak. They lacked the institutional constraints (i.e. rules, procedures, norms, culture) needed to regulate and de-personalize political action and also the institutional capacity to facilitate a coherent policy to tackle the problems encountered by the new state. Thus, post-Soviet parliaments were faced with the challenge of building a capable, functioning institution at the same time as operating it – a task akin to constructing a ship whilst sailing in her (Elster 1993). As such, parliamentary development itself was a key task of state-building and raises questions central to political inquiry: How do institutions change and transform themselves over time? What is the impact of past legacies on institutional choices? How do institutions shape the behaviour of actors and *vice versa*? What is the role of parliamentary institutionalization in democratization? Is democratization affected by the choice of political system – parliamentary or presidential?

In seeking answers to these questions, the case of Ukraine's parliament is pertinent. In the decade following the first (semi-)democratic elections in March 1990, the Verkhovna Rada[1] underwent colossal institutional changes. It was

transformed from a provincial republican soviet to the national parliament of a sovereign state and from a nominal, symbolic body into a genuine legislative and representative institution. Since 1990, it has been engaged in defining its own institutional prerogatives and boundaries and those of the entire state. Therefore, the Verkhovna Rada offers an eminently suitable case study of institutional change and development in the context of post-communist transformation.

Parliaments are ubiquitous institutions and perform functions central to the maintenance of a modern state, including representation, law-making and oversight of the executive. To manage this range of functions, parliaments are nested institutions and key responsibilities are devolved to internal institutions. Therefore, the legislative studies literature stresses the significance of internal parliamentary institutions to the capacity of a parliament. The roles performed by party caucuses (factions) and standing committees are singled out as most crucial for the efficacy of a parliament (Shaw 1998: 228). An exploration of the development of the partisan and professional organization of the Verkhovna Rada can illuminate the role of parliament in the Ukrainian state and its development as an institution. The functions performed by these internal institutions will depend not only upon formal institutional design, but on whether the factions and committees operate as coherent sub-institutions in parliament. This seems obvious – for institutions to perform certain functions, they need to exist as defined and definite entities, that is, they need to be institutionalized. Therefore, there are two interconnected levels to the study – the path of development (i.e. institutionalization) of the internal institutions and the role these institutions play inside parliament. In this way, the patterns of interaction between actors and institutions during state transformation are opened up, showing how actors have shaped and been shaped by the institutional context.

The main aim of this chapter is to define an approach for analysis of the development of a post-communist parliament. This will involve considering insights from the theoretical and comparative literature in the fields of democratization studies and legislative studies, alongside a review of historical institutionalism, a school of 'new institutionalism' that promises to focus upon institutions as both a cause and effect in politics, bringing in a historical perspective. The chapter concludes with a note on data collection and an overview of the book's structure.

Democratization, state-building and parliaments

The multiple-dimensioned transformations in East Central Europe and especially the former USSR initially posed considerable challenges for theorists of democratization who had based their theories on the experiences of Latin America and Southern Europe. The post-communist democratization process exposed the false universalism of much of this literature and led some of its principle exponents to address the importance of history and to broaden their conception of democratization to encompass questions of state building. For

example, Linz and Stepan made explicit the link between state-building and democratization: 'Without a state, no modern democracy is possible' (1996: 17), and saw both processes as entwined and equally necessary for post-communist states. The former Soviet republics in particular lacked key prerequisites of statehood, such as delineated and internationally accepted borders, citizens and key institutions such as a national army. They also inherited 'weak states' in the sense that organs of state lacked the capacity to carry out basic functions of governance and therefore urgently required measures to (re)create, institutionalize and maintain institutions able to perform key state functions such as taking and implementing decisions on behalf of its citizens. Post-soviet states were weak for two main reasons. First, the dominance of the Communist Party over state institutions and its tendency to usurp state functions left state institutions inexperienced and underdeveloped. Second, the centralization of all key decision-making in Moscow meant that state institutions in the republics did not have the opportunity to exercise such functions. As such, the post-Soviet republics inherited 'proto-states' that were never designed to perform the functions of a sovereign state and thus lacked the institutional capacity required to manage an independent state. So what were the tasks of state building for the post-Soviet states? Sakwa (2000: 195) offers the most comprehensive definition, whereby state-building comprises five elements:

1 Territorial–judicial – the consolidation of the state to establish clear, internationally accepted boundaries.
2 Administrative–governmental – the (re)creation of the state in the institutional, Weberian sense, with an impartial administrative system able to take decisions backed by force.
3 Procedural–constitutional – the legal definition of the division of powers between the branches of state (executive, legislative, judicial) and establishing political relationships guided by formal rules and procedures rather than arbitrary, personalized and corrupt ties between the branches and between the centre and regions.
4 Operational–legal – the universalizing of the legal system to ensure that agencies of state are also subject to the law.
5 Ethical–purposive – fostering a sense of the legitimacy of state action in its citizens, so that the state is seen as acting for and in their interests.

Parliaments can contribute in different ways to state-building in all of the aforementioned areas. The first two areas mentioned by Sakwa concern the formal creation of the state as a territory, a nation and as a set of institutions. Parliaments can potentially contribute to state-building in these areas by ratifying international treaties and by adopting citizenship laws that provide minority rights. They can create the legal framework and allocate the resources for new state institutions (e.g. constitutional courts, national banks) and where parliaments also act as constitutional assemblies, the framing of the constitution also plays an important role in 'constituting' the state (Wolczuk 2001: 12).

Furthermore, parliaments can act as the main site for elite recruitment and socialization (Weinbaum 1975: 32), performing a crucial function in newly independent states that lack a genuine political elite. The other areas identified by Sakwa concern the problem of the 'weak state' and building its capacity. In terms of procedural–constitutional tasks, the role of parliament is potentially substantial in creating, legitimizing and overseeing the implementation of a new legal base for the functioning of the state, including its own operation. The adoption and oversight of appropriate legislation by parliament is likely to play a key role in the establishment of the rule of law. Finally, due to the representative nature of a legislature, legitimating state action is a universal function. These areas represent the potential contribution of parliaments to state-building. Empirically, it is an idiosyncratic process and elites do not necessarily prioritize all of the aforementioned areas. In Ukraine, the Verkhovna Rada made an enormous contribution to the formal creation of the state, but has proved less successful in state capacity building and establishing the rule of law. As this study will demonstrate, the development of its own institutional capacity was a patchy and uneven process, which in turn circumscribed the Verkhovna Rada's ability to contribute to both state-building and wider democratization.

The role of parliaments in democratization is contested and the debate can be summarized by identifying two main camps. On one hand, there are those who see parliament as the 'central site' in building legitimacy for the new democratic regime (e.g. Schmitter (cited in Liebert 1990: 14)) and performing other key functions for democratization such as constitution-making, conflict-management and balancing the executive (Ágh 1995: 212). On the other hand, there are those who see parliaments as more or less superfluous to transition, although they may have an important role in consolidation via the 'reproduction of democratic consent' (Di Palma 1990). In post-Soviet states, parliaments were likely to have a central role in democratization because, despite their institutional weakness, in the late Soviet period these institutions were a crucial arena for generating popular support for regime change and also they possessed considerable formal executive and legislative powers upon independence. Based on the study of Southern Europe, Liebert (1990: 15–16) suggests that the main contributions of parliaments to democratic consolidation are:

1   Integrating political and social forces into the new regime by providing opportunities for participation and material and symbolic resources for forces of the *ancien regime*, newly emerging parties, anti-system oppositions and economic power groups (producers and workers).
2   Conflict regulation in the political arena by structuring itself and implementing the parliamentary standing orders. The parliamentary elite by consensus and deliberate decisions establish a set of rules to regulate their actions and accommodate their conflicts inside and outside parliament. The extent of rule adherence can be seen as a useful indicator of the level of rule acceptance and of parliamentary conflict management capacity.

3   Building mass support via its electoral and representative links to become a popular, valued institution.

In particular, Liebert emphasizes the importance of the first two tasks for making parliament a 'central site' of democratic consolidation. Ukraine's Verkhovna Rada was a 'central site' in terms of the first task, but the second and third tasks were much more problematic. However, as the definition of state-building above suggests, parliaments are not only agents in democratization. At the same time, they are also subjects of this process as far as increasing parliamentary capacity to perform certain functions central to the operation of a modern democratic state (e.g. law-making, oversight of the executive) is also a central concern in state-building and thus wider democratization. Furthermore, parliament is likely to be the 'central site' for the establishment of a functioning party system. In these respects, parliamentary development *per se* is a central task for democratization and it is on this area that the study primarily concentrates.

    This leads to the question of whether some types of political system are more conducive for building democracy than others. There is an ongoing debate on the relative merits of presidentialism versus parliamentarism. Scholars like Linz (1992, 1994) claim that presidential systems are more prone to democratic breakdown than parliamentarism because political crises (common in democratizing regimes) are more likely to become regime crises because presidential systems are more rigid. Prime ministers in parliamentary systems can be removed by parliament or early elections can be called to ameliorate a political crisis, but presidents are elected for fixed terms. Furthermore, presidentialism imbues a political system with a 'winner-takes-all' logic because the presidency is the supreme prize for all political actors (parties and individuals) and once it is captured, there are few incentives to be conciliatory to the losers. Similarly, the losers have little reason to cooperate with the president (Shugart and Carey 1992: 31). Another widely recognized shortcoming of presidentialism is the greater risk of executive–legislative conflict or stalemate. Both organs are popularly elected and can claim to represent 'the people', a problem known as 'dual democratic legitimacy'. Where a president lacks majority support in parliament, they can find it difficult to enact policy. In the absence of an institutional mechanism to overcome inter-branch deadlock, the system creates incentives for the president to pursue other methods to 'get things done' such as bypassing parliament; seeking constitutional reforms; attempting to form a coalition government; creating new state organs; or buying the support of individual opposition politicians to create a temporary pro-presidential majority (Mainwaring 1992: 114–15). Moreover, presidentialism is seen as detrimental to the development of a consolidated party system. Linz (1994: 35) argues that it reinforces the existence of weak, factionalized and clientelistic or personalized parties because it is only by promoting party splits, forming local clientelistic ties or distributing pork barrels that the president is able to govern and get policy enacted.

Shugart and Carey refute the idea that presidentialism is inherently more unstable and less conducive to democratization. They point out how presidential systems provide greater direct electoral accountability and identifiability than parliamentarism, especially where multi-party coalitions govern (i.e. in most cases) (1992: 43–6). They, along with Sartori (1994), argue that the disadvantages of presidentialism can be tempered by careful institutional design and advocate semi-presidentialism as a way of addressing its limitations. Indeed, by the end of the twentieth century, semi-presidential systems were more widespread than presidential ones (Elgie 1999: 14) and were a popular choice in democratizing states (e.g. Poland, Bulgaria, Romania, Russia). Elgie defines semi-presidential regimes as those where a popularly elected fixed-term president exists alongside a prime minister and cabinet which are also responsible to parliament (1999: 13). However, Linz (1994: 52) believes that rather than ameliorating the disadvantages of presidentialism, semi-presidential systems actually have similar pitfalls as well as additional dangers arising from the dual executive, such as increased probability of inter-branch conflict and the diffusion of responsibility. Pridham (2000: 128, 132) has also pointed out that such 'hybrid regimes' are likely to have negative consequences for democratization, especially where the constitutional settlement is unclear or is contested by key actors. In the 1996 Constitution, Ukraine opted for a variant of semi-presidentialism which Shugart and Carey (1992: 24) call president–parliamentary to reflect the primacy of the president, who forms the government and has law-making powers, but the government also relies on parliament's confidence. As this study will show, the Ukrainian case adds weight to Linz's argument by demonstrating how semi-presidentialism can exhibit all the aforementioned disadvantages of presidentialism.

In sum, the debate on 'constitutional design' suggests that presidential systems are the most risky choice for democratizing states. Moreover, unclear rules or overlapping competences between the executive and the legislature increase the probability of destabilizing inter-branch conflict and presidentialism/semi-presidentialism tends to produce less incentives for the consolidation of political parties than parliamentarism. This has potentially significant implications for parliamentary development as the type of party system and the nature of relations with the executive will influence the capacity of a parliament to perform its functions.

Approaching parliaments

Parliaments are ubiquitous institutions and their existence is seen as one of the prerequisites of a functioning democracy. Nevertheless, parliaments or legislatures[2] are institutions that vary enormously in the roles and functions that they perform in different states. Norton defines legislatures as:

> constitutionally designated institutions for giving assent to binding measures of public policy, that assent being given on behalf of a political

community that extends beyond the government elite responsible for formulating those measures. ... Legislatures ... usually are elected, but this is not a defining characteristic.

(Norton 1990: 1)

Therefore, according to Norton, the defining characteristics of parliaments are associated with their law-making and representative functions. However, as Packenham (1990) points out, parliaments are multi-functional and bodies with an insignificant policy-making role may still perform important functions such as legitimation, elite recruitment and socialization and decisional or influence functions such as interest articulation, conflict resolution and administrative oversight. These are seen as the main functions of modern parliaments and as important as law-making. In the case of the Verkhovna Rada, the functions it performed were evolving and mutable during the period of investigation. While acknowledging the multiple functions of parliaments, law-making (or more broadly, rule-making) is seen as one of the most crucial functions performed by a parliament in the context of a newly independent, post-Soviet state. As the collapse of the USSR transformed republican soviets into national parliaments at the centre of decision-making, these institutions faced enormous tasks of state and nation building, democratization and economic liberalization. Therefore, examining how the Verkhovna Rada performed its law-making functions (as well as related functions such as conflict management and oversight) can provide a valid indicator of developing institutional capacity. Furthermore, law-making is a key task of both committees and factions in parliament and as such provides an excellent site for examining the interaction between key sub-institutions of parliament.

Parliaments as nested institutions

Political science literature stresses the significance of internal parliamentary institutions to the capacity of parliament to perform roles essential to the functioning of a modern state. As nested institutions, where key functions are devolved to internal institutions, the roles performed by parliamentary parties and standing committees are singled out as the most crucial for affecting the efficacy of parliament as an institution. The importance of a strong party system (within and beyond parliament) for accountable governance and democratic stability is emphasized by Huntington (1968), Mezey (1975) and Sartori (1976). Polsby's (1990) continuum of legislative types suggests that the ideal type of a 'transformative legislature' (such as US Congress) plays an independent role in policy-making and its internal division of labour (especially committees) is important for shaping outcomes. At the other end of the spectrum is the ideal type 'arena legislature', which is characterized by strong political parties who utilize parliament as an arena for the interplay of political forces and where parliament is essentially a tool of the government of the day. Contemporary theorists take this one stage further to posit a relationship between committees

and parties in parliament that is intimately linked to institutional capacity. Strong committees are a prerequisite of a strong parliament (i.e. one able to influence the decision-making process). In turn, the parliamentary party system is the main influence on whether committees, embodying the 'professional' division of labour in parliament, are strong or not (Olson, cited in Shaw 1998: 228).

However, this relationship remained vaguely defined and under-theorized until Ostrow's study offered a well-elaborated comparative framework. Basing his theory on the development of the Russian and Estonian cases, he focuses on the institutional design of a legislature as key to its capacity to manage conflict. Parliaments can be of single-channel, unlinked and linked dual-channel design. Single-channel design can be non-partisan, where committees are the sole organizational entity controlling the leadership, agenda, rules and legislative procedure, and partisan groupings such as political parties are excluded from this process. The Russian Supreme Soviet, 1990–3, would be an example of this type. At the opposite end of the spectrum, the British parliament pre-1979 represents single-channel partisan design, where parties execute all key organizational roles and committees are excluded. Dual-channel design parliaments, such as Russia's State Duma post-1993 and Estonia's Riigikogu, are organized by both partisan and professional entities and the form of linkage between the two channels is seen as the independent variable affecting conflict management capacity (Ostrow 2000). Links between the partisan (faction) and professional (committee) channels in a parliament facilitate the flow of information and communication for consensus building and provide mechanisms for negotiation and co-operation, so that the two channels do not exist as separate, competing units. The primary means for effecting linkage is via the parliamentary leadership body whereby, for example, a coalition of faction leaders select all the committee chairs, thus ensuring co-ordination between 'majority' factions and committees. Where the channels are unlinked, Ostrow argues, such parliaments are capable of conflict management, but this takes place at the expense of legislative effectiveness.[3] The pertinence to the case of Ukraine of Ostrow's hypothesis deserves particular attention because it was developed in the study of post-communist parliaments, cases likely to share common experiences with Ukraine in terms of regime legacies and, particularly in post-Soviet countries, the institutional inheritance and type of party system.

In order to further define the study, it makes sense to consider insights from comparative and theoretical literature on parliamentary parties and standing committees. Taking parliamentary parties, it must first be noted that the political science literature both on parties and on legislatures has paid less attention to the specific functions that parties perform inside parliaments.[4] However, it is possible to extrapolate from general literature in both fields (e.g. Mezey 1979, Sartori 1976 and Ware 1996) and identify some of these functions. Nevertheless, as parties perform many different roles in different parliaments – depending on and interrelated to the party system, the type of political system (presidential or parliamentary), and the electoral system, as well as contextual factors – the list below is intended to be neither exhaustive nor normative. It merely indicates the

types and variety of roles parties *may* perform in parliaments (and inevitably overlaps with potential functions of extra-parliamentary parties). The functions or roles identified are:

- structuring/organizational roles, such as allocating leadership positions and forming organizational bodies (such as committees);
- forming the government either individually or in coalitions and accepting responsibility for its performance;
- articulating alternative programmes and policy alternatives;
- channelling the interests of both parliamentarians and the electorate;
- simplifying and influencing the voting decisions of parliamentarians;
- comprising recognizable group (party) identities on which the electorate can base future voting decisions, thus forming part of the mechanism of electoral accountability;
- aggregating interests and facilitating communication between centre and local activists;
- providing connections among government decision makers;
- requiring the executive to confront legislators in groups and not as individuals, thus making it more difficult for the executive to co-opt the legislature for its own purposes.

These potential functions have been identified from comparative literature that is based on the assumption that the partisan units of organization inside parliaments consist of party caucuses, which in Germany, the Netherlands and throughout East Central Europe (with the exception of Poland) are called factions. In the case of post-Soviet parliaments, like Ukraine's Verkhovna Rada and Russia's State Duma, the situation is complicated by the existence of non-party factions and the fact that political parties themselves are often little more than elite formations based on personality rather than a common ideology and lack substantial extra-parliamentary organizations and societal support. Therefore, the roles played by factions in an emerging parliament may be quite different and it would be misleading to formulate a research framework based on expectations derived from other studies particularly where internal institutions have been the subject of extremely limited prior investigation.[5] Therefore, a more inductive, investigatory type of study is appropriate.

Furthermore, in the context of democratization where parliament has had to deal with the exigencies of state and nation-building at the same time as building parliament itself as an institution, the roles of factions in a former one-party state are likely to have altered substantially over the past decade. The pattern of faction development as an institution in parliament can illuminate the changing role of parliament in the state, it can open up the dynamics of interests and balance of power within parliament, illuminating the processes of institutional change in the complex interaction between actors and institutions.

Committees represent the specialist differentiation of parliament to which the parent chamber devolves varying functions, such as legislation drafting and

oversight activities. This is based on the rationale of legislative efficiency. Such a division of labour permits advantages such as the acquisition of expertise in a policy area; economies of operation derived from creating parallel tracks of legislative deliberation; and potentially, in a private, more intimate setting than plenary sessions, the modification of partisanship (Mattson and Strøm 1995: 251–5). As Mezey (1979: 64) points out, a highly developed committee system is particularly important if legislators wish to have an impact upon policy formation. Such a committee system requires a highly differentiated structure and stable membership. Proceeding from this, studies of committees focus upon organizational structure (features including committee types, number, size, jurisdictions) and procedures (such as committee assignments, allocation of chairs, use of hearings and the legislative process). Some studies include relations with parties and the government (e.g. Shaw 1979). The study of post-communist committee systems incorporated new case-specific features such as membership stability and attendance (e.g. Olson *et al*. 1998). Most research on committees provides a 'snapshot' descriptive–analytical analysis in order to assess committees' strength and capacity (i.e. efficiency). This offers important insights for understanding the capacity and strength of the wider parliament, as committees' effectiveness shapes a parliament's ability, for example, to fulfil its legislative and oversight functions.

However, the issue of committee change is also important. As Shaw (1998: 229–34) elaborates, when legislators want to develop their role in policy input, reform or tinkering with the committee system is common. Drawing from the European experience, he points to trends of increased structural differentiation, greater use of public hearings, a growing tendency for committee jurisdictions to replicate those of executive departments and to a shift from *ad hoc* arrangements towards permanent, specialized committee systems. To bring the temporal dimension into analysis, scholars like Polsby and Shaw apply the concept of institutionalization to committee development. The concept is central to legislative studies' understanding of institutional change (Shaw 1979: 404–12).

Institutionalization and change

In the wake of the 'collapse of communism' parliaments became the 'central site of policy-making' (Ágh 1995: 204), required to act as policy makers, constitution writers and institution builders simultaneously (Olson, 1995: 57). As nominal bodies during the communist era, they were ill-equipped to perform this role and as institutions they have undergone enormous change in subsequent years. Understanding the evolution of a parliament and explicating how and why it has taken its particular form are pivotal questions for those seeking to understand the process of state-building and for parliamentary research.

In attempting to explain how parliaments develop and change over time, the concept of parliamentary institutionalization has been central (Longley 1996: 23). In essence, the concept refers to the *process* by which institutions acquire

generally adhered to rules and procedures that make its perspectives and behaviour independent of other political institutions or social groupings. Therefore, as Huntington (1968: 12–24) and Polsby (1990: 138–41) explain, an institutionalized parliament will exhibit organizational complexity, autonomy, adaptability and coherence. The process is neither inevitable, nor irreversible, nor unidirectional. It is a dynamic process (Polsby 1990: 141).[6] However, in the literature, there is a sense that, *ceteris parabus*, institutionalization will occur over time by a process of accretion.

In the case of East Central European (ECE) parliaments, Hibbing and Patterson (1994: 147) suggest that the institutionalization process is likely to be most rapid in the early post-communist years. This seems logical in states experiencing rapid social, economic and political transformation as parliaments are faced with 're-writing the rules' for the polity and their own institution. In such circumstances, political scientists have an opportunity to watch the process unfolding first hand as theoretical explanations for the origins of institutional development remain inconclusive.

Some scholars see the process has an underlying '"invisible hand" inexorably reaching for equilibrium' (Patterson and Copeland 1994: 4). This type of explanation sees change as produced by exogenous factors and is consistent with a functionalist account of institutional change such as that offered by Copeland and Patterson (1994: 152–60). Here change is caused by the altered capability of parliament to perform its functions or a change in those functions (i.e. disequilibrium is created).[7] An alternative, more agency-centred explanation construes change as grounded in acts of choice: the idea of 'institutional design' (e.g. Elster, *et al*. 1998). The idea that after communism had been 'swept away', there was *tabula rasa* on which new democratic institutions could unproblematically be constructed gained currency in the early 1990s. However, experience suggests this conception was ill founded, not least because there was no *tabula rasa*: institutions already existed and were not 'swept away' at all. Nevertheless, moderated agency-centred explanations cannot be brushed aside as a consequence of this experience. In post-communist states, identifiable actors have been making decisions (in institutional contexts) about the form of state institutions. Such decisions have been informed by the choices made elsewhere via technical assistance programmes and institutional transplants. Structure and agency-centred approaches are not mutually exclusive and although it is not the task of this book to resolve the relationship between the two, the issue is seen to be key and will be revisited.

It would seem useful at this point, to consider briefly some theories of change that have been developed in the study of legislatures. These do not comprise a theory of legislative change. The idea of institutionalization is the nearest the sub-discipline comes in this respect. However, the general analytical framework developed by Weinbaum and that by Ágh, which is more specific to the process of democratization and ECE and post-Soviet parliaments in particular, can potentially help with the formulation of research propositions and an assessment of how the Ukrainian parliament's experience relates to wider patterns.

Weinbaum (1975: 58–64) identifies conditions for legislative change based on inductive empirical studies of Iraq, Iran and Afghanistan. Although Weinbaum emphasizes the role of actors in the executive branch as the prime movers in legislative change, this does not mean that he excludes structural factors such as supportive societal norms. However, contextual factors will influence the importance of a variable. Where parliaments perform a weak linkage function between society and the state as is likely to be the case in weakly institutionalized parliaments such as in the former Soviet Union, supportive societal factors are seen as less important. Change may be triggered by exogenous and endogenous variables or they could 'straddle' the two, as is the case in a modification of the configuration of political parties or in a revision of the formal rules such as laws or the constitution. Through his case studies, Weinbaum also demonstrates that no matter how submissive or passive a parliament is, it nevertheless deliberately or unintentionally modifies its environment. Weinbaum's identification of the significance of, first, the executive and, second, the party system while leaving room for endogenous sources of change as crucial influences on the nature of a parliament and the direction of change has been supported implicitly by other empirical research (e.g. Haspel 1998, Ostrow 1996).

To develop a framework for assessing parliamentary change during regime transition, Ágh (1995: 210–11) shifts the emphasis towards the party system, the nature of parliamentary majorities, Blondel's concept of 'viscosity' (i.e. the capacity of parliament to resist government bills and enact their own) and the role of committees. It is worth noting that these frameworks have not been sufficiently elaborated to comprise a theory of legislative change. They offer concepts that can sensitize a researcher to variables to form preliminary propositions for investigation. However, as an explanatory theory of how and why parliaments change, they are lacking not only because they do not attempt to explain how the various causes of change are related to one another. More importantly, they do not confront the importance of an institution's history and the causes and process (rather than 'state') of institutional continuity. This gap has led scholars of post-communist states to borrow from historical institutionalism the concepts of path dependency, institutional stability and change.[8]

Historical institutionalism

Historical institutionalism has been influential in recent democratization and legislative studies as its emphasis on the empirical is practical for both comparative and single case studies and the approach is attentive to theoretical concerns. It sees institutions as central to analysis, bringing in multiple variables, features that seem appropriate for the study of parliamentary institutions during regime transition. In addition, the approach is sensitive to history. It is now increasingly recognized that an appreciation of the communist past is vital to an understanding of current processes in post-communist counties.

Historical institutionalism came from the neo-statism of the early 1980s, a project that aimed to 'bring the state back in' to the forefront of political analysis. In American political science at least, institutions of state had been increasingly treated as little more than neutral arenas for political actors (pluralism/behaviouralism) or as a reflection of society (interest-group theories). The neo-statist approach attributed autonomy to state institutions while relating them to their socio-economic context, attributes that are central to historical institutionalism. The claim of autonomy for a political institution sees institutions as more than arenas for contending social forces. They are not entirely derivative of social structures and have independent effects on 'society' (Scott 1995: 26).

The definition of institutions within the historical institutionalist 'school' remains ambiguous. In general, however, working definitions tend to incorporate formal structures, informal rules and norms that structure conduct (Hall and Taylor 1996: 937). It is the claim of institutional autonomy and coherence that distinguishes institutions from social structures, but this distinction is not always clear. For example, March and Olsen (1989: 22) define institutions very broadly to include 'beliefs, paradigms, codes, cultures' so that an actor's behaviour is guided by a logic of appropriateness where she consciously or unconsciously moulds herself to fulfil a role. In conceptualizing human action, historical institutionalism sometimes teeters on the edge of a structuralist account that would leave little room for individual action or hope for altering the uneven distribution of power. This is clearly undesirable if the stated agenda of the approach is to be explored empirically and theoretically. Proponents claim the task of historical institutionalism is to illuminate how power struggles are mediated by their institutional setting (Thelen and Steinmo 1992: 2). In other words, to explain how institutions structure power relations among actors, favouring some and disadvantaging others, but also how institutions *shape* the goals actors pursue, i.e. their preferences. In contrast to 'classic' rational choice institutionalism where preferences are taken as fixed, stable and exogenous, historical institutionalism takes a more sophisticated view of actors' preferences. They are seen as problematic: neither fixed nor determined wholly exogenously (March and Olsen 1989: 739). This view is rooted in historical institutionalism's distinct conception of structure and agency.

Institutions and behaviour

Although historical institutionalism does not yet have a fully elaborated conception of structure and agency, some exponents (e.g. Thelen, Steinmo) view actors as both shaping and being shaped by institutions (Hay and Wincott, 1998: 954). And institutions, while shaping actors' preferences and effecting an uneven distribution of resources and power, are also created, reformed and altered by actors. The relationship is dynamic and mutually constitutive. Institutions can be thus both the independent and dependent variable at different points in the analysis. Therefore, historical institutionalism's conception of

structure and agency, with institutions as intermediaries between the two, enables institutions to have attributes of structure *and* agency with the empirical case study determining which is the more salient in an explanation (Rothstein 1992: 34). This is particularly attractive in the case in question where there has been limited prior research as it permits a flexible, context sensitive approach.

Historical institutionalism sees institutions as shaping both the behaviour of actors (by making some options feasible and not others) and their preferences or interests (by affecting their perception and interpretation of life) (March and Olsen 1989). For historical institutionalists like Thelen and Steinmo and March and Olsen, preferences are something to be explained and are shaped, but not determined, by institutions as well as 'society'. Preferences are seen as complex and even contradictory because of the dense matrix of institutions nested within each other. An actor behaves strategically in a given context, but his/her preferences are complex and changing. This forms the basis for the dynamic, mutually constitutive construction of the relationship between institutions and individuals, structure and agency. The possibility of incorporating a complex, dialectical conception of structure and agency into empirical explanation is attractive, seeing the Verkhovna Rada's internal institutions as a dependent and independent variable at different points in the analysis, shaping outcomes as an actor in intended and unintended ways and being shaped by 'policy feedback' as the actors that constitute parliament as an institution alter their interests and perceptions of feasible action in the newly created context (Pierson 1994: 39).

However, it can be misleading to see post-communist institutions as constraining actors' behaviour because so much activity takes place *outside* the institutional framework as a result of prior habits and the paucity of rules and so on (Nielson *et al.* 1995: 32). In the Verkhovna Rada, the absence of clear rules at intermediate (between institutions) and immediate (internal procedures, etc.) levels has reinforced the importance of informal networks and *ad hoc* arrangements, for instance, in the production of draft legislation. Therefore, it is necessary to include actors' subjective positions and notions of culture to facilitate a deeper understanding of the subject than a narrow conception of institutions and individuals could offer in the post-Soviet context. Institutions are likely to 'matter' less (in terms of their influence on shaping action and preferences) because of the lack of institutionalization, or they may 'matter' in a different way, perhaps as a 'prize' fought over by competing actors hoping to gain advantages in the future. As argued above, institutions matter, but not in any determinant way. How they have mattered inside Ukraine's parliament is a key empirical question for this study.

A sophisticated and more realistic conception of structure and agency as mutually constitutive and inseparable in the 'real world' would benefit the case study in question as an underlying assumption upon which the analysis is built. However, in the Ukrainian (and indeed, post-Soviet) case it will be much more difficult to incorporate this explicitly into a framework of analysis, neatly separating (incomplete) outcomes, the effects of parliamentary action, other 'state' action and parliamentary internal institutional change as, for example,

Hall does in his analysis of the paradigm shift from Keynesianism to monetarism (Hall 1992). When analysing Ukraine, it will be hard to produce such elegant explanations because there is *so much* simultaneous institutional and broader social and economic change, raising the question of whether historical institutionalism can cope with multiple dimensional transition. Therefore, the most fruitful approach is a descriptive–analytical method which will keep theoretical propositions 'closer to the ground', permitting exploratory research with minimal prior assumptions (Geertz 1973: 24). With this in mind, historical institutionalism's approach to institutional change and historical development will be examined.

Path dependency

Central to the approach's conception of change and development are the notions of path dependency and contingency. These concepts have been influential in democratization and legislative studies and influence the type of explanation produced. Historical institutionalism sees historical development as path dependent, i.e. that prior institutional choices will constrain options available in the future. Once a choice is made to move onto a particular path, it is very difficult to change back to the previous path. However, this does not imply that institutions move inexorably towards perfection, because the outcomes of actors' choices are not seen as predictable. The social world is so complex, containing myriad relationships, that a decision will yield unintended consequences as well as, or instead of, the anticipated outcome. In addition, historical accidents of timing and coincidence, usually referred to as contingency, may leave lasting legacies.

Elster *et al.* (1998: 60–1) point to four causal mechanisms by which the past can influence the present: by shaping values, beliefs and habits; as a constraint on actors' behaviour; past regimes may serve as models for new institutions; and may provide arguments in discourse. So path dependency is more than 'history matters', it is the direct and indirect effects of past choices on present options, that inefficient outcomes may persist because of the high cost of reversal. This incorporates the idea that the order in which events happen affects *how* they happen and that a choice made at a certain point eliminates a range of other possible choices in the future (Tilly 1994: 270).

Historical institutionalism tends to rely upon emphasizing institutional origins and creation to explain what produces historical paths, which are followed by institutionalization as an institution becomes 'locked-in' to a particular path and an institution is seen as stable and resistant to change. Institution stability is a process rather than stasis, as over time within an institution socialization produces vested interests and affects the distribution of power (Offe 1995: 52–3). Rothstein (1992: 35) stresses the importance of explaining institutional creation empirically to get closer to understanding the problem of structure and agency and how institutions structure power relations. He sees institutions as created at certain moments in history by agents with the

intention of gaining an advantage in a future game of power, but points out that only rarely do actors operate under institutions of their own making. In post-communist countries, however, such instances are not so rare, although unanticipated outcomes mean that those who 'chose' an institution do not necessarily benefit personally. The creation of the Ukrainian presidency by parliament was a decision determined by (what turned out to be) short-term interests (i.e. the desire for increased leverage against Moscow), but among the unintended consequences of a presidency with poorly defined powers were long-term detrimental effects for the parliament. History matters, but not in any determinate way. Institutional creation should not be overemphasized in favour of looking at the development of the institution after that period. It can be more or less important in empirical studies.

Analysing parliamentary development in Ukraine

As stated above, parliaments are nested institutions; they house multiple sub-institutions to manage the complex array of tasks required of them by the state and society. It is therefore important to investigate the impact of internal institutions in shaping the place of the Verkhovna Rada in the wider polity and this can be understood by exploring the process of institutionalization and change of the most important internal institutions in the early years of state-building. The challenges faced by these internal institutions will illustrate parliamentary institutionalization as an ongoing dynamic process.

Moreover, many theorists and empirical cases in legislative studies agree that factions and standing committees are *the* major *loci* of a parliament's work. In addition, they posit a relationship between the two that is intimately linked to institutional capacity (see above). The implication is that parliament will be unable to exercise its functions effectively if its internal institutions are under-developed. The interaction between these main constituent institutions will help us to understand how parliament has metamorphosed, how far it has become institutionalized and to uncover the structure of power inside parliament. The degree and process of institutionalization of these internal institutions will help us to understand how the parliament developed as an institution and the role it is able to play in Ukrainian politics, especially *vis-à-vis* the executive.

However, the application of the concept of institutionalization may be seen as problematic when applied to the Verkhovna Rada in as far as this parliament is less than 15 years old and political scientists freely admit that institutionalization takes 'decades, even generations' (Polsby cited in Wise and Brown 1996a: 217). In many areas, basic rules and procedures were lacking, which Ágh (1995: 206) calls the 'institutional deficit', accompanied by a 'cultural deficit', the lack of professionalism, experience and parliamentary norms needed to face the challenges of state-building and democratization. In practice, this meant that the Verkhovna Rada had to deal with constitutional questions about the form of the new state and its own prerogatives, with limited institutional capacity to manage such issues. The effect of these institutional and cultural deficits

comprises part of the empirical investigation. Therefore, it is unlikely to be revealing to apply a definition framed with the study of Western parliaments in mind. As Wise and Brown (1996a: 217) contend, studying emerging parliaments as potential equals with institutionalized legislatures in more industrialized nations ignores the fundamental role of culture, context and history in an institution's development. Wise and Brown thus approach the subject by assessing the extent to which a 'positive foundation' has been laid for future development, though this approach implicitly imposes their normative conception of how the Ukrainian parliament should develop. Instead, this study proposes to take a developmental approach[9] that will facilitate an explanation of the *process* of institutionalization and institutional change which seeks, as far as possible, to avoid imposing Western norms and/or the author's own preconceptions.

The conceptualization of institutionalization derived from Huntington and Polsby, which regards organizational complexity, coherence, autonomy and adaptability as key features of institutionalization will be utilized to identify change and institutional development. However, as the conceptualization was developed in relation to long-established parliaments, the feature of adaptability is particularly problematic for application to the Ukrainian case. In the case of the Verkhovna Rada, institutions were being *built* (sometimes from scratch) and 'engineered' during the decade under consideration. Change was frequent, multi-layered and uneven. It could be argued that the Rada was *too* adaptable and thus, this criterion will not be useful for an assessment of the early stages of institutionalization. Thus, factions' and committees' institutionalization will be assessed by considering the changes in their organizational complexity, coherence and autonomy over the 1990–2003 period.

Although the literature points to useful areas for investigation, given that there has been very little prior research, the testing of hypotheses is not seen as the most appropriate approach. The literature will inform the research, by assisting in the identification of a group of research questions that will frame an essentially exploratory study, to find out features of little known phenomena. This means that methods that presuppose information cannot be applied (Patzelt 1994: 115). Imposing frameworks and categories before we can know of their applicability risks distorting the evidence and interpretations produced. Further, the consideration of formal rules and institutional structures can only be a starting point, as informal structures point to quite different power structures and institutional dynamics. Therefore, the incorporation of everyday practices and actors' subjective perceptions is crucial to analysis. By cautiously utilizing concepts developed in studies of parliaments elsewhere (such as institutionaliza-tion), the study will be comparable and can permit the future inclusion of Ukraine in comparative parliamentary studies without losing sensitivity to the specific experiences of the case.

Thus, instead of proposing a testable hypothesis, the following inter-linked open questions are posed to guide the exploration of the process of internal institutional change and continuity inside the Verkhovna Rada and to the identification of the meaning of this change:

1   What have been the main factors affecting the form, pace and direction of internal institutional change?
2   What has been the role of these internal institutions (factions and committees) in shaping actors' strategies and behaviour?
3   What has been the role of internal institutions in parliament?
4   How has the internal development of key institutions and the inter-relationship between them affected the role of the parliament in Ukrainian politics?

A note on the method and data collection

Qualitative methods are the most appropriate for this type of study, because they allow the researcher to do justice to the inherent complexity of social interaction, its contextual and often contradictory nature (Glesne and Peshkin 1992: 7). Despite the emphasis on qualitative methods, some quantitative data have also been employed for triangulation of method and data. Quantitative data have been used to facilitate comparison between similar institutions and over time (e.g. looking at roll-call votes and faction size fluctuation to compare differences in discipline and cohesion). This provides a picture of, for example, factions in the Verkhovna Rada, a basic 'what is there'. Qualitative techniques are used to attach meaning to 'what is there'. They permit the interpretation of actors' behaviour and subjective beliefs, the exploration of everyday routines, informal behaviour, norms and their location in context. Documentary analysis, observation and interviewing have been the main qualitative methods used, as a multi-method approach to data collection enables triangulation at every stage of the data collection and analysis. In practice, however, this was not always possible for reasons that will be explained below.

Fieldwork for the study was conducted in Kyiv between March and August 2000, August 2001 and February–March 2003. Regular formal observations of parliamentary plenary sessions were complemented by on-going informal observation of different contexts and interactions within the broader parliamentary setting. These included open faction meetings, committee roundtables and in the lobbies. Observations formed part of what Richard Fenno called 'soaking and poking' (quoted in Putnam 1993: 12), immersion in the daily routines and minutiae of parliament. This provided a rich, personal understanding of the context, which in turn provided invaluable insights for the more structured analysis.

Documentary analysis encompassed published and unpublished sources. The published sources included newspapers, roll-call votes, party programmes and stenographic reports of parliamentary plenary sessions. Unpublished documents can be divided into two categories: archived and non-archived documents. First, the archive of the Verkhovna Rada contained documents for the previous convocations of the Verkhovna Rada (up to 2002), including the files of standing committees and some factions. A number of factions (e.g. nine of 17 for the 1994–8 period) had retained their archive and ensured access was closed. Of those that had sent them to the Verkhovna Rada archive, it was common to find

pages or documents had been removed. Due to the largely informal nature of factions during the twelfth (1990–4) convocation, there were no archive documents available. Second, documents of the fourth convocation (post-2002) were not yet archived, although some staff were willing to provide some documents. Therefore, it proved impossible to secure the same types of data for the whole period under investigation. This was partially rectified by interviews to provide missing evidence about, for example, the work of standing committees, but the fact that interviews and documents yield different types of data is acknowledged in the study. This means that triangulation was sometimes reliant on the coincidence of deputies' accounts in interviews. For previous convocations, this was especially problematic.

In-depth interviews were conducted with over 50 parliamentary senior staff and People's Deputies, and some were interviewed more than once. Additionally, the directors and staff of eight NGOs involved in providing technical assistance to or research on the parliament acted as 'informants' and a focus group held with interns working in committees provided additional insights. The interviews were semi-structured with open questions, while the sample of interviewees aimed for diversity. Therefore, among the deputies interviewed, it was attempted as far as possible in such a small sample to reflect the political (i.e. faction), gender and age composition of parliament and to ensure that they worked in a broad spread of committees. For staff, a number of secretariat heads of standing committees of varying size, workload and prestige were interviewed, plus heads of factions secretariats.

The small sample of interviewees means that the interview data does not claim to be representative of the views of staff and deputies in the parliament, rather it reflects a variety of opinions and produces rich, individual accounts that indicate some of their beliefs and their attitudes to their roles and to certain events and processes. The difficulty of using interviews conducted over three years to understand processes unfolding over the 13 year period under investigation is taken into account in the analysis. Staff and deputies from previous convocations were asked about the past, although problems of memory and 're-writing history' through the prism of current events are acknowledged. This was particularly tricky in the case of serving deputies because as active politicians they tended to be focused on the present day and were sometimes unwilling or unable to engage with the past. However, long-serving parliamentary staff proved more adept at recalling previous convocations and permitting the triangulation of documentary or published sources with information gleaned from interviews.

It is a perennial difficulty in social science to reconcile attitudes expressed in an interview and behaviour. Inside the Verkhovna Rada, this is writ large. It is starkly illustrated by the case of a deputy who, having spent a great deal of time passionately explaining the illegality and illegitimacy of a particular bill during an interview with the author (Anonymous, interview 2000), ten days later voted for it. This exposes the 'puzzle' of Ukraine's parliamentary culture. Only an exploration of the informal practices and context of a case can explain why this

occurred. Quantitative data are capable of peeling back the first layer of parliament's workings and changes. Multi-method qualitative analysis penetrates deeper through the layers of informal behaviour and subjective meaning to bring the researcher closer to the subject.

The structure of the book

In order to accommodate multiple variables at different levels in complex interaction over time, the study has been organized to combine thematic and chronological analysis. This was dictated by the subject matter, so that the assessments of factions' and committees' institutionalization have been written up differently, with chronology given precedence in the chapters on factions and themes prioritized in considering committee development.

Chapter 2 maps out the key stages of parliamentary development in Ukraine. Parliament as a whole is examined to provide the context for the empirical chapters to follow. It begins by characterizing the Soviet-era Verkhovna Rada to provide background on the institutional legacy inherited and then seeks to locate the main exogenous factors impacting upon institutional change in parliament.

Chapters 3, 4 and 5 assess and explain the institutionalization of factions (party caucuses) in the Verkhovna Rada. Each chapter covers a different convocation[10] and this is necessary because each convocation was subject to different internal rules, was elected under different circumstances and electoral rules, was influenced by distinct contextual factors and a different composition structured parliament and the balance of power within it. The chapters share common themes and structure, because they are based on a chronological division. A study of factions' development in Ukraine is an example of actors' shaping (designing) institutions and being shaped by them. It needs to be approached developmentally because the trajectory of faction development has been closely linked to the preferences of actors in each of the three convocations under investigation. Chapter 3 demonstrates how factions emerged and became established as a permanent parliamentary institution over 1990–4, despite remaining largely unstructured. Chapter 4 argues that during 1994–8, factions became more institutionalized and developed a greater role in parliamentary decision-making. Chapter 5 illustrates that after 1998 factions became the dominant internal parliamentary institution, while at the same time they were increasingly vulnerable to external influences. In sum, faction institutionalization was patchy and not thorough-going.

Chapter 6 assesses committee institutionalization 1990–2002 thematically in light of the incentives produced by the rules, institutional inheritance and factions' behaviour. The thematic structure across the period of analysis permits the analysis to highlight the patterns of continuity and the problems that transcended convocations. Committees exhibited an abiding variance in their activity, levels of expertise and influence. This is seen as a product of both the inadequate and outdated legislative basis for their operation and increased inter-faction competition for committees.

Chapter 7 examines committees and factions after the 2002 elections. During this period, developments in parliament were significantly affected by anticipation of the 2004 presidential election.

In the Conclusion, it is argued that institutionalization was stimulated by endogenous responses to changing parliamentary circumstances and that this change contained elements of path dependency and unpredictability. However, although the findings shed light on the dynamics of institutional change in Ukraine, the need for further theory building is identified, to which the case study could contribute. The institutionalization of the core sub-institutions, factions and committees, was patchy and uneven, which substantially influenced the ability of parliament to operate effectively. This reflected the wider parliamentary 'rules culture' of non-adherence to internal procedures. These findings question the nature of the relationship between institutions and behaviour in post-Soviet parliaments. Moreover, the impact of 'institutional design' is considered, as the case study points to the importance of the constitutional framework in shaping parliamentary capacity. While the Rada was the central political institution in 1991 that catapulted Ukraine to independent statehood, thus creating the circumstances for its development as a national parliament, by 2003 it had failed to secure its own position in the institutional edifice of the Ukrainian state.

2 Between parties and the president

The Verkhovna Rada, 1990–2003

A principle aim of studying internal parliamentary development in Ukraine is to identify not only the extent and meaning of institutional change, but also to explain the process. As argued in Chapter 1, institutional change is caused by a combination of exogenous and endogenous factors. However, in practice, the division between them is not always clear-cut. In order to manage analytically the complex intermeshing of different levels of factors driving change and an assessment of the extent and meaning of this change in the empirical analysis to follow, this chapter will identify the key exogenous changes over time to set the scene for the later chapters, enabling these factors to be brought into the empirical analysis as appropriate.

The main exogenous factors for internal parliamentary institutionalization in Ukraine have been identified as: the emerging constitutional framework; the leadership styles of Presidents Kravchuk and especially Kuchma; the electoral laws and the party system. Exogenous factors are seen to include those structures, rules and agencies that were essentially 'external' to parliament in the sense that they shaped the Verkhovna Rada from outside its day-to-day operation. Thus, this is an analytical division, while at the same time recognizing that in practice, such boundaries are blurred and overlapping. For example, the constitution is treated as exogenous because it provided formal parameters to the operation of parliament that conditioned the path of internal parliamentary development, but it was the Verkhovna Rada that amended the constitution pre-1996 and adopted the post-Soviet constitution in 1996. The same is true for electoral legislation. However, once these normative acts were passed, they became 'higher order' rules that were difficult to change and that independently shaped the structure and operation of the Verkhovna Rada during 1990–2003.

The role of parliament *vis-à-vis* the executive remained largely ill-defined before 1996, a situation which laid the foundation for extended inter-branch conflict over the form of state after the election as president of Leonid Kuchma, who was committed to establishing a strong executive presidency. The debate over the division of powers was long and deeply contested between the branches and within parliament. After the adoption of the constitution in 1996, which outlined a president–parliamentary system, dissatisfaction with the division of powers led to attempts to alter the balance of power at the expense of the other.

The president increasingly concentrated upon bolstering his own position. This was made possible by, and helped to ensure, the continuing institutional weakness of parliament. This weakness was significantly affected by exogenous factors: first, higher order institutional rules that lacked a clearly defined role for parliament; second, the leadership style of President Kuchma; and finally, the weakness of the party system.

A multi-party system began to emerge in Ukraine only in 1990, after the first semi-free democratic elections and, in general, parties had few members, poor organization and lacked the popular support that could endow them with the political weight to influence the policy process. The president–parliamentary system allocated no clear role for parties in parliament, while the reactionary majoritarian electoral law retained until 1997 provided little incentive to stimulate greater party institutionalization within and beyond parliament. Combined with the deep ideological polarization of the political spectrum, this rendered the creation of a workable coalition extremely difficult, making the Rada unpredictable and vulnerable to outside pressures. Weak parties deprived parliamentary factions of potential external support, definition and legitimacy. Attempts to increase the role of parties and the structurization of parliament via the introduction of a mixed proportional–majoritarian electoral law in 1997 were on their own insufficient to catalyse significant change. While parties were weak, factions remained more or less unaccountable and unrepresentative and the composition of parliament stayed fragmented and polarized.

These exogenous factors (the institutional division of power, relations with the president, the party system, the electoral law) were crucial to internal parliamentary development during the 1990s. It is the task of this chapter to map out these key features of Ukraine's political landscape. In line with a developmental approach, this will be undertaken chronologically: outlining the institutional division of power, relations with the president, the party system, the electoral law as they related to the parliament in each of the key stages of its development. An outline of some of the Verkhovna Rada's main characteristics in each convocation is an essential complement to provide a backdrop for the empirical investigation. To identify potential institutional legacies that continue to exert an influence on the contemporary functioning of the Rada, the first section provides an outline of the key features of the Soviet state and the Verkhovna Rada in the Soviet period. The second section considers the changing role of the Rada during Ukraine's passage to independence, 1990–1. Thereafter, the sections will be broadly divided by convocation. The third section deals with the 1992–4 period before the first post-Soviet elections. These elections are covered in the fourth section. The fifth section looks at the thirteenth convocation of the Rada (1994–8), a period dominated by constitution-making. In the sixth section, the dramatic 1998–2002 period is examined, where exogenous factors played a decisive role in the formation of Ukraine's first parliamentary majority. Finally, the period 2002–3 is considered, where the question of who would be Ukraine's next president fundamentally shaped parliamentary politics.

The Soviet context before 1989

This section will provide a brief outline of the most salient features of the Soviet state to identify the type of parliament that Ukraine inherited. This consists of sketching the party-state and Soviet 'unitary-federalism' to explain where power lay in the Union, before exploring in greater detail the antecedents of the current Verkhovna Rada by considering the ideas upon which it was based and its institutional structure in the Ukrainian Soviet republic until 1989.

The party-state

The distribution of power within the Soviet system has been explained by Western political scientists by the term 'party-state', which explicitly acknowledges the priority of the Communist Party of the Soviet Union (CPSU) in and over the state structure. On a simple level, this can be understood as a hierarchically organized institutional triad consisting of the Party and the two structures of the state – the government (Ministries, formerly Commissariats) and the soviets (see Figure 2.1). These organs were all organized according to the principle of democratic centralism, which ensured strict Party discipline, the election of all leading bodies and most crucially, the subordination of lower organs to those above.

These institutions were intermeshed through overlapping personnel and Party dominance via *podmena* and the *nomenklatura* system.[1] Although its role was not prominently acknowledged in the constitution until 1977, the CPSU was from the time of the revolution the 'leading and guiding force' in Soviet society and the 'nucleus of its political system' (art.6, USSR Constitution, 1977) and totally dominated the government and soviets. All the republics except the RSFSR had their own party organs and republican Politburo members tended to be integrated into the all-Union structure by membership of, for example, the all-Union Central Committee while, at the same time, republican organs were directly subordinate to all-Union ones. This type of integration of republican elites was a cornerstone of unitary-federal control.

Soviet unitary federalism and cadre policy

The 1977 Constitution stated that 'the USSR is a unified, federal, multinational state formed on the principle of socialist federalism'. Based on a compromise made by Lenin, the policy was inherently contradictory. By drawing administrative boundaries along broadly ethnic lines, Soviet unitary-federalism formally recognized and legitimated national identities, providing them with their own government structures and the possibility of resource accumulation, but at the same time all key decision-making took place centrally. In Ukraine until 1990, an estimated 95 per cent of economic activity was controlled directly by Moscow (Motyl and Krawchenko 1997: 245). As centrally directed policy was dependent upon local elites for implementation, a policy of
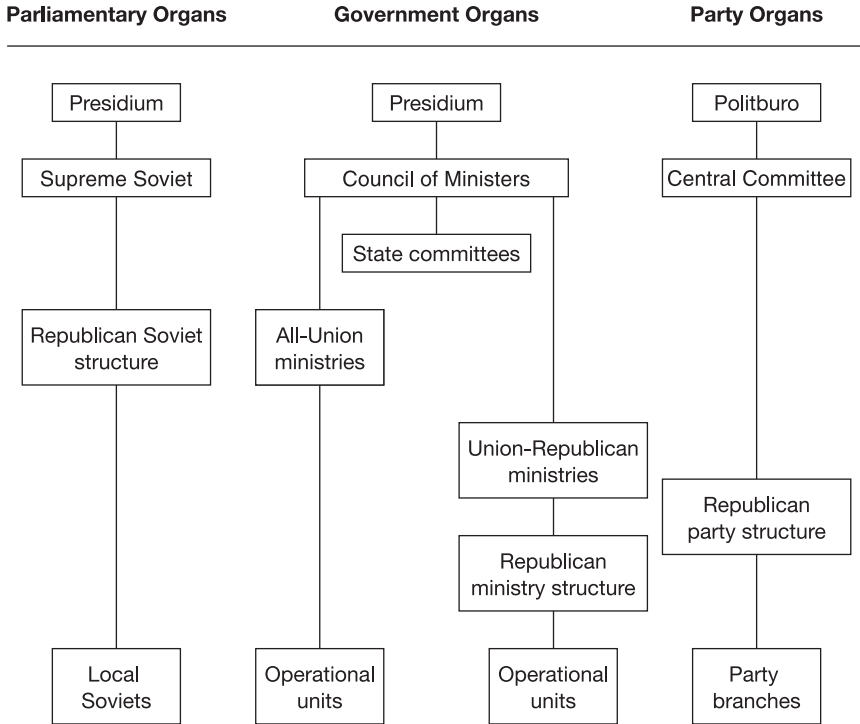
Parliamentary Organs	Government Organs	Party Organs

Figure 2.1 Configuration of the party-state in the USSR, pre-1998.

Source: Lane (1985: 174).

korenizatsiia (nativization) was introduced to ensure that the centre had reliable local cadres who would also satisfy local demands for autonomy as the regime was consolidating (Gleason 1990: 54–5). Loyalty to the centre was assured by the local cadres' dependence on Moscow's patronage, for example, career incentives were directed in an all-Union context and control over appointments and dismissals remained at the centre. Paradoxically, fulfilment of the centre's goals depended upon the ability of republican cadres to mobilize people and resources, but the extent to which they were able to build their own power bases reduced their dependence upon Moscow and increased their scope for independent activity. Until the late 1980s, Soviet unitary-federalism and its attendant cadre policy produced a self-reproductive elite that could set the terms of national discourse and limit the emergence of independent counter-elites able to challenge their hegemony (Roeder 1991). This meant that the public space for political activity outside these prescribed limits was severely circumscribed and opposition was rigorously excluded from public life, including the soviets.

'Soviet parliamentarianism' [2]

The rationale of 'Soviet parliamentarianism' is important because herein are the antecedents of the post-communist legislatures such as the Verkhovna Rada. These Leninist principles characterized the soviets of people's deputies, determining much of their institutional form and procedure. Lenin's conception of Soviet democracy and parliaments profoundly influenced the way Gorbachev proceeded with reform. Moreover, the parliamentary structures and actors inherited by the newly independent states continue to affect institutional development.

The Soviet conception of parliament had its origins in the Petrograd Soviet and similar institutions in other cities that arose spontaneously during the 1905 uprising and re-emerged in early 1917. The floundering of the Provisional Government allowed the soviets to develop as an alternative power base that the Bolsheviks quickly recognized as a potential source of support for their planned revolution. The Petrograd Soviet had a mass rather than representative character, consisting of unpaid, part-time members who saw their task as to make decisions and then return to their full-time paid employment. Thus the soviets were large bodies that convened only occasionally, had little respect for the debate and deliberation that characterized 'bourgeois parliamentarianism' and sought to express the direct power of the workers (and later, the peasants) (Little 1989: 134–5).

All these anti-parliamentary features were institutionalized in the soviets of peoples' deputies. Ideas of direct democracy prevailed over notions of representative democracy, reflected in the large size of the bodies, the high turnover of deputies in frequent elections and the right of recall exercised by the electorate over the amateur deputy. In the soviets, executive and legislative powers were combined as Lenin rejected the idea of separation of powers as a 'bourgeois façade' (Unger 1981: 274). He argued that a separate executive would always be able to cut itself free from legislative control and the principle of unified state power became a central feature of the Soviet system. The rejection of the principle of separation of powers also entailed the repudiation of 'checks and balances' i.e. the concept of limited government, so that the competences of the Supreme Soviet were formally unlimited: it could take over or delegate any prerogative. As justification, Lenin argued that the proletariat should be unrestrained in defending its class interests (Hough 1997: 143).

As the Bolsheviks sought to consolidate power, legislative–executive tensions were not solved by the fusion of legislative and executive powers in the soviets, but by the siphoning off of their power to a separate executive hierarchy (*Sovnarkom*, later the Council of Ministers) (Huskey 1992: 84–5). However, the justification for the existence of the Soviet state rested upon the existence of the soviets as institutions directly expressing the sovereignty and will of the people and the Party's identification with that will. This was reflected in the Soviet constitutions. The 1936 Constitution established the formal role and structure of the soviets, giving the Supreme Soviet authority over all aspects of government. This role was reaffirmed in the 1977 Constitution as the 'highest body of state authority in the USSR' (art.108) with extensive formal powers of appointment,

government oversight and law-making. Although the constitutions were 'façade', not reflecting the actual distribution of state power, the Gorbachev leadership in the late 1980s attempted to breathe life into the ideas that underpinned 'Soviet parliamentarianism'. In this respect, these ideas remain as important as the form of the Soviet state to understanding the type of parliament Ukraine inherited.

The Supreme Soviet of the UkrSSR

Consistent with the principles of unitary-federalism, each republic had its own Supreme Soviet subordinate to the USSR Supreme Soviet on matters of federal jurisdiction, but with nominal residual powers on its own territory.[3] These included law-making, appointing and oversight of the republican government and ratifying decisions of city and district soviets. In addition, it could assume and delegate any prerogative at republican level. According to the 1978 Constitution of the Ukrainian SSR, the Supreme Soviet (*Verkhovna Rada*) was the 'highest organ of state power', mirroring the arrangement at all-Union level. Formally then, the Verkhovna Rada had wide-ranging executive and legislative powers that were not limited and overlapped with other state organs. Its structure is shown in Figure 2.2.

In most respects the Verkhovna Rada's organization and composition was the same as the USSR Supreme Soviet. It had a system of standing commissions and was directed by a full-time executive body, the Presidium, which had authority to fulfil all the Verkhovna Rada's prerogatives when it was not in session. Naturally, in a one-party state, the institution lacked political caucuses. Like the all-Union body, its membership mirrored Soviet society with approximately 50 per cent of deputies being workers or peasants, although it also included the highest Party and state officials and over 70 per cent of deputies were Party members. On average it held sessions twice a year, each lasting for only two to three days, and its plenary sessions were characterized by ritualized declaratory speeches followed by unanimous voting. The law-making activity of the Verkhovna Rada was low, with an average of 31 laws adopted per convocation and this did not increase significantly over time (Shemshuchenko 1999; 188).

Most of these bills originated in either the Council of Ministers or the Presidium. Although standing commissions and individual deputies had the right of legislative initiative, it was rarely (if ever) exercised before 1990. Shemshuchenko (1999: 152) attributes law-making, along with organizational and oversight (*kontrol*) functions as the most important for the body. However, in the context of the Soviet state the role of the Ukrainian Supreme Soviet in carrying out these functions was at best limited and superficial. Thus, if most scholars thought the all-Union body was little more than 'a rubber stamp', this must be writ large in the case of its republican counterparts.

The path to independence, 1990–1

Ukraine's passage to independence has been well documented elsewhere (e.g. Nahaylo 1999). The purpose of this section is merely to map out the main currents
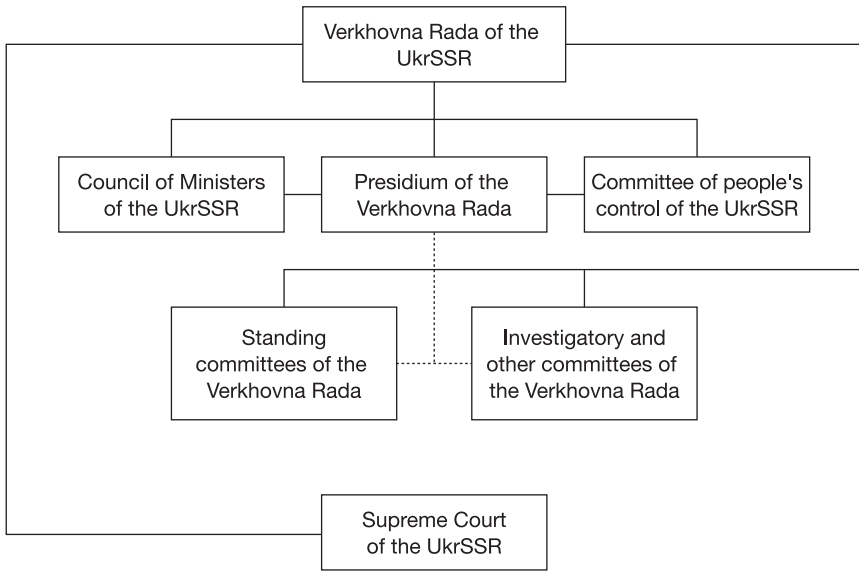
Figure 2.2 The structure of state organs of the UkrSSR according to the 1978 Constitution.

Source: Shemshuchenko (1999: 175).

as they affected, and were affected by, the Verkhovna Rada, demonstrating that the enhanced legitimacy and prerogatives of the new semi-democratically elected legislature helped to facilitate the retention of power by communist elites.

The constitutional reforms announced by Gorbachev at the nineteenth all-Union Party Conference in summer 1998 framed the transfer of power from the Party to the elected legislatures and state organs, making the governments responsible to the respective Supreme Soviets. The subsequent all-Union elections in March 1989 saw the first official opposition in the USSR since 1921, while at the same time Gorbachev swiftly commandeered the post of USSR president for himself. The all-Union constitutional changes precipitated amendments at republican level in preparation for republican elections in March 1990. These represented the first step towards transforming the republican Supreme Soviet into a genuine parliament. The number of deputies was to be reduced to 450, who would be directly elected and in turn elect a strengthened speaker.[4] The speaker would be the *de jure* head of state as the highest representative official. Most significantly, the Verkhovna Rada claimed the right to challenge federal legislation if it infringed republican sovereignty and suspend all federal laws that did not correspond with the constitution or laws of the Ukrainian SSR. The exclusive right to determine the internal and foreign policy of the republic was also assumed (*Pravda Ukrainy* 31 October 1989). In addition, an electoral law more democratic than its Union counterpart was adopted. Nevertheless, it should be noted that these moves essentially followed

(and were more moderate than) the attempts by other republican Supreme Soviets (e.g. the Baltics, the RSFSR) to assert themselves.

The March 1990 elections to the twelfth convocation[5] of the Verkhovna Rada were genuinely multi-candidate in most constituencies, but not multi-party. Although alternative party formation had been successfully delayed by the Communist Party until after the election, 43 independent opposition groups formed the Democratic Bloc around a common electoral platform against the Communist Party and for political, economic and cultural sovereignty. Despite internal squabbles, official harassment and limited media access, the Democratic Bloc won 24 per cent of the seats. The remainder of parliament comprised a majority of conservative deputies loyal to the Communist Party and approximately 40–90 deputies not affiliated to either the opposition or the majority. The distribution of seats demonstrated significant regional differentiation, with the Democratic Bloc winning clear victories in western Ukraine and Kyiv and doing well in other central urban areas. The opposition's concern with Ukrainian national–cultural issues had a limited appeal in the Russified industrial east and south, which largely remained a communist preserve.

The early sessions of the twelfth Verkhovna Rada witnessed substantial institutional transformation and increased legislative activity. Previously meeting two-to-three days per year, the new body almost immediately became a full-time parliament, sitting in plenary sessions for one-to-two weeks per month, with the other weeks being designated for committee and constituency work. Deputies had been elected on the traditional Soviet part-time amateur basis and many retained important posts in the state or Party apparatus. Nevertheless, approximately 190 deputies dedicated themselves full-time to parliamentary work, of whom around half were members of the opposition.

Initially, the communist majority was able to simply outvote and largely ignore the opposition. In response, the opposition formed the People's Council (*Narodna Rada*) as a formal opposition bloc. The opposition's ability to mobilize popular support combined with greater purposefulness enabled the People's Council to seize and maintain the initiative in the Rada in spite of their numerical weakness (see Chapter 3). On the other hand, the communists were disorientated and increasingly differentiated in their interests as the seeds of the Soviet *korenizatsiia* cadre policy came to fruition. By autumn 1990, the Party both within and outside parliament was experiencing a growing split between 'national communists' and conservatives. National communists tended to come from the state apparatus or economic institutions and were led by speaker Leonid Kravchuk.[6] They recognized the potential advantages and opportunities of economic sovereignty and the logic of electoral accountability – if they were to be held responsible for the state of the republic's economy, then it would be better to have control over it too. On the other hand, conservatives tended to be employed in the Party apparatus and consequently, with their positions dependent upon the continued dominance of the Party in all spheres of life, opportunities for career advancement and maintenance of elite status were intimately bound up with Party loyalty. Conservatives were slower to adapt to the changing

institutional and political circumstances in the republic and they continued to view the situation in an all-Union context. They were used to power and incentives lying with the Party and Moscow, but the changes set in motion by Gorbachev's reforms gradually tipped the balance towards parliament and Kyiv.

Although the conservatives and national communists retained residual voting coherence on certain issues, after the Declaration of Sovereignty was adopted on 16 July 1990 (which was supported by deputies across the political spectrum), national communists voted together with the opposition to pass state-building legislation that would give the Declaration legal substance. Crucially, this included the creation of a directly elected executive presidency in July 1991 which, following precedents in other republics, they saw as a strong legitimacy-enhancing counterweight to the current centralizing tendencies of Gorbachev's undemocratically elected USSR presidency. As the incentives to institute an executive presidency were mainly external to the republic, the presidency was designed to strengthen the republic's position *vis-à-vis* Moscow. This was reflected in the provisions of the law on the presidency: the president was granted sweeping powers to nullify central decisions, but the law was less precise about the president's prerogatives *vis-à-vis* republican institutions.

The state-building legislation adopted meant that on the eve of the attempted coup in Moscow, the national communists were in a strong position to retain their positions in the newly independent state. While the opposition was able to set the agenda and force the pace of change, the communist elites acted pragmatically to retain power and influence. Therefore, in August 1991 this required them to vote for independence and back Kravchuk.[7] At this point, the overwhelming majority of state resources remained in communist hands and the subsequent banning of the Communist Party and nationalization of its resources did not significantly alter this. The 90.32 per cent vote for independence in the referendum on 1 December and the simultaneous election of Kravchuk as president (with 61.59 per cent) testified to the ability of the state to utilize its near-monopoly of mobilization resources to secure a positive vote for both. The achievement of independence and the banning of the Communist Party also led to the rapid disintegration of the opposition bloc (see Chapter 3). The People's Council split over the presidential election, backing five different candidates, with *Rukh*'s candidate, Chornovil, coming second to Kravchuk with 23.3 per cent of the vote. None of the others gained more than 5 per cent. The opposition could not compete with the resources of the state. In the final instance, independence was declared and implemented by the same elites that had defended the Soviet system.

Independence was accompanied by fundamental continuity of elites and institutions. The Soviet parliament, designed essentially as a regime legitimacy-enhancing institution, was to operate as the supreme executive–legislative organ in the new state. Thus, there was no institutional *tabula rasa*: the parliament of post-Soviet Ukraine would essentially be adapted in an *ad hoc* fashion in attempts to cope with the enormous challenges faced by the new state. Elite continuity further minimized the opportunities for a 'clean break' with the Soviet past – there would be no changeover of power, no lustration and no consensus for sweeping

institutional reform. The only change at the apex of the state was, however, a significant one: the Verkhovna Rada would now have to negotiate its position with a brand new institution of its own making: the presidency.

Treading water, 1992–4

The period 1992–4 was marked by intense uncertainty and real insecurity about the survival of the new state, compounded by a deepening economic crisis. The state institutions of the UkrSSR had been designed to implement decisions from Moscow and were poorly equipped for the tasks of state-building. Parliament was no exception. The implementation of independence required the construction of nothing short of the entire legal foundation of society: to create a legitimate functioning state and reform the ailing economy. This imperative necessitated the simultaneous construction of the Verkhovna Rada as an institution capable of such lofty tasks. However, the political configuration in parliament made institutional reform difficult, while the institutional weakness in parliament was augmented by the unclear, overlapping separation of powers between the parliament and the executive, making governance unstable and confused. Thus, president and parliament co-habited in relative unease in these early post-independence years, with successive governments caught in the middle. At the same time, political parties proliferated but, without fresh elections, had little role to play in Ukrainian politics.

Parliament and the president

The structure of the Verkhovna Rada did not change until 1994 and no fresh elections were held to alter its political composition. Although the Presidium designated some of its powers to the president, these did not affect its role within the Verkhovna Rada. The main decision-making roles sat with the speaker and the Presidium (comprised of the speaker and 24 heads of standing commissions) and the speaker continued to make decisions of executive character (Wilson 1997a: 90). More than half of deputies continued working part-time, while poor attendance and low commitment were common. Vital procedures were absent and shortages of legal and other expertize hampered the legislative process. Tasked with the legal realization of independence, the parliament's workload increased dramatically. As an indication, if the eleventh convocation (1985–9) adopted 34 normative acts, the twelfth (1990–4) passed 1510.

The Verkhovna Rada comprised two polarized wings – national democrats/ the right and the 'hardline' left, both numbering around one quarter of deputies and opposing each other more than the president. Between these orientations were nominally independent former national communist elites – many of whom backed Kravchuk and surrendered their Party cards upon independence. In 1992, leftist deputies were regrouping, although they were beginning to re-emerge as a political force by mid-1993. Insecurity about the survival of the new state, aggravated by the spiralling economic crisis created strong incentives for the

national democrats to support President Kravchuk, fearing the consequences of rocking such a fragile boat with their opposition. In parliament, they voted together with the former 'national communists', creating a loose coalition. While the national democrats were 'rewarded' with largely symbolic state posts and a compromised identity, the predominance of the old communist elites both in parliament and in the wider state apparatus earned them the nickname 'the party of power'. This term connoted 'the pragmatically orientated and de-ideologized upper strata of the old establishment' whose interest, above all, was self-preservation and self-aggrandizement (Riabchuk 1994). For these elites, there were incentives to consolidate independence to secure their own position and this enabled them to find a voting majority in parliament with the national democrats. However, for many in the 'party of power' there were few incentives to push for economic restructuring that would disrupt the established patterns of economic privilege or to clarify the powers of parliament, as these deputies had little loyalty or commitment to the Rada. Having jobs elsewhere in the state meant that their interests were divided. Thus, the composition of parliament was fragmented and incapable of proactive reforms, either for the country at large or even internally.

Consequently, the Verkhovna Rada proved unable to introduce workable procedures and rules to 'constitute' the institution and was forced to tinker with the existing rules to 'plug the gaps', attempts that did little to control the frequent disorder. These problems were augmented by wider uncertainty at the constitutional level. Crucially, the Rada lacked a clearly defined role within the state, especially *vis-à-vis* the executive. Ukraine inherited a constitutional and institutional legacy inadequate for building and managing an independent state. In the absence of a new constitution, the state structure was based on the much amended and by now internally inconsistent 1978 UkrSSR Constitution. This envisaged a system of the Soviet parliamentary type onto which the principle of separation of powers (in the Declaration of Sovereignty, 1990) and an executive presidency had been superimposed. This meant that the Rada still bore the marks of Soviet 'unified state power', formally having both legislative and executive prerogatives, including the sole power to amend the constitution. At the same time, the means of either branch to 'check and balance' the other was extremely limited: neither branch could remove the other, nor did the president have an effective veto.[8] The law creating the presidency heightened the confusion as it did not clearly define the president's role in internal policy or in the executive and the existence of 'dual power' was formalized by the overlapping powers allocated to the legislative and executive branches. The legal framework was adjusted several times during 1992–4, and these alterations reflected the power shifts between the various branches, but their transience highlights the fundamental instability of inter-branch relations. The issue of cabinet accountability was just one critical area that remained unclarified and provides an insightful illustration of the effects of overlapping powers.

The president was granted additional prerogatives by parliament in spring 1992, including extensive decree powers and the nomination of the prime

minister and key ministers, but these appointments were subject to parliamentary confirmation. While the president could appoint other ministers directly, both the prime minister and individual ministers could be dismissed by a parliamentary no-confidence vote. Furthermore, the speaker could suspend actions of the cabinet. Tinkering with the division of powers did not improve the situation and authority over the government overlapped between the president and the parliament with no Constitutional Court existing to act as arbiter.[9] This arrangement had several interconnected consequences:

- it created inter-branch conflict for control over the government and economy;
- the government was exposed to contradictory instructions;
- there was no chain of political responsibility and parliament, president and government could all blame each other;
- the chance of a coherent programme being enacted and implemented was extremely slim (even if anyone had had such a programme).

The perpetuation of this wholly unsatisfactory constitutional arrangement made governance at best disorganized, at worst chaotic. Neither President Kravchuk nor the various groupings in parliament were strong or coherent enough to push through a definitive resolution.

Without a defined role in the constitution, with deputies' interests polarized ideologically and cutting across institutions, parliament remained directionless and reactive. At the same time, the presidential style of Kravchuk made impasse between the branches more probable than decisive resolution. Kravchuk had no stomach for open conflict, preferring a more consensual approach to politics that all but precluded decisive action on the economy or to clarify the division of powers. For example, he requested extensive powers in spring 1992 and then did not use them and again in May 1993, only to backtrack on his demands. Although explanations for Kravchuk's conduct remain contested,[10] it is clear that his strategy of remaining aloof from any political orientation and relying on and bolstering the 'party of power' promoted inertia and was a key factor in the creeping deadlock between the Rada and government.

By spring 1993, the economic disaster and political stalemate provoked waves of popular protest calling for no-confidence referenda in both the president and the parliament. The Rada agreed, then backtracked until fresh demonstrations and the spectacle of Yeltsin bombing the Russian parliament in October 1993 forced deputies to act decisively: fresh parliamentary and presidential elections were scheduled for March and July 1994 respectively, a year early.

The chaotic, directionless character of Ukrainian politics 1992–4 was produced by the conjunction of the Soviet institutional and personnel legacies with the conditions of state independence. The poorly defined, patchwork constitutional framework laid the basis for inter-branch conflict, while the weakness of institutions (parliament and the presidency) and the Verkhovna

Rada's divided political composition made inter-branch and internal stalemate the most likely outcome. As a consequence, institutional reform occurred through piecemeal 'tinkering' with the constitutional rules and internal parliamentary procedure. Ultimately, this meant that 1992–4 was a period of institutional flux without substantive institutional change.

The party system

The party system in Ukraine began to emerge only after the March 1990 elections, once the constitutional restriction (article six of the 1977 USSR Constitution) had been removed. During 1992–4, new parties mushroomed, but were weakly organized and, in the absence of fresh elections after independence, had little role to play in parliament. Before the party system can be discussed, it is necessary to clarify what is meant by the application of the political orientation labels 'left', 'right' and 'centre' in the Ukrainian context.

In Ukraine, 'right' generally meant stressing nation-state priorities, a geopolitical orientation favouring a 'return to Europe' and capitalism, while 'left' meant conservative (in respect of the 'socialist' past), anti-capitalist and favouring more or less close ties with Russia. The concept of political centre in Ukraine is extremely vague and fluid, above all connoting pragmatism and/or the gap between left and right. The situation was further complicated by the ambiguous notion of the 'party of power' (see above). The term was widely used to describe the Kravchuk 'regime' of 1991–4, but was also applied rather indiscriminately to various amorphous centrist groups within parliament backing the president. These tended not to be based on political parties, but rather on access to state resources. Therefore, it is important to note that the application of the left–right spectrum is highly conditional.

The lack of fresh democratic elections after independence hampered party development in the early post-independence years. Parties were left in a political no-man's land – suspended between the old system and the new without specific functions to perform in political life. Nevertheless, parties proliferated, with 26 registered by November 1993. Most were small, regionally concentrated and lacked resources, political experience, access to media or a distinctive, well-articulated programme (Wilson and Bilous 1993: 693). Many parties were formed inside parliament itself, were remote from grassroots supporters and lacked an organizational structure capable of bridging the gap.

Although the left was regrouping during 1992–3, the main successor party to the Communist Party, the Socialist Party of Ukraine (SPU) was comparatively large, registering in November 1991 with 29,000 members, but it harboured many unreconstructed communists who left when the ban on the CPU was lifted. A new Communist Party of Ukraine registered in November 1993 with 80,000 members, instantly becoming Ukraine's largest and best-organized party. The other main party on the left was the Peasant Party (*Sel'ians'ka Partiia* or SelPU) created by the rural ex-nomenklatura in 1992. The left's popular support was based in the more Russified, industrial east and south of Ukraine. The resurgence

of the left delineated the polarization of the political spectrum, but somewhat tempered the right's internecine bickering, enabling the formation of an electoral coalition bloc in 1993 of the moderate nationalist parties such as *Rukh* and the Congress of National Democratic Forces. Popular support for the right was concentrated in the west of the country.[11] In general though, the right was weak, fractious and, with its largest party *Rukh* having a mere 6,000 members, dwarfed by the size and organization of the left.

Popular trust in political parties was consistently dire. A typical survey from June 1993 found only 3.4 per cent respondents completely trusted parties, while 60.3 per cent completely distrusted them (Kubicek 2000: 51). This bolstered the 'party of power', the non-party former communist elites, in their arguments to retain a majoritarian electoral system. Despite the efforts of the right and Socialists to introduce elements of proportional representation and modernize the procedures of the electoral law, the 'party of power' together with Communists and Peasants were able to push through the only purely majoritarian electoral law in Central and East Europe, ensuring its reactionary essence through Soviet-type candidate registration rules and a double 50 per cent threshold.[12] All these features were designed to benefit established elites – the 'party of power' and leftist parties – who had local networks and resources to mobilize, while labyrinthine registration rules directly discriminated against the nomination of candidates by political parties (Birch 1997: 45).

Before 1994, the weak, fragmented party system augmented the institutional factors militating against parliament being comprised of structured factions. The party system was polarized between left and right, both of which were far from united, while the gaping void in the centre was filled by the so-called 'party of power', a loose grouping with little interest in party development. Moreover, the adoption of a retrogressive electoral law for Ukraine's first post-independence elections would minimize their potential structurizing effects on parties and, crucially, the parliament.

A new parliament and a new president, 1994

Ukraine's first post-Soviet elections were in 1994 – presidential and parliamentary. The weakness of the party system combined with the regional pattern of voter preferences and the reactionary electoral law to produce a politically fragmented parliamentary composition that would structure parliamentary forces in future institutional choices. The victory of Leonid Kuchma in the presidential election brought a more active leadership style to the political stage.

The two rounds of parliamentary elections were held in March and April. The double 50 per cent threshold meant that only 338 (of 450) deputies were elected. Therefore, parliament began working with 112 seats vacant, and despite repeat voting in the summer, nearly 50 constituencies never managed to elect a representative during the convocation. A second consequence of the peculiarities of the electoral law was that approximately half of the deputies

were non-party, nominally independent candidates. The left gained approximately 35 per cent of the seats and the right 25 per cent, an early indicator of Ukraine's emerging electoral geography, whereby approximately 20 per cent of the electorate support the right, 40 per cent support the left and the remainder is classed as centrist (Wilson 2001: 49). However, despite the fact that no orientation won a majority, due to the incomplete parliament, the left was able to dominate the Rada until the autumn, when the election of 52 more independents tipped the balance away from the left. The election campaign was dominated by the issues of relations with Russia and the connected issues of economic reforms and devolution, in effect rehearsing the arguments for the presidential election in July.

While there were seven candidates for the presidency, the two leading contenders were the incumbent Leonid Kravchuk and former prime minister (1992–3) and director of Europe's largest missile plant, Leonid Kuchma. The main programmatic difference between the two was Kravchuk's embrace of the right's conception of statehood, while Kuchma's Eurasian orientation was emphasized. Kuchma won decisively in the second round with 52 per cent of the vote to Kravchuk's 45 per cent. The voting patterns pointed to significant regional polarization, with Kuchma winning the Russified east and south and Kravchuk the Ukrainophone west and centre. To a greater extent than the recent parliamentary election, the civilized, democratic transfer of power seemed to symbolize a significant step towards democratic consolidation. However, the change was much more than symbolic – the new president was of a different mettle than his predecessor and rapidly concentrated his efforts upon bolstering the presidency *vis-à-vis* parliament.

Sorting out the division of powers, 1994–7?

After 1994, crucial decisions that would frame parliament's role in the polity and shape its path of development were taken as the question of adopting a new, post-Soviet constitution was pushed to the foreground by President Kuchma. The protracted process highlights the cleavages of political forces and the weak institutional identity of the Verkhovna Rada. The interaction of the cross-cutting interests of the president and parliamentary forces shaped the resultant 1996 Constitution as an essentially compromise document that did not fully satisfy the preferences of the president or key forces within parliament. Therefore, the constitution established new parameters for future extended inter-branch conflict.

The constitutional process

In order to understand the constitutional process, it is necessary initially to outline the main configuration of forces and provide a little background on the new parliament.[13] In the first weeks of the new convocation, parliament rapidly coalesced into nine factions. There were three leftist and three right-wing

factions that were more organized and ideologically articulated at the extremes of the polarized political spectrum, with little common ground between them, while the three centre factions were above all pragmatic and had a low level of group identity (see Chapter 4). Initial numerical superiority (and the votes of 26 centrists) allowed the left to secure Socialist Party leader (and the left's then presidential candidate), Oleksandr Moroz as speaker.

As the parliament sorted out its internal operation, the deep polarization of left and right forces and the lack of a majority coalition meant that the passage of bills would depend on situational majorities with the amorphous centre playing the role of kingmaker. The left were strong enough to block constitutional votes and occupied important leadership posts, but no single force was able to dominate. This made the Verkhovna Rada a reactive and rudderless body, enabling the president to gradually win the support of the centre and right for a stronger presidency that could 'get things done' and enact economic reforms.

Soon after his election, Kuchma took steps to assert his position by re-staffing executive bodies with his allies (mainly from his native Dniprope-trovsk), by assuming direct presidential control over the Cabinet of Ministers and regional governments by decree and kick-starting the constitutional process with the aim of instituting a presidential form of government. As the constitutional process had run aground, Kuchma proposed an interim 'little constitution' that would have established an unambiguously presidential republic. After negotiating the dilution of some of the president's prerogatives, the centre and right negotiated its adoption in the form of a constitutional agreement (*Dohovir*) after Kuchma threatened to hold a referendum on confidence in parliament (see Chapter 4). Voted in by a simple majority, its constitutionality was dubious, resting purely on the mutual consent of the president and parliament.

Via the *Dohovir*, the president gained direct control over the government, wide-ranging decree powers and was named head of the executive. However, as the bill had no legal basis, only a moral and political one, its consequences were not as far reaching as perhaps they appeared on paper. The significance of the *Dohovir* lies in its consequences. The agreement was to become the basis of the new constitution and, as it was to last for one year only, it accelerated the flagging process.

The form of the new constitution was deeply contested by all players. President Kuchma's desire to establish a presidential republic was more or less opposed by a majority of forces in parliament. Internally, the Verkhovna Rada was intensely divided over all the main issues that would constitute the state. These included the role of the president; a uni- or bicameral parliament; forms of ownership; the status of Crimea and other sub-national organs of government. 'Non-power' issues were at least equally controversial, especially over state symbols and the status of Russian language (Wolczuk 2001). As the deadline for the expiry of the *Dohovir* drew near, Kuchma appeared as the driving force behind the process. Eventually, by decreeing a referendum on his preferred

constitutional draft, the president indirectly threatened the Verkhovna Rada with redundancy and created irresistible incentives for deputies to hammer out the final version in an all-night parliamentary session on 28 June 1996. The resultant constitution was a compromise document that married competing visions of the Ukrainian state and left many contentious issues unresolved and/or to be settled by further legislation. In effect, many battles were postponed.

The Verkhovna Rada under the new constitution

The constitution established a president-parliamentary system[14] in which the parliament regained some of the prerogatives transferred to the president by the *Dohovir*. The authority of the Verkhovna Rada was outlined in article 85 of the Constitution and included legislative powers to regulate elections, local self-government and the legal system. Its budgetary jurisdiction covered confirming and overseeing the state budget and setting taxes (art.92). The Verkhovna Rada's powers of appointment included confirming the president's nomination of the Prime Minister, the head of the National Bank of Ukraine, the head of the State Property Fund, the Procurator General and the Central Electoral Commission. In addition, parliament appointed and dismissed one third of the composition of the Constitutional Court plus other judges.

Kuchma did not get a constitution entirely to his liking, as power was shared between the parliament and president. However, the president maintained a superior position through considerable legislative prerogatives such as the right to initiate bills for priority consideration by parliament and the right of veto that the Rada required a two-thirds majority to override. Presidential powers of appointment were broad: the president had the right to appoint members of the Cabinet of Ministers and heads of central and local executive bodies (although formally these are nominated by the prime minister). The president could issue decrees on the basis of and for the implementation of the constitution and laws (art.106.31), but the power to issue decrees on economic matters was circumscribed temporally (for three years only). Furthermore, the head of state did not receive the right to dissolve the Rada[15] and the same person was prohibited from being elected for more than two consecutive terms.

The compromises made in drafting not only produced an ostensible 'balance' between the executive and legislative branches, but also resulted in ambiguities. For example, jurisdiction over the government was nebulous: the constitution stated that the Cabinet of Ministers was 'responsible to' the president, but 'under the control and accountable to' the Verkhovna Rada (art.113). However, the president was given the upper hand by virtue of the prerogatives to revoke acts of the cabinet, to create and liquidate ministries and the powers of appointment and unilateral dismissal. At the same time, the powers of parliament over the government were limited to confirming the president's nomination of prime minister and the government's programme and the restricted right to hold a vote of no confidence in the entire government. This meant there was no provision for

the Rada (or, specifically, a parliamentary majority) to play a substantial role in government formation and accountability.

Regarding the internal organization of the Verkhovna Rada, the unicameral structure was preserved. The structure of the Rada after the constitution is shown by Figure 2.3. Significantly, the organ of the Presidium was not envisaged by the constitution,[16] and its organizational prerogatives were transferred to the speaker (art.88). Standing commissions were to become committees, requiring new legislation and the passage of a law on *Reglament* (standing orders) would be needed to bring it into conformity with the constitution.

In sum, the compromise nature of the 1996 Constitution meant that it attempted to outline a separation of powers that broadly balanced the prerogatives of the president and parliament. The balance satisfied neither the incumbent president nor key forces in parliament. Moreover, the concessions made as the drafters tried to accommodate competing visions meant that the division of powers was not strictly delineated and in key areas, competences were unclear or overlapping. In addition, the constitution required a considerable volume of enabling legislation for its implementation, including laws to define the internal norms of parliament and, more significantly, framework laws that would regulate key aspects of inter-branch relations.
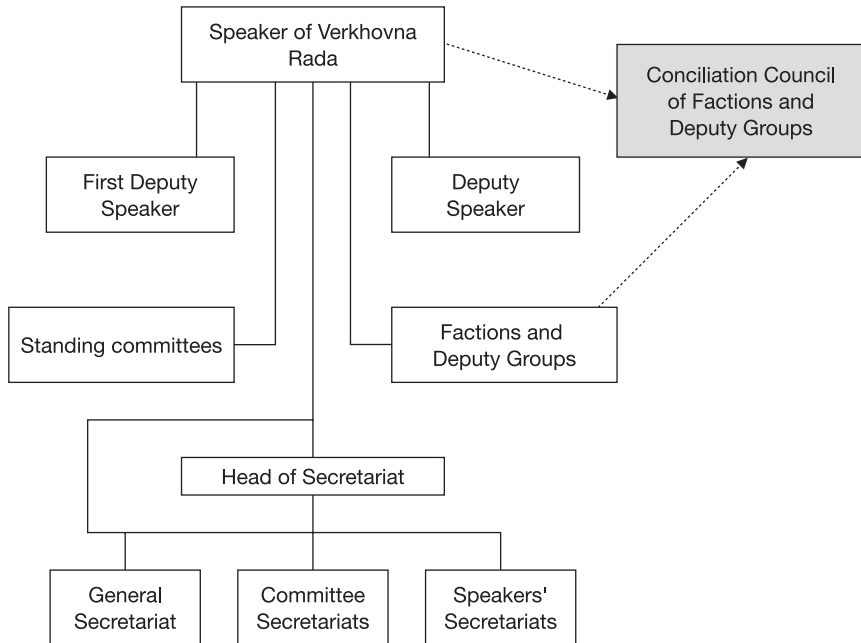

Figure 2.3 The structure of the Verkhovna Rada after 1996.

Source: Author's adaptation based on 'Struktura Verkhovnoi Rady i deiaki pytannia roboty ii sekretariatu' (1998), *Vysnyk Prohamy Spryiannia Parlamentovi Ukrainy*, 2(33), p. 2.

Post-constitutional contestation

The lack of clarity and gaps in the constitution created opportunities for the president and various groups of parliamentarians to attempt to tilt the balance of power towards a more presidential or parliamentary republic via the essential enabling legislation. At the same time, provisions relating to the internal composition and operation of parliament were disputed and proved difficult to implement. Together, these factors sustained the institutional uncertainty of the Verkhovna Rada.

Parliament struggled to adopt the key framework laws required by the constitution: the process was regularly sidetracked by the Rada's lack of a constructive majority and the left's attempts to redistribute the division of powers *vis-à-vis* the president (see Chapter 4). Meanwhile, President Kuchma attempted to impose his own interpretation of the constitutional balance of powers, mainly via presidential decrees that implicitly aimed to usurp parliament's prerogatives. Thus, despite the creation of a Constitutional Court in 1997 as the supreme arbiter of the constitution, inter-branch struggle was perpetuated by the constitutional arrangement.

In terms of the provisions affecting the internal shape of parliament, several constitutional clauses proved particularly contested.[17] One such case was article 78 stipulating that deputies exercise their authority on a permanent, full-time basis and should not hold another representative mandate or be in the civil service. This unambiguously asserted the incompatibility of a deputy's mandate with a post in the executive. However, the implementation of this article required additional legislation. The issue was deeply politicized and was linked to the larger executive–legislative conflict throughout 1997 as the parliamentary left sought to remove the deputies' mandates of 80 or so *sumisnyky* (dual-office holders), whom they perceived as a presidential 'fifth column' in the Rada. Equally controversially, the compatibility of a deputy's mandate with other types of activity (i.e. business, state enterprises, etc.) was to be 'established by law'. Given the large volume of legislation required to bring the constitution into force, and the likelihood of deputies' resistance, instituting the Verkhovna Rada as a body of full-time professional law-makers was not guaranteed by the constitution.

In short, the constitution did not solve key questions regarding the proper functions and prerogatives of parliament and left the door open for future constitutional crises, so that executive–legislative 'battle-lines' would fundamentally shape the orientations and operations of the next Verkhovna Rada.

The 'fourteenth'/'third' Verkhovna Rada, 1998–2002

The period 1998–2002 represents a significant juncture for the Verkhovna Rada – the fourteenth convocation was elected under a new mixed electoral law and was marked by the mid-term formation of Ukraine's first ever parliamentary majority, which renamed it the third convocation. The period is notable for

incandescent inter-branch confrontation and for President Kuchma's willingness to dispense with constitutional niceties in his pursuit of a more presidential republic. At the same time, parliament demonstrated its internal weakness and the inability to defend its prerogatives.

Parties and elections, 1998

In September 1997, a new electoral law was passed that envisaged 50 per cent of seats being allocated to parties receiving over 4 per cent of the vote in a single nationwide constituency. The other 50 per cent of seats would be single-mandate constituencies, where the winning candidate was required to win a simple majority of votes cast.

Expectations of a new electoral law altered the strategies of 'party of power' elites and of entrepreneurs seeking election in 1998, and many shifted their focus to political parties during 1997. On the whole, these tended to be broadly centrist parties with programmes emphasizing a mixed bag of economic reform, corruption fighting and social protection. The anticipation of a mixed electoral system that would make parties a significant vehicle for parliamentary entry persuaded powerful actors previously disinterested in parties to invest substantial resources in building parties capable of surmounting a threshold. The disparate interests of the 'party of power' were divided across several parties (including the People's Democratic Party and Agrarian Party) and each allied to entrepreneurs representing various business interests.

Many prominent political and economic actors preferred to take over existing parties that already had regional structures and an appealing image. Ex-Prime Minister Pavlo Lazarenko effectively bought the *Hromada* ('community') Party in 1996. In 1997, the Social Democratic Party of Ukraine (United) (SDPU(o)) was joined by a host of political 'stars' such as former President Kravchuk and former Prime Minister Marchuk as well as so-called oligarchs with powerful energy, media and sporting interests. In a similar manner, the Green Party's (*Partiia Zelenykh Ukrainy* (PZU)) unsullied image and ecological rhetoric provided camouflage to industrialists and bankers.

At the same time, other parties were also preparing for the party list and entry threshold. Nine electoral blocs also formed, the most significant of which were the coalition of the Socialists and the Peasants and of three right-wing parties as the 'National Front'. The uncertainties of the electoral law (which was not promulgated until 22 October 1997 – a mere five months before the election) led actors to 'hedge their bets' during 1996–7, so that previously non-party figures began to invest in parties while smaller parties engaged in coalition building.

The parliamentary elections held in March 1998 did little to structure the new Rada. The number of independent deputies was reduced from 55.7 per cent in 1994 to 31.5 per cent (Central Electoral Commission 1998: 626).[18] Thirty-one parties were represented in the new Verkhovna Rada, of which ten had eight or more deputies. In general, the election did not produce a majority for any party or orientation. The left gained around 40 per cent of seats, the right

approximately 12–14 per cent, with the remainder won by the heterogeneous centre and 'independents'. The results are summarized in Table 2.1.

Eight parties surmounted the 4 per cent barrier, with 'new' parties like NDP, SDPU(o) and *Hromada* scraping through the threshold with the help of well-orchestrated and well-funded media campaigns and close links to the regional administrations. The strong showing of SDPU(o) and *Hromada* in Transcar-pathia and Dnipropetrovsk respectively with over 30 per cent of the vote while simultaneously failing to pass the 4 per cent barrier in nearly all other regions supports this interpretation.

Money and co-ordination with local authorities was likewise the key to success in the single mandate constituencies. Tomenko (1998: 115) reports how over one hundred entrepreneur-deputies publicly admitted that their actual election fund was more than $1million. Unsurprisingly then, the largest occupation group of new deputies[19] was entrepreneur (over 20 per cent), with a further 7 per cent heading state enterprises. Significant in itself, in reality the figure was higher, as deputies listed under other occupation groups often had business interests. This represented a huge increase from the previous convocation and the arrival of a critical mass of 'business people' who would fundamentally shape the new parliament.

In sum, the new electoral law did not produce the hoped-for parliamentary majority or a dramatically more structured Verkhovna Rada. The new parliament was fragmented along party lines and politically polarized. However, it did

Table 2.1 Results of the 1998 elections

Party/Bloc	Party list	Single mandate	Total*	% seats†
Communist (CPU)	84	39	123	27.5
Rukh	32	14	46	10.3
Peasants-Socialists bloc (SelPU/SPU)	29	5	34	7.6
People's Democratic Party (NDP)	17	14	31	6.9
Hromada	16	8	24	5.4
Green Party (PZU)	19	–	19	4.2
Social Democratic Party (United) (SDPU(o))	14	3	17	3.8
Progressive Socialist Party (PSPU)	14	3	17	3.8
Independent, non-party candidates	–	101	101	22.5
Agrarian Party (APU)	–	8	8	1.8
National Front	–	6	6	1.3
Other parties	–	21	21	4.7

Source: Central Electoral Commission, *Parlament Ukrainy: Vybory-98 Infomatsiyno-analitychne vydannia*, Kyiv: ECE, 1998, vol. 1, p. 582 and vol. 2, p. 628.

Notes:
* The figures are taken from the official March results and do not add up to 450 as three repeat elections had to be held.
† Due to rounding up the decimal places, the figures do not add up to 100 per cent.

increase the role of parties in parliament by ensuring they would be a key means for election and raising the proportion of party members elected as deputies.

From parliamentary to presidential elections, Spring 1998–November 1999

The period prior to the presidential elections was dominated by inter-branch clashes as both the incumbent and presidential aspirants in the Rada fought to secure the ultimate prize in Ukrainian politics. The divided composition of the new Rada meant that the period was also characterized by frequent political deadlock and leftist ascendancy facilitated by centrist fluidity.

In the new Rada, no single party or political orientation had the overall majority (226 votes) necessary to elect a speaker or pass decisions. The left (Communists, Socialists–Peasants Bloc and Progressive Socialists) controlled 175 of the seats, while the centre (People's Democratic Party, Green Party and Social Democratic Party (United)) and right (*Rukh*) proved willing to vote together and comprised 185 deputies. Lazarenko's *Hromada*, more than the 40–50 non-faction deputies, had the opportunity to play kingmaker in the new parliament.

The inability of the Rada to elect a speaker for two months testified to its polarization and the difficulties of working in the absence of a permanent majority. Eventually, Kuchma was able to secure the election of a 'convenient' candidate who was not a credible contender for the presidency – Peasant Party entrepreneur, Oleksandr Tkachenko. In the subsequent months, the left was largely able to get legislation passed through situational majorities with various centrist forces, coupled with Tkachenko's willingness to manipulate voting procedures. The coming presidential election had a significant influence not only on the working of parliament by shaping actors' strategies regarding issues such as the speaker's election, but also fundamentally affected inter-branch relations with the president and individual parties. Disagreements over presidential candidates split the People's Democratic Party, Social Democratic Party (United), *Hromada* and *Rukh* parties (and their attendant factions) and were a key factor in the uncoupling of the Peasant and Socialist alliance. The period was marked by escalating tension between the president and the Verkhovna Rada and the presidential electoral campaign became entangled in the larger, long-standing struggle over the division of powers. Blaming the Rada for blocking reforms, Kuchma's election pledges included plans for a referendum to establish a more presidential republic similar to the Russian Federation. It was also indicative of parliament's weak constitutional position that the parliamentary elections did not prompt a change of government.

The presidential election campaign was distinguished by official harassment of independent media and widespread participation by local administrations. Leonid Kuchma was able to secure his re-election by emulating the strategies that had proven successful for Boris Yeltsin in 1996 (McFaul 1996). As in the Russian election, a nexus of state officials and businessmen had a vested interest

in the re-election of Kuchma and ensured his campaign had vast financial and media resources at its disposal. Also, as in Russia, the campaign was framed as a choice between stability (Kuchma) or a return to the worst aspects of the Soviet system (Communist leader Symonenko), while more moderate candidates were subjected to 'dirty tricks'. Kuchma convincingly beat Symonenko by 56 per cent to 38 per cent, as the electorate voted against communism rather than affirming the incumbent's rule.

The period was marked by a reactive parliament: the left was able to dominate so long as it could secure the support of part of the pro-presidential centrist forces, but parliament was prone to impasse due to its divided composition. The influence of the presidential election should not be underestimated: it heightened the long-standing inter-branch confrontation, made the Rada the specific target of the president's campaign team and also proved to be considerably distracting to 'ordinary' legislative work.

The 'velvet revolution' and after, 2000–2

The year 2000 was the most dramatic in the history of the Verkhovna Rada since independence. Kuchma's determination to secure presidential ascendance over parliament both formally via constitutional changes and informally by stimulating the creation of a compliant pro-presidential majority heightened the institutional uncertainty of the Rada. Ultimately, political scandal led to the end of both the majority and the planned constitutional changes during the convocation. Ongoing parliamentary weakness was illustrated by the constantly shifting political allegiances in parliament and the fragmentation in the wider party system underscored this development.

Leonid Kuchma's renewed popular mandate enabled him to pursue a more confrontational approach to the Verkhovna Rada. Increased formal presidential authority in the balance of powers was clearly his priority. To this end, he pursued a 'carrot and stick' approach. He insisted on the formation of a parliamentary majority to support the president's reform programme, offering, as a 'carrot', such a body the opportunity to participate in government formation. At the same time, the 'stick' was his intention to hold a referendum in April 2000 (formally on the initiative on 'the people'[20]) to increase the president's powers *vis-à-vis* parliament. Despite the plethora of contentious legal/constitutional issues opened up by the referendum and its implementation, the Constitutional Court ruled in the president's favour in all but the most dubious cases.[21] International bodies, press and politicians reported widespread violations in the signature collection, voting procedures and counting, and the results were unambiguously in favour of all four questions – 85 per cent for giving the president the right to dissolve parliament if it failed to form a majority or pass a budget, 89 per cent for the removal of deputies immunity from prosecution, 90 per cent for reducing the number of deputies from 450 to 300 and 82 per cent for the creation of a bicameral parliament (*Holos Ukrainy* 22 April 2000). Throughout the year,

Kuchma maintained pressure on the parliamentary majority to change the constitution accordingly.

However, in November 2000, a major scandal erupted that potentially implicated senior ministers and the president himself in the kidnapping and murder of journalist Georgy Gongadze. One consequence of this was that Kuchma's bill to change the constitution ran out of time. The public and parliamentary outrage evoked by the scandal caused the president to lose the initiative in Ukrainian political life for several months for the first time since his election in 1994. Until this point, the position of the president was unambiguously ascendant *vis-à-vis* parliament, enabling him to exert powerful influence on the legislature. Although he survived the scandal, the president became increasingly focused upon the expiry of his constitutionally-limited second term in 2004 and the need to secure similar guarantees for his future (such as immunity from prosecution) as those obtained by Yeltsin before he stepped down on 31 December 1999.

For the Rada, the period following Kuchma's re-election in 1999 was one of the most traumatic in its history, as the president formed his 'pro-presidential' majority. Kuchma's 'carrot and stick' of offering influence in government formation and threatening a referendum galvanized pro-presidential forces into action. Parliament was characterized by large-scale faction-switching and frantic negotiations to form a majority. Kuchma's choice of candidate for prime minister, National Bank chief Viktor Yushchenko, was undoubtedly influenced by interconnected factors. First, Yushchenko's reform profile and positive image with Western governments would help the restructuring of Ukraine's external debt and the renewal of IMF and World Bank lending suspended in autumn 1999. Second, as the preferred candidate of the parliamentary right, his appointment would anchor the right-wing factions into a pro-presidential majority.

Thus, Ukraine's first parliamentary majority was formed by eleven centre and right factions and deputy groups in January 2000. With the president's backing, the majority were then able to establish their leading role within the Verkhovna Rada by changing the parliamentary leadership. This was dubbed the 'velvet revolution' or 'constitutional coup' by deputies, depending on their point of view. There was a new speaker (Ivan Pliushch, speaker 1991–4), the replacement of all 'minority' held standing committee chairs and changes to the *Reglament*. Furthermore, right-wing factions successfully insisted on the symbolic de-Sovietization of the Verkhovna Rada. The imposing hammer and sickle badges on the outer walls were to be removed and the convocations were renumbered retrospectively to symbolize the break with the Soviet-era Rada. Thus, the twelfth convocation (1990–4) became the first and the fourteenth (1998–2002) became the third convocation. Although the majority bought greater predictability to the Rada's proceedings, severe tensions remained over both the government's composition and over the referendum and its implementation. Ultimately, the 'Gongadze scandal' prompted the disintegration of the majority. Its demise was symbolized by the dismissal of Yushchenko's government on 26 April 2001 by an alliance of centrist 'oligarch' factions from the majority

with the Communists, although thereafter former majority factions continued to cooperate informally on many aspects of law-making.

On one hand, the formation of a parliamentary majority had produced more constructive inter-branch relations (see Chapters 5 and 6). On the other hand, it was achieved by legally questionable means[22] and resulted in the submission of parliament as an institution to the interests of the president and those deputies close to him. Moreover, the majority was artificial, created by external stimulus (i.e. the Presidential Administration), rather than on the basis of shared interests and began to splinter within ten months. As it did not form the government, it could not be held responsible for its actions, so that the existence of a majority did little to introduce much needed accountability into the constitutional arrangement.

Within parliament, the period was marked by a trend towards the transformation of non-party deputy groups into party-based factions. This often entailed the founding of a party with the same name as the deputy group (e.g. *Trudova Ukraina* and Solidarity in 2000). Expectations of a new, more proportional electoral law and the forthcoming March 2002 parliamentary elections created incentives for wide-scale party proliferation within and beyond parliament. By April 2001, there were 111 registered political parties in Ukraine. Over half of these had formed since 1998 and were not only programmatically indistinguishable, the plethora of similar names was extremely confusing – in some cases, this was probably deliberate.[23] The vast majority of parties remained regionally rather than nationally based: only 12 of the 111 parties had branches in all regions of Ukraine (Central Electoral Commission 2001: 139). Nevertheless, the impending elections and the presence of a 4 per cent threshold for party entry to parliament also motivated parties to form electoral coalitions, a trend that accelerated towards the elections.

The period was characterized by an unstable, mutable party system which was largely based upon individual and group interests within parliament. Although parliament formally organized itself around parliamentary party caucuses, these floated above society and were poorly connected to it, permitting ephemeral alliances and an absence of political representation and account-ability at all levels.

The struggle for succession, 2002–3

As well as testing the viability of Ukraine's political parties, the March 2002 elections were regarded in some circles as the most important parliamentary elections since independence. The outcome set the political scene for Kuchma's exit from power scheduled for 2004 (having served his constitutionally-limited two terms) and provided a key battleground and support base for aspiring presidential candidates. The forthcoming presidential elections overshadowed daily politics considerably more than their 1999 predecessor, especially as the president's determination to control the conditions of his exit reanimated the debate over constitutional change.

Electoral coalitions became the main contenders of the March 2002 elections, a fact that underscored the continued weakness of individual political parties. Ten right-wing parties (including both *Rukh*s and Reforms and Order) gathered under the umbrella of Ukraine's most popular and trusted politician, ex-Prime Minister Viktor Yushchenko. The president put together a coalition of pro-presidential parties led by the head of the Presidential Administration, Volodymyr Lytvyn.[24] Notably, Viktor Medvedchuk's SDPU(o) competed independently from its pro-Kuchma colleagues. The election campaign was marred by executive interference (so-called 'administrative resources') and unequal conditions for candidates in terms of campaigning and media access (Committee of Voters of Ukraine 2002). The results showed that the effectiveness of 'administrative resources' was substantial (especially in single mandate constituencies), but limited. As Table 2.2 illustrates, six parties/blocs passed the 4 per cent threshold, with a strong showing for those more or less in opposition to President Kuchma. Yushchenko's Our Ukraine (*Nasha Ukraina*) received the largest share of the vote, the Communist Party's vote dropped from 1998 but they still obtained 20 per cent, while Tymoshenko's bloc and the Socialist Party, both now hardline opponents to Kuchma, managed to surmount the 4 per cent barrier. Significantly, all the advantages of 'administrative resources' secured only 11.8 per cent and 6.2 per cent for For a United Ukraine and SDPU(o) respectively.

Positioning for the presidential elections loomed large in the subsequent negotiations for the formation of a parliamentary majority, the election of the speaker and the formation of a 'coalition' government. In the months following the elections many deputies elected in single mandate constituencies were persuaded to join pro-presidential factions, so that by June 2002, the United

Table 2.2 Results of the 2002 elections*

Party/Bloc	% vote on party list	No. of list seats	No. of party-nominated single mandate seats	No. of self-nominated party members	Total seats
Our Ukraine (Yushchenko)	23.5	70	41	1	112
For a United Ukraine	11.8	35	66	20	121
Communist Party	20.0	59	6	–	65
Tymoshenko bloc	7.2	22	–		22
Socialist Party	6.9	20	2	–	22
SDPU(o)	6.2	19	5	4	28
Other parties	18.1	–	9	3	–
Non-affiliated	–	–	–	68	68

Source: Central Electoral Commission (2002: 276).

Note: *Official data from November 2002, including the outcome of the July by-elections.

Ukraine faction had swollen to 182 deputies. Although this faction soon fragmented into nine parts, it formed the basis of a pro-presidential majority together with SDPU(o) that in autumn 2002 formed a coalition government headed by former Donetsk governor, Viktor Yanukovych. Having lost the speakers' chairs to the majority, the opposition factions of the Socialists, Communists and Tymoshenko bloc attempted to regain the political initiative by organizing a series of mass protests against Kuchma and in support of constitutional reforms to curb presidential powers. During this period, the position of Yushchenko and Our Ukraine for a long time remained ambiguous, but in autumn 2002 they half-heartedly joined the opposition's protests.

By mid-2002, Kuchma faced a dilemma. Although he seemed to favour a Yeltsin–Putin style succession, he was in a weaker position than Yeltsin following the Gongadze scandal and less able to control his own exit. Moreover, he lacked a trustworthy heir capable of winning an election. Therefore, the president sought alternatives. In a well-timed and largely successful attempt to regain the political initiative, president Kuchma astonished politicians and commentators by using his Independence Day speech on August 24 2002 to announce that he supported the opposition's plans to transform Ukraine into a parliamentary–presidential republic. This constitutional reform offered the incumbent president a new guise with which to realize his plans not implemented in 2000 and also increased the number of possible scenarios for 2004. Many observers were convinced that Kuchma was looking for a way to retain power beyond 2004, until he had secured his future (e.g. *Ukrains'ka Pravda*, 20 June 2003).

The presidency remains and is likely to remain by far the most important office in Ukrainian politics. This widespread expectation conditioned actors' behaviour during 2002–3 and therefore influenced their strategies in the Verkhovna Rada. For this alone, the Ukrainian president was still the most significant actor in parliament.

Concluding remarks

This chapter aimed to provide the necessary background to understand the institutional change occurring inside the Verkhovna Rada during 1990–2003. Key exogenous factors have been identified – the constitutional framework, the leadership style of Ukrainian presidents, the electoral system, the emerging party system – and their development has been considered in relation to the Verkhovna Rada as a whole in each of the key time periods. In addition, the institutional inheritance from the Soviet period has been outlined to permit the identification of institutional continuities and change. At this point, I will defer drawing conclusions or weighing the importance of these respective factors. It is the task of the empirical chapters which follow to explicate the interweaving of multiple exogenous and endogenous factors that shaped the Verkhovna Rada's internal institutions and to elucidate how the trajectories of internal institutional change affected parliamentary development.

3   Factions emergent, 1990–4

It is no accident that scholars of Ukraine's parliament have studiously avoided scrutinizing the characteristics and role of factions in the twelfth Verkhovna Rada of Ukraine.[1] Information about their creation, membership, political orientation, activities and duration is scarce, incomplete and sometimes contradictory.[2] The picture that does emerge is extremely untidy. Factions were officially recognized after the March 1990 elections, but remained incoherent and played a generally insignificant role in the parliament's work. More importantly, alongside this institutional innovation, a *de facto* 'two-party system' of blocs encompassing the smaller, overlapping groups emerged. The existence of a more or less defined 'majority' and 'opposition' was the key feature of the Verkhovna Rada until Ukraine's independence precipitated the break up of both formations, permitting factions to become more tangible inside parliament between 1992 and 1994.

The aim of this chapter is to explore the emergence of factions, 1990–4, demonstrating that although factions formed, the role they played in orientating deputies was minor, but grew after 1992. Prior to the exploration of factions after 1990, a brief consideration of Soviet-era practices will 'set the scene' for subsequent developments and locate the roots of faction development. The next section considers the period 1990–2, examining the characteristics of early Ukrainian factions in the last days of the USSR, the impact of the formal basis for their existence and the transitory phenomenon of 'majority' and 'opposition'. Finally, 1992–4 will be assessed as a period in which factions established themselves as a permanent feature of the Verkhovna Rada, but like parliament itself, remained largely unstructured.

Factions and deputy groups: clarifying the terms

Before a discussion of factions in the Verkhovna Rada can be undertaken, it is necessary to clarify the meaning of terms that are often used ambiguously. In the Ukrainian context, the term 'faction' can be applied in both a generic and a strict sense. Generically, it means formal associations of deputies on a *political* basis that may or may not be party-based. Strictly (as defined in the parliament's *Reglament* (standing orders)), it refers only to those associations formed on the

basis of a political party (i.e. parliamentary party caucuses). At the same time, deputy groups could form, but not on a commercial, regional, professional or religious basis. However, the usage is mixed even in the current *Reglament* (passed 1994). Article 4.2.2 defines factions as solely party-based, while deputy groups are any registered non-party group. The *Reglament* also refers to deputy groups and factions interchangeably as they have equal rights in parliament. Clarifying distinctions between factions in the generic and strict senses is further complicated by the fact that faction members were not necessarily members of the respective political party and that some factions became deputy groups and vice versa. During 1990–2003, there were many cases of deputy groups forming a political party and therefore transforming themselves into a faction. Sometimes, party members left their eponymous faction, so that it then became a deputy group.

From 1990–4, the operative Temporary *Reglament* mentions only deputy groups, which could be formed on territorial–production and political bases, although some groups began to call themselves factions. At the same time, large umbrella blocs existed (e.g. the People's Council) that encompassed several factions/deputy groups, but in principle operated as a faction too. Formally, between 1990–4, a faction/deputy group was a registered politically based association of at least 20 members. Deputies were permitted to join up to two. For the sake of clarity, I use the term faction as the generic term for *politically* based formal deputy associations throughout. Deputy group is used when referring specifically to non-party associations.

Institutional antecedents in the Soviet period, pre-1990

In order to understand the patterns of factions' emergence in the Verkhovna Rada during the late Soviet period, it is important to understand the institutional legacy inherited by the Verkhovna Rada elected in March 1990. Under the Soviet system, the CPSU and its republican level equivalent (i.e. the Communist Party of UkrSSR) was the sole party and factions within the Party were prohibited. The CPSU cannot be seen as a 'genuine' political party because the notion of *part*y is intrinsically connected with ideas of pluralism – there must be more than one party (Sartori 1976: 39–47). Nevertheless, factions did have an antecedent in the republican (and Union) Supreme Soviet/Verkhovna Rada. Created in 1937 on the basis of the All-Union Communist Party (Bolshevik) statute, the Party group was designed to co-ordinate the activity of Party members in the Verkhovna Rada. It united all Party members (approximately 70 per cent of deputies), holding meetings before all plenary sessions to discuss the agenda. The group could make proposals, which, although formally recommendatory in character, were in practice mandatory (Shemshuchenko 1999: 148). A 1982 statute of the UkrSSR Verkhovna Rada elaborated its role, allowing the formation of groups on the territorial–production basis for the co-ordination of constituency work. These regional groups (called *deputatsii*) united all the deputies (Party or non-Party members) from each oblast. As detailed information is lacking, it is difficult to discern the influence of the group(s)

separate from that of the Party at large. Genuine political groupings did not emerge until after 1990. Until that time, conceptions of group identity or opposition in the Verkhovna Rada were subordinated to the principles of democratic centralism and unanimity and this was supported by the institutional structure. Differentiation between groups was likely to be based on the distinction between Party and non-Party members, between the holders of state posts and workers/peasants or along regional lines.[3] Group institutional identities were unlikely to form when the work only required a few weeks per year. Thus, the first factions formed in 1990 did so without institutional precedent or traditions. This meant that many deputies were unsure of the advantages or roles that factions could play in parliament.

Majority and opposition, 1990–1: the People's Council and the Group of 239

The 1990 elections produced the Verkhovna Rada's first ever parliamentary opposition, which claimed one quarter of the seats. Although the democratic opposition comprised diverse interests, in the context of the struggle for more autonomy (and later, independence) from the USSR and outnumbered by a communist majority accustomed to discipline and voting unanimity, there were strong incentives for the opposition to coalesce into a coherent bloc in order to have an impact in parliament. Therefore, during 1990–1, although embryonic factions formed, the Rada was politically structured into two blocs: opposition and majority. It is perhaps ironic that the only time the Verkhovna Rada was able to structure itself into a majority and opposition was during the late Soviet period. The Rada never attained this clear delineation of political forces in the post-Soviet era. The creation of these two blocs represented the early stages of parliamentary pluralism in Ukraine. The existence of an organized opposition set important precedents and they developed strategies that would enable them to 'punch above their weight' in parliamentary decision-making.

Opposition: The People's Council

While the existence of a political opposition in parliament was a brand new phenomenon with no clearly defined role, the existence of a monolithic ruling Communist Party directed by democratic centralism was long established. In the initial sessions of the new parliament, the communist majority was able to simply block and outvote the opposition. As in the elections, the democratic opposition was faced with the choice of overcoming their internal squabbles or becoming irrelevant. It chose the former strategy and in June 1990 created a formal opposition bloc, which although it adopted a statute and published a membership list, eschewed registration as a faction in favour of taking on 'umbrella' status, following the precedent of the Democratic Bloc electoral coalition. In effect, the People's Council (*Narodna Rada*) become the parliamentary caucus of the opposition popular front *Rukh*.

Not only were there no institutional incentives to register as a formal faction (see below), the idea of a formal opposition and the name People's Council implicitly suggested that this grouping was more than a faction and above narrow political party interests. It hinted that they were representative of 'the people' and more in tune with popular opinion than the communist majority. This 'broad church' approach as a parliamentary bloc helped the People's Council to attract deputies from the Democratic Platform of the Communist Party into their ranks and to gather the support of other reform-minded communists and non-aligned deputies.[4] The People's Council numbered around 122 (27 per cent) of deputies, most of whom were members of the umbrella opposition popular front, *Rukh* (Arel 1991: 112). Sixty-five per cent of members were members of the intelligentsia and most were elected from west and central Ukraine. Their platform was based upon the Democratic Bloc's electoral platform, which had mostly consisted of a negative assessment of the CPU and the Soviet system, but they also pledged to fight for Ukraine's economic and political sovereignty, a multi-party system, a new republican constitution, religious freedom and a mixed economy (Marples 1990: 17–19).

The bloc had been unable to enforce a common electoral platform and this indicated the heterogeneous nature of opposition interests. Once in parliament, three factions emerged within the bloc to represent the main centres of interest. Ukrainian Republican Party (URP) members joined with other radicals to form the Independence (*Nezalezhnist'*) faction. A further 22–26 joined the Democratic Party of Ukraine's (DPU) faction and 28–36 deputies were members of the Party of Democratic Rebirth of Ukraine, formed from the reformist wing of the Communist Party (see below). The formation of distinct factions inside the formal opposition was on the basis of newly formed political parties eager to make their presence felt. In parliament, the People's Council was often able to suppress these differences when facing the common enemy, the Party, and was able to maintain unity and much of the political initiative on this negative basis until independence was declared.

The People's Council held regular caucus meetings during plenary session weeks and, according to Arel, they 'voted quite cohesively as a bloc' (1994: 138). The bloc was able to develop and co-ordinate strategies to promote their aims. A favourite tactic when the majority ignored their proposals was to deprive the plenary session of quorum by refusing to register or walking out. It was this purposefulness that led the then parliamentary speaker Volodymyr Ivashko to bargain with the opposition and hand over the posts of chairs of nine of the 24 standing committees in June 1990. These posts were important, particularly as committee chairs sat on the powerful Presidium, parliament's leadership body. With only 27 per cent of deputies, the opposition was able to maintain the initiative (particularly over the agenda) and kept the communist majority on the defensive.

Given the numerical superiority of the CPU in the parliament and the Party's integration with and dominance over key institutions of state (government, the KGB, the majority of local/city councils), the ability of an opposition consisting

of around one quarter of deputies to maintain the political initiative is startling. However, it becomes less remarkable once the incentives of the parliamentary actors are placed into an institutional context where external factors and contingency have a significant role to play. The People's Council was not a coherent body. Not only did it comprise different factions and political parties, its leadership's decisions tended to be non-binding. However, the opposition was more motivated, more vocal and more eloquent than their CPU counterparts. With 27 per cent of the deputies, they were able to monopolize 50 per cent of debate time. For the first time the opposition had access to the state from within. They were able to pursue their strategy of pressurizing reform-minded Communists and non-aligned deputies from a much stronger position from within parliament, combined with mobilizing popular support outside parliament.

This two-pronged strategy was mutually reinforcing, gradually undermining CPU confidence and ability to resist the opposition's agenda, while the newness of the opposition, with their relative absence of institutional history made them more flexible to the changing political environment. As Hough (1990) argued with regard to Russia in the period 1990–1, undermining the confidence of CPU elites was the optimal tactic for the success of the opposition's programme. The new status of the Verkhovna Rada meant that the opposition had direct access to the republic's key decision makers and the positions on standing commissions gave them a key role in drafting legislation and disproportionate weight on the Presidium. In addition, the seating arrangement in the chamber, which was alphabetical and by region rather than according to faction, facilitated the opposition's lobbying of the CPU. Moreover, the broadcasting of the sessions on radio and television exposed the opposition to a national audience and enabled them to force the CPU/state apparatus to defend their positions publicly. Therefore, the People's Council was able to make a significant impact on the political agenda and created parliamentary precedents that would influence the tactics of factions in the future.

The majority: the Group of 239

A well-institutionalized structure and democratic centralism meant that initially the communists voted almost unanimously and were able to impose their will upon parliament. The election of Leonid Kravchuk, second secretary of the republic's Communist Party, as the new parliamentary speaker in July 1990 by 239 votes became a symbol of the strength of the majority.[5] Thereafter, the communists referred to themselves as the Group of 239 or as the 'majority', although this formation was never formalized and no membership list was ever made public. This means that it is not possible to estimate the majority's voting cohesion. Moreover, few '239-ers' joined factions.

While the majority largely shunned faction membership, it could not avoid factionalization within the Party. The Democratic Platform of the Communist Party (28 deputies) joined the opposition in June 1990. By autumn, the Party

both within and outside parliament was experiencing a growing split between national communists and conservatives. As argued in Chapter 2, this split occurred largely along institutional lines, with those employed in the state apparatus and economic institutions becoming national communists as they increasingly recognized the growing 'logic of sovereignty' as a consequence of Gorbachev's political and economic reforms. It was on this emerging group that the People's Council concentrated their lobbying efforts and they voted together on key state-building legislation such as the Declaration of Sovereignty. The conservatives, who tended to be employed in the Party apparatus, were less capable of adapting to the new circumstances. Nevertheless, the Group of 239 retained voting coherence on certain issues until the proclamation of independence and the banning of the CPU radically changed the rules of the game.

Prior to independence, the political forces in the Rada were shaped around two rather heterogeneous blocs. However, the key political issue of the time was a deputy's attitude towards the Soviet regime and Ukrainian sovereignty/ independence. This cleavage dwarfed all others, which was the main underlying factor in the bi-polar politics of the Verkhovna Rada 1990–1 that permitted the maintenance of clearly structured blocs. However, within these blocs, factions were beginning to emerge, although the role they played was minor.

Embryonic factions, 1990–1

The formation of alternative political parties had been successfully delayed by the Communist Party until after the elections, but the *de facto* pluralism now existing across the Soviet Union was acknowledged *de jure* with the removal of article six from the Soviet Constitution, clearing the path for the formal registration of parties. From the first days in session, people's deputies in the UkrSSR and other republics began to coalesce into factions, following the example of the all-Union Congress of People's Deputies elected the previous year and reflecting official acceptance of a multi-party system.

On the third day of the session, the acting speaker announced the registration of regional groups and five political factions (*Pravda Ukrainy*, 19 May 1990). Three of the latter, For Consolidation, For Human Rights and Rebirth were never heard of thereafter, demonstrating the ephemeral nature of many nascent political groupings in parliament. The other two proved more durable. Independence (*Nezalezhnist'*) was a faction of 22 radical opposition deputies, mainly from Western Ukraine. Twelve of these were members of the recently registered Ukrainian Republican Party (URP). This party was led by former political prisoners and was the most radical opposition in parliament.

The Agrarian group, registered the same day, was not strictly a faction as it was formally based on a common profession of deputies. However, it will be treated as a faction as it gradually emerged as the largest formal conservative deputy association. As the name suggests, it comprised deputies associated with

the agricultural sector – mainly collective farm directors and Party officials – all of whom were part of the conservative majority before independence.[6] In June 1991, 27 of the more democratically orientated 'Agrarians' also joined the more democratic Land and Liberty (*Zemlia i Volia*) faction of 34 deputies, as the rules permitted deputies to join up to two factions (see below).

Another early faction was organized by the pro-reform Democratic Platform of the Communist Party of Ukraine. Thirty-six deputies, mainly Russophone intellectuals from across Ukraine's regions, registered this faction in December 1990, 28 of whom had created the Party of Democratic Rebirth of Ukraine (PDRU) in July. Supporting economic reform and de-communization, the faction formed the core of the non-nationalist opposition (Wilson 1997: 123). The other main faction of the opposition was the Democratic Party of Ukraine (DPU), which consisted of former Party members who mainly belonged to the Ukrainian Writers' Union. The DPU was more moderate than Independence, but more nationalist than the PDRU.

Although the brief description of these early factions seems to suggest the existence of quite distinct deputy interests and the ability to organize them, in reality the picture was considerably murkier. These factions give a 'flavour' of some of the emergent political orientations in 1990, and because these factions were among the most durable formations in parliament during the twelfth convocation (1990–4), there is more information available about their activities. However, a more accurate account needs to draw attention to the existence of other embryonic factions that emerged during this period, some formally registered, some not. The vast majority of these factions were short-lived, perhaps lasting only a few months before expiring or regrouping under another name, but serious faction formation did not get underway until after independence. Memberships were overlapping and factions rarely held caucus meetings. Factions did not sit together in the chamber, as deputies sat by region. If they took decisions on how to vote, due to the absence of a whip system, these could only have recommendatory character. Furthermore, as most decisions in parliament were taken by secret vote, factions had no way of checking that their members had followed its recommendations, a provision which did little to encourage holding meetings and co-ordinating voting decisions.

Therefore, during the last days of the Soviet era, nascent factions emerged formally but did not develop a significant role in parliament's operation and barely functioned in reality. This is unsurprising given the newness of the institution and the total absence of any parliamentary tradition of deputy organization along partisan lines, while democratic centralism and unanimity were traditions likely to counter deputies' understanding of the role that factions could play inside parliament. In addition, the prerogatives of the Verkhovna Rada itself were changing, but formal and informal procedures structuring the 'rules of the game' and guiding the execution of functions were largely absent. Furthermore, although the Temporary *Reglament* recognized factions, the rules did not provide incentives for structured factions to develop.

Parliamentary rules: structuring factions' incentives?

The internal parliamentary rules played a significant role in shaping deputies' incentives to organize themselves into factions. These *Reglament* were a product of the time, merely giving legal recognition to the *de facto* pluralism that existed in the Rada. As such, the rules reflected official tolerance of this pluralism, but did not encourage it by allocating material or procedural privileges to factions. Nevertheless, the different situation of opposition and majority deputies meant that opposition deputies had greater incentives to form factions.

The UkrSSR Verkhovna Rada's Temporary *Reglament* was a very brief document adopted a few days after the first factions and regional groups registered (Resolution 6-XII, 22 May 1990). It recognized the legitimacy of organized group activity by officially permitting formal groups on three bases: territorial (regional), professional and 'social, creative or other interest' (art.14). Unsurprisingly, this development directly paralleled Russia's experience, as both republics reacted to the changing circumstances created by Gorbachev's reforms (Hough 1996: 87). The territorial and professional groups were 'traditional' Soviet formations, a continuation of the form of the Party groups. The 'social, creative or other interest' based groups were the real innovation that permitted political factions to officially register with twenty members. By registering a list of members and the names of three or four 'authorized representatives' (i.e. deputies authorized to speak on behalf of the faction), all factions and groups were given certain speaking rights during debates, rights to charge the secretariat to circulate materials on behalf of the faction and the right to publicize their activities in the press (art.21). It is significant that the three types of grouping were of equal status and accorded the same rights, so that political factions had to compete with crosscutting regional and professional groups.

Regional groups (i.e. *deputatsii*) existed until 1994 on the basis of Ukraine's 24 oblasts plus one for the Autonomous Republic of Crimea and formal membership was automatic. As a continuation of the Communist Party 'party groups', the regional groups were essentially set up to allow deputies to co-ordinate on regional matters. However, as after 1990 members of each group belonged to different political parties and orientations, the groups were unlikely to emerge as coherent groups articulating common principles. Evidence of their activity is scarce as regional groups tended to keep a lower profile than factions. Despite being afforded equal speaking rights in plenary sessions, regional groups rarely exercised this right. The broad pattern of regional distribution of deputies, with the opposition concentrated in western and central Ukrainian constituencies and the communist majority from the more populous east and south also makes it difficult to separate activities of regional groups from this larger political fissure in the Rada.

Although all deputies were formally members of regional groups, approximately 170 deputies chose not to join any faction during the convocation (Lapin and Tolpygo 1993: 70). Most of these non-aligned deputies belonged to

the conservative majority before independence and were members of the nomenklatura. For example, from the Dnipropetrovsk region, nomenklatura-deputies and future Prime Ministers Kuchma, Lazarenko and Pustovoitenko chose to remain outside factions. Such deputies, whose full-time career lay outside the walls of parliament, had access to alternative state resources. So, the absence of the provision of any material resources to factions meant there was little incentive to join. Where necessary, regional groups could act as an adequate network group for these deputies.

On the other hand, there were stronger incentives for opposition deputies to organize in factions to co-ordinate common strategies to further their agenda from a position of numerical weakness. First, as 83 per cent of the official opposition were not members of the command-administrative class, they did not have 'important' full-time jobs elsewhere in the state structure. They saw their roles as parliamentarians as crucial to achieving their political aims and were more willing to work in parliament full-time, which also gave them more time together to co-ordinate by holding meetings.

However, the incentives for factions to form as a basis for co-ordination were undercut by the provision in the Temporary *Reglament* that while deputies could logically only belong to one regional and one professional group, they were allowed to join up to two factions. Although data is far from complete for the 1990–1 period, the opposition bloc, the People's Council, comprised at least three factions and after 1992 most deputies who joined a faction at all belonged to two (Lapin and Tolpygo 1993: 70). While this provision is not unique,[7] it can be expected to have the effect of minimizing or diluting the development of faction identities and loyalties, and this was the case in the Verkhovna Rada before 1994.

Equally, influential aspects of the parliament's internal rules on the development of factions are to be found in considering what was not included in the brief Temporary *Reglament*. As mentioned above, no material resources were allocated to factions.[8] The rules did not foresee factions playing any specific roles inside parliament: forming the agenda remained the preserve of the Presidium (although regularly disputed in plenary sessions); the distribution of leadership and committee positions took place before or while factions were forming and although procedures for the legislative process remained patchwork and fluid, factions were not coherent enough to make an impact on them. The internal rules of parliament provided no institutional support to factions beyond official recognition, and this remained unchanged until 1994.

Yet after 1992 factions proliferated and began to play a slightly more significant role in the Verkhovna Rada. Although institutional factors such as the Temporary *Reglament* adopted by parliament underscored and reinforced the general trends in early faction development, they did not shape them. Before independence, factions remained in the shadow of the conservative majority and the official opposition (People's Council), the dominant parliamentary fissure of the period that transcended faction organization.

Independence and the end of blocs

The realization of independence meant that the most compelling incentives for the existence of bi-polar blocs in parliament disappeared. During the period late 1991 to early 1992, the majority and opposition fragmented and political realignment was precipitated. The Declaration of Independence in August 1991 was accompanied by a ban on the Communist Party and the nationalization of all its assets. A successor party was rapidly organized by Oleksandr Moroz, one of the leaders of the 'Group of 239'. The economically populist Socialist Party of Ukraine (SPU) was officially formed in October 1991, claiming 60,000 members – dwarfing all other parties in Ukraine, but still considerably smaller than the 3 million members of the CPU in the 1980s. However, Moroz's strategy was to build a new party and senior CPU figures were not invited to join. Nevertheless, the party provided temporary shelter to many hardline communists, who left when the ban was lifted in 1993. Although estimates of parliamentary support range from 80–140 deputies, only 20 deputies openly joined the party (Kuzio and Wilson 1994: 175). The party's creation was the final death-knell for the majority. Some former 239-ers joined the Peasant Party (formed early 1992), but the bulk of the majority eschewed joining any political party. Most of the former Communist Party elite dispensed with their party cards along with Kravchuk upon independence. Chameleon-like and almost imperceptibly, they transformed themselves from 'Soviet' to 'Ukrainian' elites.

For the opposition, independence also prompted rapid disintegration. With their ultimate aim achieved, their ultimate enemy vanquished (at least in theory) and the bulk of their programme adopted by Kravchuk, incentives to suppress their differences were removed. The presidential election both revealed and stimulated the divisions in the People's Council and its constituent parties – who between them backed no less than five different candidates. As Kuzio and Wilson (1994: 183) explain, because most of these parties were relatively unknown by the electorate, it was rational for each to nominate their own candidate to raise their popular profile.

The disappearance of parliamentary blocs created a space that factions could try to fill. Factions proliferated and began to make a small impact on the parliamentary workings, but the role they were able to carve out for themselves was not significant as factions remained weakly tied to political parties and without defined programmes or structures. Independence did not bring any significant institutional changes to the state, with the exception of the creation of the presidency, where the incentives for institutional innovation were mainly external to the republic (see Chapter 2). For republican institutions like parliament, there was a lack of stimuli and consensus for change: the structure of the Rada did not change until 1994 and no fresh elections were held. The main decision-making and organizational roles sat with the Presidium and, to a lesser extent, with the standing commissions – institutions that were relatively institutionalized (compared to factions, that is) and had resources at their disposal. Therefore, institutional incentives for faction organization remained

very weak. Nevertheless, factions during 1992–4 did develop into a permanent feature of the parliament's work and plans to formally institutionalize their role were developing by 1992.

Realignment and re-formation, 1992–4

Although President Kravchuk began his term able to rely on a loose coalition of former People's Council and national communists, as the economy spiralled downwards and political interests became more differentiated in parliament, decisions were made and legislation passed by *ad hoc* 'situational' alliances of the left or right together with the large (around 200) shifting *boloto* (marsh) of deputies located between the left and right flanks. In this context, political groupings formed and re-formed frequently. Bach (1996: 217) estimates that 43 groups, coalitions, factions and alliances existed in March 1993. Many of these never registered due to the lack of incentives for registration or numerical deficits (20 deputies were required). Formally, twelve factions were registered at the end of 1993. However, it is critical to remember that only 268 deputies joined any faction. Therefore, as factions proliferated after independence, around 170 deputies did not engage in faction activity at all, indicating that despite increased activity between 1992–4, factions remained marginal to the overall running of parliament. This was a consequence of the continued dominance of the former nomenklatura (who became known as the 'party of power'), whose interests cut across institutions, and the weakness of alternative structures, in the form of political parties. In essence, factions therefore largely remained 'free floating' groups of deputies within parliament, poorly connected and responsible to the interests of a wider organization from 'below' and without responsibility 'above' to provide constructive support or opposition to the executive.

Nevertheless, it is not paradoxical to reiterate the overall weakness of factions, while demonstrating that they did became more defined in orientation and structurally, playing a slightly greater role in parliament than before independence. Therefore, the main orientations will be briefly outlined before considering their main features and contribution to the Verkhovna Rada.

Main orientations

The right (national-democrats)

Realignment among the parliamentary right took place throughout 1992 as the former opposition came to terms with the electoral victory of Leonid Kravchuk, the former leader of the national communists, who had adopted much of the national-democratic programme and rhetoric. Comprising around 120 deputies, they were not strong enough to pass legislation alone and Kravchuk courted their support by appointing leading figures to visible, but not highly influential positions, such as diplomats, advisors and regional representatives. This coalition between the right and former national communists lent credibility to

the latter who kept hold of the key ruling levers of state, but it gradually contributed to the discrediting of the right, as they became popularly associated with the failures of the 'party of power'.

After the right's divisions and failures in the presidential election, the People's Council collapsed and the 'umbrella' movement *Rukh* split over the issues of whether to offer the president unconditional support to enable him to defend state independence and whether to found a political party. By autumn 1992, the Faction of *Rukh* of 49 deputies was the parliamentary caucus of the newly formed *Rukh* party. It was led by Viacheslav Chornovil on a platform of 'constructive opposition' to the President, which was in reality 'sporadic opposition'. The Faction of the Congress of National Democratic Forces (CNDF) was a coalition of around 40 deputies from the Republican (URP) and Democratic (DPU) parties, dedicated to backing Kravchuk and to increasing presidential powers. They argued that independence was too fragile for any opposition to exist.

Despite frequent squabbles, the two factions tended to vote together with the former national communists for much of 1992. In this way, Soviet-era Prime Minister Fokin's government was eventually sacked by parliament. The re-grouping of the left after late 1992 was instrumental in the reanimation of the People's Council, this time as the largest faction (90 deputies), uniting many *Rukh* and CNDF members with centrists from the New Ukraine faction. This 'broad church' was successful in organizing rearguard actions such as preventing the election of judges to the Constitutional Court (which they thought the CPU supporters were trying to pack) by manipulating the interpretation of the *Reglament* to their advantage and disrupting plenary sessions until the question was finally removed from the agenda.

The centre and the 'party of power'

Although factions with a broadly centrist orientation did emerge, the political centre in parliament was amorphous, ill-defined in composition and intentions and was nicknamed *boloto* (marsh), connoting that it occupied the void between left and right. The most structured organization was the faction New Ukraine (*Nova Ukraina*), a coalition of the former Democratic Platform of the Communist Party and business leaders, who prioritized radical liberal economic reform and declared themselves to be in 'constructive opposition' to the president. On formation in 1992, they claimed to have the support of 72 deputies. This must have been a reflection of the leader's aspirations, as by 1993, only 36 members were registered. New Ukraine also initiated the faction of the Party of Democratic Rebirth of Ukraine (PDRU).

New Ukraine was the exception and as *boloto* infers, the majority of centrist deputies remained outside factions and political parties. Many of these deputies were ex-'group of 239-ers'; former members of the nomenklatura such as directors of state enterprises or regional administrators who sought to retain their power and influence in the new state. Although President Kravchuk courted the

right, he relied on and shored up the position of these elites entrenched in the state apparatus at all levels and with an interest in preserving the status quo. The term 'party of power' is a widely-used concept to describe these former communist elites who retained control of the 'commanding heights' of the state and economy (see Chapter 2). They did not quite constitute a majority in the Verkhovna Rada, but by virtue of holding the ground between left and right, they could align with either to ensure a bill's passage. The term itself is somewhat misleading as it implies that existence of a relatively homogeneous self-interested elite supporting the president for their own private benefit, yet these elites were becoming more differentiated. For example, in the changing economic context, the industrial lobby developed interests quite distinct from the agrarian lobby and the latter tended to be more associated with the left.

As most of these deputies held important posts outside the Verkhovna Rada, they were usually part-time deputies who devoted less time to parliamentary work and therefore to factions. With powerful alternative positions, they had little use for political parties or factions as a potential organizational or resource base, while the prevailing popular anti-party mood buttressed this anti-partisan trend.

The left

Independence and the banning of the Communist Party disorientated the left, and much of this period was spent regrouping and campaigning to lift the ban. Around 40 supporters formed a faction 'For Social Justice' in early 1993, with a hardline Marxist–Leninist programme that envisaged a restored USSR and opposed President Kravchuk. The Communist Party of Ukraine (CPU) was finally allowed to register in October 1993 as a completely new party (i.e. without the assets of its predecessor) and was instantly the largest party in Ukraine. The Agrarian faction lost around 30 members during this period as more pragmatically orientated deputies drifted towards the unaffiliated *boloto*. From within the Agrarian faction, approximately 20–30 members of the Socialist Party of Ukraine (SPU) became a vocal partisan component, promoting closer ties with the CIS and economic populism. However, at this point, there were insufficient incentives for them to create their own faction.

Becoming visible in the Verkhovna Rada?

Having identified the main orientations of factions in the Verkhovna Rada, this section will consider their organization and activity during 1992–4, assessing how far they were able to carve out a role for themselves given the lack of institutional and external (i.e. party) support available.

Table 3.1 provides an overview of all the factions registered between 1993 and the end of the convocation in March 1994. Although the Temporary *Reglament* permitted deputies to join up to two factions, it is clear that some joined three or more, illustrating that the rules were not enforced. There was a

Table 3.1 Summary of factions in the Verkhovna Rada, 1993–4

Faction	Size '93	Size Mar '94	Date registered	Orientation	Party linkage	Main overlap with other factions
For Social Justice	40	42	1993 (conflicting dates)	Hardline conservative wing of the former '239 group'	Communist Party of Ukraine (registered 1993)	17 'Agrarians', but 10–12 didn't belong to any other faction
Agrarians	75	74	May 1990	Left, but a significant proportion comprised the agrarian wing of the 'party of power'	~20 members belonged to the Socialist Party	68 members of other factions, including 27 Land and Liberty
Land and Liberty	34	33	June 1991	More democratic wing of 'Agrarians'	–	27 Agrarians, and 40 other faction memberships
Rada	31	31	N/A	Leftist	–	13 Agrarians, 9 For Social Justice
Workers of Industry	22	22	N/A	Leftist/'party of power'	–	Little overlap with other factions
Accord-Centre	26	26	N/A	Centre/*boloto*	–	Evenly distributed overlap across the spectrum of factions
New Ukraine	36	34	February 1992	Centrist coalition of politicians and business leaders, pro-reform	–	14 Democratic Rebirth, 12 People's Council
Democratic Rebirth of Ukraine	21	21	N/A	As New Ukraine, set up by New Ukraine	Party of Democratic Rebirth of Ukraine	14 New Ukraine, 9 People's Council
Non-party	39	34	N/A	Right centre	non-party	12 People's Council, 14 Democratic Rebirth of Ukraine
People's Council	90	90	February 1993	Right	–	43 *Rukh*, 12 CNDF
Faction of *Rukh*	49	48	1992	Right	*Rukh*	43 People's Council, 12 CNDF, 11 'Non-Party'
Faction of CNDF	39	34	September 1992	Right / pro Kravchuk	CNDF, DPU, URP	19 of People's Council

Sources: *Pravda Ukrainy*, 1990–1, *Holos Ukrainy*, 1992–4, Lapin and Tolpygo (1993) and figures for March 1994 provided by Laboratory F4.

notable degree of overlapping membership for all factions, except Workers of Industry, and this compounded the fuzzy identities and militated against a more coherent structuring of parliament on the basis of factions. Table 3.1 also demonstrates that deputies of leftist and rightist orientation were more active in faction formation than their centrist counterparts. This reflected their more clearly articulated ideological position. Furthermore, the right had greater incentives for faction (and party) formation as they lacked access to alternative (state) resources, while for the left the principle of party-based organization was a long established tradition. Therefore, although the Temporary *Reglament* offered few privileges and resources to factions, for the left and right other motivations existed for faction creation.

Moreover, at the antipodes of the political spectrum, the greatest degree of linkage to political parties occurred, although only four factions were party-based in the strict sense.[9] Party affiliation contributed to greater faction activity and longevity as factions engaged in publicizing their party's platform using the parliamentary rostrum, giving factions a *raison d'être*. Nevertheless, such platforms were relatively poorly articulated, tending towards criticism of the executive, rather than offering specific policy alternatives, which both factions and parties lacked the organizational basis to develop.

Furthermore, linkage to a political party proved a poor guarantee of faction cohesion. Even where members of a faction shared party membership, they did not necessarily vote together. For example, a leader of the Ukrainian Republican Party (URP) complained that URP deputies often ignored the decisions and general line of URP congresses (Bach 1996: 216). As the 1990 elections took place prior to party formation, deputies did not owe their position to a party so that party loyalty in parliament remained weak. The absence of fresh elections after independence deprived parties and their counterpart factions of the stimulating effect of elections upon party organization and consolidation. Therefore, parties and factions suffered a mutually reinforcing handicap: both were embryonic organizations that were incapable of providing each other with information, direction and organization that could have encouraged the development of both and neither had an established role to play in the political system.

Therefore, given the weakness of external party support and institutional incentives, the ability of factions to acquire meaningful roles in the Verkhovna Rada depended upon individual (group) inclination and what they could eke out from between numerous gaps in procedures and the speaker's uneven application of the sketchy rules. For instance, a greater role for factions in the legislative process was established through precedent rather than via formal rule change. Throughout the convocation, it became increasingly common for standing commissions (committees) to consult factions on specific draft laws. Early in 1992, New Ukraine began proposing amendments to bills as a faction rather than individually, to lend weight and legitimacy to a proposal. Nevertheless, in the first instance, this was mocked by speaker and Kravchuk-ally Ivan Pliushch (*Buleten' Verkhovnoi Rady Ukrainy,* No. 24, 20 February 1992: 6), but some

other factions began to follow suit and the practice ceased to be unusual. By 1993 factions such as the reanimated People's Council and the hardline left 'For Social Justice' made regular proposals to the agenda and the Socialist Party deputies initiated the discussion of their own anti-crisis programme for the economy (e.g. see *Buleten' Verkhovnoi Rady Ukrainy,* No.51, 14 June 1993: 18–22, 30–34). The right factions also initiated a new electoral law that would have introduced a mixed proportional–majoritarian system aimed to promote party consolidation within and beyond parliament. This won the support of *Rukh*, the PDRU, the Socialist deputies and some Communists in November 1993, but was blocked by the 'party of power'. The former nomenklatura, with alternative resources to rely upon, had no interest in aiding the development of competing political structures and the weakness of factions in parliament made this goal unattainable.

Conclusion

The emergence of factions as a parliamentary institution was slow and uneven. The best-organized factions were party-based and were beginning to articulate the developing political orientations in Ukrainian politics. However, institutional legacies, structural factors and the political context did not provide deputies with universal incentives to make factions their basis of political organization and this was reinforced by the internal parliamentary rules, so nearly half of deputies did not even join factions.

The Soviet-era institution of party groups had been a formality because of the *de facto* control of the state by the Communist Party and was therefore not a significant internal parliamentary institution. The unprecedented formation of factions in 1990 was an acknowledgment of the growing pluralism in the USSR and followed developments in other republics. As such, it was a response to external events and represented the *de jure* recognition of *de facto* occurrences, rather than an institutional reform introduced with specific aims. Therefore, general conceptions of the role of factions in parliament were largely absent, so that the functions they performed were acquired by precedent on the initiative of certain factions. The history of single-party dominance and unanimity left many deputies unsure of the advantages and purpose of factions, and the Temporary *Reglament* augmented the situation by providing few tangible incentives for faction formation.

Parliament was an institution in flux between 1990 and 1994, lacking a clearly defined role in the state and institutionally weak because it had been designed to rubber stamp around 30 laws every five years, not as a functioning parliament. The Verkhovna Rada was under-resourced and lacking in committed deputies and important procedures. Before independence, the focus of parliament was on 'external' events, especially centre–republican powers. The coalescence of a majority and a opposition was a response to this and dissolved with the Soviet empire, but until then, these formations overshadowed factions as units of political organization in parliament. Independence was, in the final

instance, engineered by the Soviet republican elites who retained control over the state. In parliament, the desire of this 'party of power' to maintain their positions meant that they had no interest in political parties except as rival power seekers, and their alternative access to resources and influence beyond parliament generated no incentives to participate in the embryonic and non-influential factions. This exacerbated the weakness of political parties, institutions sharing similar circumstances to factions in many ways and also lacking a role to play in the state and society. The timing of elections (i.e. prior to party formation) also made it difficult for parties and factions to co-ordinate their action.

The main causes of factions' weakness after 1990 were largely structural and institutional – legacies of the Soviet form of state organization. The external and institutional context during the twelfth convocation did not create incentives for the development of factions as the key organizing political entity in parliament. Nevertheless, the changing external environment after 1991 meant that the formal recognition of factions now acted to stimulate their proliferation among deputies who did not have alternative power bases or resources. Despite the lack of incentives produced by the internal rules and the lack of external party support, deputies outside the 'party of power' found it advantageous to co-ordinate as factions. Collectively, their proposals had greater weight in parliament than as individual deputies. The greater role that factions came to play in the Verkhovna Rada was a consequence of the resourcefulness of some more organized factions who used the fluidity of procedures to carve a niche for factions in the functioning of parliament. Although factions remained incoherent and organizationally weak during 1992–4, important precedents were set. They became sufficiently established as the political organizational channel of parliament that one of the first acts of the next convocation would be to institute greater rights and privileges for factions.

4 Factions ascendant, 1994–8

The thirteenth convocation of the Verkhovna Rada (1994–8) was in several respects pivotal for parliamentary institutionalization. First, the convocation was faced with crucial choices relating to 'institutional design' during the constitutional process. These choices would decide parliament's position and prerogatives in the institutional framework of the state. Second, internal institutional engineering via the adoption of the Rada's 'internal constitution', the *Reglament*, laid the formal basis for the establishment of factions as key sub-institutions in parliament. Faction development during the convocation was seemingly paradoxical. On one hand, factions acquired more defined organization, exhibiting signs of early institutionalization, which was encouraged by endogenous institutional engineering. On the other hand, the internal rules did not create thoroughgoing incentives for faction coherence, so that they remained weak and mutable institutions. This institutional weakness was conditioned and augmented by a combination of exogenous factors, particularly the ongoing lack of a clearly defined role for parliament, the weak party system and the strategic action of President Kuchma, who sought to weaken the Rada. Therefore, although institutionalization was detectable in some areas, factions developed only limited capacities for strategic action. In turn, this shaped the Verkhovna Rada's ability to act autonomously and fulfil its functions effectively.

The aim of this chapter is to explicate the main patterns of faction institutionalization during the convocation by considering the changing form and role of factions in parliament. Therefore, the first section provides a broad, dynamic exposition to integrate the relationships between factions and other institutions in the evolving political context. The second part of the chapter assesses factions' institutionalization process. The third section considers the role developed by factions in the Verkhovna Rada, assessing their impact on the legislative process. This facilitates an assessment of the impact of faction institutionalization upon the development of the Verkhovna Rada as a whole.

Factions 1994–8: an overview

In order to make sense of the shifting deputy allegiances that collectively comprised the structure of factions in the Verkhovna Rada 1994–8, a brief

overview of the main orientations and permutations will help to clarify the patterns of realignment. More important than the specific facts are the characteristics that they point to – unconstrained kaleidoscopic shifting allegiances between deputies and weak, ill-defined factions.

The purely majoritarian Soviet-type law used to elect the thirteenth convocation was regressive for party development and had a significant impact upon the composition of the new Verkhovna Rada. The Soviet-style registration rules favoured the nomination of independent candidates, so that approximately 50 per cent of deputies elected were not party members. The March 1994 elections produced an incomplete and polarized parliament, where no single party or orientation had a majority. Initially, the left had approximately 43 per cent of seats, the right 23 per cent and the centre 33 per cent. However, repeat elections and deputy realignments meant that by December 1995, the composition was roughly 35 per cent left, 22 per cent right and around 40 per cent centrists. Therefore, it should be noted that the political composition of the Verkhovna Rada was fluid and shifted throughout the convocation. The reasons for this will be explored later. Nine factions formed at the beginning of the convocation, but they soon proliferated (see Table 4.1).

In order to explain the underlying causes of faction fluidity and its impact upon the Verkhovna Rada, it is necessary to outline the main features of the different political orientations in parliament.

The left

The left were the most party-based and disciplined factions in parliament, but their numbers shrank during the convocation. Immediately after the March 1994 election, the left factions comprised the largest and most identifiable bloc in parliament. Of 338 deputies elected, 145 (43 per cent) were from the left. By summer 1995, further elections and the departure of half of the Agrarian (Peasant Party) faction reduced their share of deputies to 35 per cent. By the end of the convocation, it was nearer 30 per cent. The left was distinguished by the fact that all factions were based on political parties and party members comprised a majority of the factions' members.[1] Deputies were mainly elected from the industrial eastern and southern oblasts.

Ideologically, the Communists were hardline left, opposing all private ownership, favouring the restoration of 'Soviet power' through the local councils and the abolition of the presidency. They were ambivalent towards Ukrainian statehood and pro-Eurasian in geopolitical terms, favouring much closer economic and political integration with the CIS and, above all, Russia. The Socialists were programmatically more moderate. They tended to share similar views, but supported Ukrainian independence and were more flexible than the Communists on certain aspects of privatization. During the convocation, leader Oleksandr Moroz attempted to lead the party towards a social-democratic orientation, although with ambiguous success (e.g. *Zerkalo Nedeli*, 30 November 1996). The Peasants had a broadly similar position to the

Table 4.1 Overview of factions of the thirteenth convocation

Faction	L-R orientation	Political party	Duration (May 94– March 98)
Communists	left	Communist Party	whole convocation
Socialists	left	Socialist Party	May 94–April 97
Socialists and Peasants	left	Socialist and Peasants' Parties	April 97–March 98
Agrarians of Ukraine	left	Peasants' Party	May 94–June 95
Agrarians for Reforms	centre	–	June 95–October 96
Agrarians of Ukraine	centre	–	October 96–June 97
Agrarian Party of Ukraine	centre	Agrarian Party	June 97–March 98
Rebirth and Development of the Agro-Industrial Complex	centre	–	June 97–December 97
Unity	centre	–	whole convocation
Interregional Deputies Bloc†	centre	–	whole convocation
Centre	centre	–	May 94–September 96
Constitutional Centre	centre	–	September 96–March 98
Social-Market Choice	centre	–	April 96–March 98
Independents	centre	–	February 95–March 98
Reforms*	right	–	whole convocation
Statehood	right	–	May 94–September 96
Rukh	right	*Rukh*	whole convocation

Source: Verkhovna Rada secretariat.

Notes:
† Reformed as Party of Regional Revival, March 1998.
* Changed name to Forward Ukraine, March 1998.

Socialists, but proved to be more amenable to privatization and market reforms, although they had distinct plans for co-operative land ownership. The departure of Agrarian/Peasant deputies for centrist factions decimated the faction (see below), so that in 1997, the few remaining leftist Peasant party members joined with the Socialist faction. The entire left was in opposition to President Kuchma.

The centre

Centre in Ukraine is a slippery concept, above all meaning pragmatism in the pursuit of group and personal interests and those who are neither left nor right. The centre occupied 33–40 per cent of seats in parliament during the convocation, but was so heterogeneous and fluid that it could rarely be accurately referred to as a bloc. The principal characteristic of centrist factions was their low level of party membership. Thus, these formations were registered as deputy groups, rather than as factions. Given that their memberships changed regularly, the figures in Table 4.2 can only provide a broad indication.

Table 4.2 Party affiliation of centrist deputy groups in the Verkhovna Rada

Faction	Party members (%)	Details
Agrarian Party of Ukraine	77	24 party members
Rebirth and Development of Agro-Industrial Complex	16	4 different parties
Unity	24	3 different parties
Interregional Deputies' Group	16	3–5 different parties
Centre	0	–
Constitutional Centre	30–40	14 members of the People's Democratic Party (NDP) plus 3 other parties
Social-Market Choice	32/16	In late 1997, 7 Liberal Party members left the party
Independents	4	

Sources: Personnel lists of Social-Market Choice (undated, 1996 and December 1997) and of Rebirth and Development of the Agro-Industrial Complex (undated 1997) from each faction's archive, VRU Archive; Ukrayinska Perspektyva (1995: 31–7) and Tsybenko (1997: 37–8).

All centrist deputy groups were therefore formed on a non-party basis (the Agrarian Party faction is no exception – the party was formed after the faction) and contained a majority of non-affiliated deputies, many of whom were members of the former nomenklatura and/or worked in the executive. Thus, centrists were closely associated with the so-called 'party of power'. Furthermore, the regional concentration of some deputy groups made them resemble Soviet-era regional groups (*deputatsii*) more than partisan factions. For example, Unity were known as the faction of the 'Dnipropetrovsk clan', one of Ukraine's most prominent elite groups since the days of Brezhnev and were 'taken over' in 1997 by ex-Prime Minister Pavlo Lazarenko (see below). Social-Market Choice, registered in 1996, was connected to the 'Donetsk clan' of elites. Like Unity, the faction became the parliamentary power base of a powerful and ambitious ex-Prime Minister, in this case Yevhen Marchuk. Centre (and its successor faction Constitutional Centre) was composed of central government bureaucrats drawn from across Ukraine's regions. Thanks largely to the majoritarian electoral law, centrist deputies were able to informally perpetuate Soviet deputy formations and base their associations on the old regional and branch forms of elite networks.

Therefore, centrist groupings tended to pursue narrow, sectional interests and were open to bargaining with other powerful pragmatists. Perhaps unsurprisingly, Interregional Deputies' Group, Constitutional Centre, the Agrarian Party and (until Lazarenko's removal as Prime Minister in 1997) Unity factions were the most overt supporters of President Kuchma. Nevertheless, certain ideological distinctions between the centrist factions are detectable. Despite a broad pro-sovereignty orientation, Unity, Interregional Deputies' Group and, to a lesser

extent, Independents, had a Eurasian geopolitical stance for closer ties to Russia and the CIS. Social-Market Choice, Centre and Constitutional Centre had a stronger pro-sovereignty, pro-European orientation. In terms of economic policy preferences, the signals even for individual factions are extremely ambiguous, although all factions did support certain aspects of privatization.

The right

In terms of bloc integrity and level of party affiliation, the right sat between the left and centre. It comprised approximately 25 per cent of deputies in 1994, but shrunk to around 15 per cent in autumn 1996 when most of Statehood united with Centre to form Constitutional Centre. Only *Rukh* was a party-based faction (with 77 per cent of its deputies being party members), although Statehood (*Derzhavnist'*) gathered a coalition of right-wing party deputies under its umbrella (from the Ukrainian Republican Party, Democratic Party of Ukraine and Congress of Ukrainian Nationalists) that comprised 55 per cent of the faction. Both factions placed primacy on the imperatives of nation-building and a pro-European orientation as well as supporting liberal economic reforms. Both factions drew the majority of their deputies from western Ukraine, with a few from central oblasts and none from the east. Reforms was slightly different in these categories – it was a non-party formation of young intellectuals and its members represented all areas of Ukraine. A group of well-known reformist ex- and then current members of the government, Reforms was patriotic, pro-European and fervently prioritized the creation of a market economy (*Ukrayinska Perspektyva* 1995: 35–6).

Having surveyed the permutations of factions, it is immediately apparent that they were mutable and incoherent institutions, although there appears to be a relatively higher degree of stability at the extremities of the parliamentary political spectrum, where factions were largely party-based. In order to understand the mutations of factions and to assess their institutionalization, the main changes that occurred during the convocation will be identified, placing the activity of factions into their parliamentary context.

Key stages: identifying change and continuity, 1994–8

The aim of this section is to outline the main dynamics of faction changes and activity in the Verkhovna Rada during the convocation. The focus is on factions specifically, but exogenous factors will be brought into the analysis where appropriate to explain factions' behaviour. Therefore, 'key stages' have been identified in the (trans-)formation of factions and their role in parliament:

- The first session, where there was a leftist plurality and the parliamentary standing orders (*Reglament*) were adopted (May–July 1994).
- The 'entrance' of a key actor, President Kuchma, into parliamentary politics.

- The struggle for the 'little constitution' (*Dohovir*) (July 1994–June 1995).
- The constitutional 'shake-up' (July 1995–Summer 1996).
- Realignment and inter-branch conflict (Autumn 1996–March 1998).

From the list alone, it is clear that a defining characteristic of the convocation was the ongoing confrontation between the executive and legislative branches, which was a key factor in shaping the strategies and alignments of factions during the convocation. In addition, the rule innovations were also crucial in shaping the incentives for faction formation.

First session: leftist plurality and establishing the 'rules of the game'

The first session of parliament (May–July 1994) was a defining one for factions. First, the formation of an incomplete parliament with a leftist plurality and a large contingent of non-party affiliated deputies allowed the more disciplined left to dominate. Repeat elections in summer 1994 eroded the left's plurality, but they retained key leadership posts that had been allocated during the session and this had far-reaching effects upon the internal dynamics of the convocation. Second, the session was pivotal for its adoption of the parliamentary Reglament, which established the 'rules of the game' for factions and created incentives for their formation even among non-affiliated deputies, leading to greater formal structuring of the Rada.

The adoption of new rules to encourage parliamentary structuring and regulate the activity of factions was the first priority of the Rada. The experiences of the previous convocation – where an unstructured parliament had made decision-making difficult and chaotic – created strong incentives to institute mechanisms that would promote greater political structuring of the Verkhovna Rada and of political parties (*Buleten' Verkhovnoi Rady Ukrainy*, no.41, 25 July 1994: 35–6). To expedite their passage, it was decided to adopt a separate statute on factions in May 1994 and pass the much-needed *Reglament* later. The statute represented an attempt to break with the Soviet committee-dominated design based on notions of professionalism and to move towards the practices of world parliamentarism by incorporating partisan interests and channels to facilitate conflict management (*Holos Ukrainy*, 14 May 1994).

Structurization was encouraged by several crucial rule innovations: by permitting deputies to join only one faction, by raising the number of deputies required to register a faction from 20 to 25 and by allowing factions to form only on a partisan basis – not regional or professional. Further provisions outlined the role of factions and their participation in the formation of parliamentary leadership bodies. Factions could propose candidates for the speakers and committee chairs (art.3.1) and all factions were entitled to proportional representation on Verkhovna Rada organs, including committees (art.3.2). Thus, factions would now shape and organize parliamentary bodies in an unprecedented manner. Faction leaders would meet as the Conciliation Council of

Factions, an advisory body, to ameliorate conflict situations (*Polozhennia pro deputats'ki hrupy (fraktsii) Verkhovniy Radi Ukrainy* 1994).

Furthermore, privileges were extended to factions – for the first time factions were provided with office space, equipment and staff (art.5.1). However, at the same time, the rules stated that factions' activity could not infringe the imperative character of a deputy's mandate (art.1.2). This was a 'hangover' of the still operative 1978 Soviet-era constitution, that deputies were subject to recall by their electorate if they did not represent them satisfactorily, and was related to the ideas of direct democracy inherent in 'Soviet parliamentarism'. This meant that factions could not establish rules on how their members voted, nor the position they took during a debate. In essence, the provision legitimized faction indiscipline. However, by granting factions prerogatives and material resources, incentives were intentionally created to permit the institutionalization of factions as a main sub-institution of parliament. Confidence in this decision was reiterated two months later, when in July, all the provisions of the statute were incorporated *en masse* into the new parliamentary *Reglament*. The *Reglament* was adopted as an internal parliamentary document and attempted to elaborate procedures for all areas of the Verkhovna Rada's activity. It was a substantial advance from the seven-page Temporary *Reglament* that it replaced, but was written in a confusing, verbose style and lacked precision. This meant that there continued to be considerable scope for its manipulation by the speaker as well as individual deputies.

It was by rule manipulation that the left were able to secure the key parliamentary leadership posts for themselves. Although strictly 226 votes were required, the left elected their presidential candidate, Socialist Party leader Oleksandr Moroz, as the parliamentary speaker with 171 votes (which means he had the support of 26 non-leftists), arguing that as only 338 deputies were elected, a simple majority of 169 votes was sufficient to take decisions. Similarly, the left secured the leadership of strategic committees (*Holos Ukrainy*, 26 May 1994).

The left were able to take advantage of their relative majority and control of key leadership posts to pursue their reactionary agenda. For example, they flexed their muscle by passing a moratorium on privatization. The ideological polarization of the Verkhovna Rada and the unstructured nature of the centrist factions made the left's dominance in parliament possible. The presidential elections exacerbated parliamentary confrontation as the right backed incumbent President Kravchuk while, after the defeat of Moroz in the first round, the left gave its tentative support to the 'pro-Russian', Leonid Kuchma, who won in the second round. In sum, the session was extraordinarily tense and marked by deep ideological conflict and low legislative productivity.

During the summer, the left suffered a reversal of fortune as repeat elections bought 62 new deputies to the Rada, 50 of whom were non-party 'centrists'. This changed the balance of forces in parliament, ending the left's predominant position and, together with the election of the new president, forced factions and deputies to realign their positions.

Enter President Kuchma

The presidency was the most significant factor affecting faction development during the convocation. The president's strategic action was crucial in shaping not only faction alignments, but also their number and size by promoting splits and defections. The presidential tactics to 'divide and rule' the fledgling political allegiances in parliament meant that the president was able to exercise influence beyond his formal powers by exploiting and contributing to the weakness of factions. In turn, factions' under-development made parliament itself susceptible to manipulation, so that the president was able to push deputies to adopt the *Dohovir* that reduced parliament's prerogatives and itself prompted faction splits and realignment.

Kuchma's election significantly altered faction dynamics within parliament. He came to power determined to clarify the division of powers and strengthen the presidency, ostensibly to facilitate economic reforms. However, the sole power to amend the constitution rested with the Verkhovna Rada, where he commanded little support. Therefore, as well as diverting power away from parliament by decree to strengthen his own hand (see Chapter 2), Kuchma employed a range of strategies designed to make the Verkhovna Rada more amenable to his proposals.

One tactic was the appointment of centrist deputies to executive posts. This created a contingent of around 80 *sumisnyky* (dual office holders) who relied directly upon presidential patronage, creating a presidential 'fifth column' in parliament. In addition, Kuchma met regularly with faction leaders, but this was not applied even-handedly, so that some factions were granted more access to the president than others. This generated resentment and exacerbated the divisions between them (Anonymous interviews, 2000). Access to the Presidential Administration became a key resource for factions and this was promoted by the president. Thus, when factions were close to the president, they became attractive to pragmatic, non-aligned deputies and these factions grew in size (e.g. Interregional Deputies Group and Unity during late 1994).

At the same time, Kuchma's economic reforms were able to win the conditional support of the right, most of the centre (depending on the issue) and sometimes even part of the moderate left (e.g. the Agrarian faction). Furthermore, Kuchma made expedient shifts in policy direction. Gradually, he moderated his 'Eurasian' line and demonstrated a pro-statehood (*derzhavnyk*) position: for example, he rejected dual-citizenship in early 1995. Such moves enabled him to win the support of the parliamentary right (Wolczuk 1997: 159). By November 1994, the President felt ready to go on the offensive and presented a bill to parliament that aimed to create a presidential republic in Ukraine, the law 'on state power and local self-government', which was eventually passed as the *Dohovir*. Kuchma's single-mindedness about formally strengthening the presidency and creating a more compliant parliament, rather than his economic reforms, proved to be his most durable and consistent characteristic.

The struggle for the Dohovir

The passage of the *Dohovir* provides an important illustration of how factions behaved as actors and influenced the prerogatives of parliament. The struggle over the *Dohovir* (and later the Constitution) was a struggle over the basic 'rules of the game' for the key state institutions (president and parliament). The confluence of events had a lasting impact upon factions in parliament: breaking the near-homogeneity of the leftist bloc. The passage and the main provisions of the *Dohovir* are outlined in Chapter 2; here the focus will be specifically on the role of and impact on factions.

As the bill envisaged the end of the system of soviets, gave the president greater power *vis-à-vis* parliament and made the government directly responsible to the president, the left factions were vehemently opposed to it. The right and centre were willing to work with the president on the bill, but wary of vesting too much power in the presidency.[2] Therefore, the bill was extremely controversial and the dominance of the Communist faction in the profile committee charged to elaborate the bill effectively precluded compromises between the factions.[3] This prompted the institutional innovation of a special conciliation commission comprised of representatives of all factions, who took decisions on a one-faction, one-vote basis, thus ensuring that the left could be outvoted at this stage. The commission produced a moderated version of the president's bill, which won the support of the right, centre and most of the Agrarian faction in voting (226 votes on 18 April). However, the law's enactment required a constitutional majority of 300. Given the composition of the Rada, this was a remote possibility. On 28 May 1995, Kuchma seized the initiative and decreed a referendum on confidence in both parliament and the president. He was virtually assured of a positive outcome due to the appalling popularity ratings of the Rada. On the same day, all faction leaders met with President Kuchma and speaker Moroz and agreed to conclude a constitutional agreement (*Dohovir*) that would not require a constitutional majority. This is significant because, as with the special commission, the faction representative was considered to represent all members of the faction and ultimately to be able to deliver their votes, a presumption that in this case, due to presidential pressure, proved largely to be justified. Two hundred and forty deputies supported the *Dohovir*, including the Agrarian faction, seven Socialists and speaker Moroz. Deputies recognized that they would lose any referendum and risked the parliament's dissolution, which would also mean the loss of their mandates: a mixture of institutional interest and self-interest ensured their vote.

The process had a deep impact upon leftist factions, who emerged as the losers. The defection of the Agrarians and seven Socialists in the *Dohovir* voting suggested internal problems in these factions. The split in the Agrarian faction was finalized in autumn 1995, with the registration of the Agrarians for Reforms faction. For the Socialists, the *Dohovir* vote led to the expulsion of two prominent conservatives, Natalia Vitrenko and Volodymyr Marchenko, in autumn 1995 and the split of the party as they formed their own hardline

Progressive Socialist Party. Therefore, the process of the *Dohovir* exposed the growing divergence among the leftist factions and prompted the loss of 25 Agrarian deputies to the centre. The left were fewer in number and less monolithic in voting than previously, which created a window of opportunity for the passage of the constitution.

The role of factions as viable collective actors able to work as units and together to hammer out agreements was demonstrated during the adoption of the *Dohovir* (see *Zerkalo Nedeli*, 20 May 1995). In no small part, pressure from the president via his Presidential Administration and, finally, via the referendum threat, acted as the crucial cohesive agent, creating strong incentives for factions to work together in a disciplined manner in order to pursue their aims. These circumstances were by no means a typical example of the legislative process in Ukraine – the gravity of the issue for all players means that it was exceptional and, as such, distilled and concentrated the tendencies in the Rada. But it demonstrates that factions were capable of strategic action, given the right incentives.

The constitutional 'shake-up'

The constitution was crucial for shaping the Verkhovna Rada and its path of institutional development. The Basic Law defined parliament's prerogatives and the division of state powers (see Chapter 2), but it was also important for state-building, i.e. defining what sort of a state Ukraine would be, and therefore the process involved the negotiation of issues covering the full gamut of political life. However, the key question here is not the nature of the constitutional process or resultant Basic Law, but to question the role factions as parliamentary institutions had in forming the constitution and, conversely, to examine the impact of the constitutional process upon faction development.

Ostensibly, the constitution was forged by a set of actors who would also operate under the rules they were seeking to lay down and this had profound consequences: it politicized the process as actors sought to establish an advantage in the future 'rules of the game'. The key actors emerged as President Kuchma and the various political orientations (left, right, centre) in parliament. The word 'orientations' is used purposely – whether distinct interests and impacts can be identified for *individual* factions is a key empirical question. The right-wing factions wanted to enshrine in the constitution a 'clean break' with the Soviet past, to formalize a unitary state based on the separation of powers with an executive presidency.[4] They also prioritized the constitutional embodiment of the Ukrainian national idea.[5] The Communist faction had a well-articulated position based on the preservation of the Soviet system of power. Their conception of the 'national idea' was also deeply embedded within the Soviet model.[6] Although the Socialist and Agrarian factions were more moderate, they backed the Communists against the right's and president's conception of statehood (Wolczuk 2001: 143). Thus, distinct (and diametrically opposed) interests can be identified for the left and right-wing factions.

However, this was not the case for centrist factions, who lacked coherence and general principles. Broadly, there were areas of agreement, such as on the division of powers, centrists generally favoured a parliamentary–presidential system,[7] but on specific issues, cleavages ran both between and within factions. For example, making Ukrainian the sole state language divided Social-Market Choice, Unity and Independents (Haran' and Maiboroda 2000: 105). However, many centrists were relatively disengaged from the process.[8] Therefore, although individually and collectively, centrists did shape aspects of the resultant constitution, it is difficult to identify specific interests for centrist *factions*, indicating that for around 40 per cent of deputies, factions were not an important interest aggregating mechanism.

Nevertheless, there was sufficient room to negotiate a temporary convergence of interests between the president and the right. A pragmatic alliance between the centre, right and president emerged and, in spring 1996, a compromise draft constitution was produced by a special parliamentary commission (following the precedent established for the *Dohovir*). However, the centre and right were not strong enough to pass the constitution alone (258 deputies of 300 required) and stalemate emerged in May–June. The president's unilateral decision to call a referendum broke this impasse: the threat of redundancy – institutional (with the attendant downgrading of parliament's prerogatives) and individual (if the Rada was dissolved by the president) forced deputies to work all night to pass the commission's draft. Therefore, Ukraine had a constitution on the morning of 28 June 1996.

So, how far did factions impact upon the resultant document? As argued above, the answer is not clear-cut, especially with regard to centrist factions, whose interests were crosscutting. By forming the special commission, factions initiated an organ that moved the constitutional process away from the Presidential Administration and ensured a more prominent role for factions, but the impact of the referendum decree should not be underestimated. Technically, the right and centre factions emerged as the 'winners', squeezed together by presidential and leftist pressure. Although the right had to make concessions, broadly their conception of the national idea and a compromise variant of the right and centre's vision of the division of powers were embodied in the constitution (see Chapter 2). However, the impact of centrists as *factions* is much less tangible. The left were the 'losers' in the process. The Agrarians, 63 per cent of Socialists and 23 per cent of the Communists did finally vote for the constitution, many of whom were persuaded by speaker Moroz (Wolczuk 2000: 228). The minor concessions that were made to the left were only achieved at the last minute to secure necessary votes, so the impact of these factions on the Basic Law was very minor.[9] In sum, factions did play a role in shaping the constitution, but their role was not clear-cut. Significantly, factions were not mentioned in the resultant document and it remained unclear what role, if any, factions as a basis for a potential parliamentary majority could play in government formation and accountability.

The constitutional process prompted considerable faction realignment, shrinking the left and right, while the centre grew. Most of the Agrarian faction

in effect departed from the left bloc and reunited with the centrist Agrarians for Reforms.[10] The centre swelled further with the unification of Centre with most of Statehood and some deputies attracted from other factions to form the pro-presidential Constitutional Centre. Thus, the centre now comprised around 45 per cent of deputies, but this would rarely translate into 45 per cent of the votes (see below).

Therefore, the constitutional process provoked a far-reaching 'shake-up' of factions. As adopting a constitution is an extraordinary event in state development, such a process is likely to engender fragmentation and realignment in even the most settled parliamentary party systems.

Realignment and inter-branch conflict

The period following the constitution's adoption was marked by the escalation of inter-branch tension, which manifested itself in the president's attempts to usurp parliamentary prerogatives by decrees (see Chapter 2), in the legislative process and in Kuchma's underhanded endeavour to promote inter-faction discord. The second feature of the period was the reorganization of factions as 'party of power' elites jostled for a strong position prior to the March 1998 parliamentary elections.

Conflict between the president and parliament was to a significant extent played out via the legislative process. The lack of clarity provided by the constitutional division of powers (e.g. over control of the Cabinet of Ministers) created opportunities for both branches to try to augment their respective powers within the constitutional framework through the adoption of key enabling legislation. Therefore, the Verkhovna Rada passed laws such as 'On the Cabinet of Ministers', which the president then vetoed (see below). Such tensions were not restricted to constitutional framework laws, however, as continuing battles over each annual budget and parliament's raising of the minimum pension against the president's wishes illustrated (*Holos Ukrainy*, 29 November 1996 and 2 September 1997).

The widely reported escalation of so-called 'clan wars' between the Donetsk and Dnipropetrovsk elites in the highest echelons of state power added a tangible new dimension to executive-legislative conflict by mid-1997. In May 1996, Prime Minister Marchuk, who was linked to the Donetsk group, had been replaced by Dnipropetrovsk oblast council head and deputy Pavlo Lazarenko, at that time a close ally of the President. A year later, accusations of corruption by other pro-presidential groups, especially the People's Democratic Party (*Zerkalo Nedeli*, 21 June 1997), combined with Lazarenko's increasingly evident presidential ambitions, forced his resignation in July 1997. Both Marchuk and Lazarenko were powerful potential rivals to Kuchma and their removal from government led them to refocus their efforts towards the Rada as a potential stage for building a power base. Out of the government, each set about building their own faction, winning the ear of the speaker and influencing policy from within parliament. Marchuk 'parachuted' into the leadership of Social-Market Choice and Lazarenko into Unity. These factions were intended to provide the

foundation for each ex-prime minister's presidential bid in 1999 and were manifestations of the wider preparations for the forthcoming parliamentary elections in March 1998 (see Chapter 2).

At the same time, President Kuchma continued his attempts to stir up inter-faction antagonism within parliament, which could derail any nascent coalitions. For instance, the president was widely reported to be behind the (third) failed attempt to remove speaker Moroz in May 1997. Deputies were reportedly offered government and parliamentary posts, cars and apartments to support the move, demonstrating Kuchma's reliance on informal methods of working through factions to influence parliament's behaviour (*Ukrainian Weekly*, 18 May 1997).

In sum, a chronology of factions' development in context has permitted the pinpointing of key trends in faction development during the convocation. The electoral law produced a polarized parliament with a large contingent of nominally independent deputies that meant structurization along faction lines would be difficult. However, it was the election of President Kuchma that was a decisive factor in shaping faction coherence. His leadership style crucially influenced the pattern of faction allegiances (especially in the constitutional process), but he also used 'divide and rule' tactics to ensure the presence of a loyal contingent in parliament (*sumisnyky*) and to weaken leftist factions. In addition, the constitutional process (including the *Dohovir*) distilled intra-faction cleavages and prompted considerable realignments that undermined any potential for stability. The resultant compromise constitution ultimately perpetuated inter-branch conflict and, thus, the president's incentives to ferment divisions within and between factions to limit parliament's capacity for independent action. Nevertheless, during the convocation the Rada did promote faction organization via endogenous institution-building. The passage of the *Reglament* created selective benefits for faction membership that permitted factions to lay the foundations of institutionalization.

Looking inside: assessing faction institutionalization

The idea of institutionalization derived from Huntington and Polsby emphasizes the importance of organizational complexity, institutional coherence and autonomy as the central features of a developed institution. Factions' acquisition of organizational complexity will be examined by looking at the structures developed during the convocation. Coherence will be assessed by examining two interlinked factors – voting discipline and membership stability. Autonomy will be considered in a more nuanced manner and will be interwoven throughout the section. Looking inside factions produces a mixed impression: all factions became organizationally more complex, but in terms of coherence and commitment, factions were generally rather fluid, although party-based factions at the extremes of the political spectrum were significantly stronger than non-party factions (deputy groups). A party basis, with a shared ideological perspective and organizational resources, provided these deputies with more reason to act collectively.

Organization

During the convocation, factions began to develop their own organizational structures to facilitate co-ordinated consultation and action between their members and developed a more prominent role in the parliamentary leadership. The *Reglament* provided specific incentives for deputies to make factions the basis of collective action in the Rada by allocating organizational power and material resources to factions. Unity, Centre and Independents announced publicly that their factions had been formed specifically to take advantage of these selective benefits (*Holos Ukrainy*, 29 April 1994; 16 November 1994; 12 February 1995). Factions were to share the distribution of committee chairs and foreign delegations proportionally, but this was not strictly observed, particularly in the case of factions that formed after the initial assignment. For instance, Independents (1997) complained that after three years, their faction still had not received a single committee chair. Offices, staff and equipment were in short supply and the designation was applied somewhat arbitrarily by the secretariat subordinated to the speaker, so that factions regularly complained that they did not get their fair share (e.g. Unity 1995 and Social-Market Choice 1996 and 1997).

Despite these niggles, staff (officially one consultant, but deputies' assistants worked in the faction on an *ad hoc* basis) and offices made greater organization possible. At least two factions created coordination councils responsible for various aspects of the factions' activity.[11] Most factions met once per week[12] and all meetings began to be recorded in a protocol (minutes). Meetings were used mainly to discuss items of the legislative agenda, sometimes with invited members of the government, and to decide the faction's line on voting. Deputies' attendance at these meetings, however, was not high, especially for centrist factions who regularly had trouble finding the 50 per cent required for quorum. Even the reputedly disciplined Communists managed to average only 67 per cent turnout. The minutes indicate that each faction had two types of deputy – regular participants and those who just showed up to plenary sessions.[13] *Rukh*, the Communists and Socialists made regular statements together with party organs, illustrating a degree of coordination with their extra-parliamentary parties (e.g. Communists of Ukraine 1996; Chyzh 1996a: 57–8; 72). All factions were consulted about legislation and invited by committees to propose amendments to bills. Therefore, to different degrees, factions did develop an organizational core and engage with the legislative issues of the day in a more structured manner. However, the relatively low attendance for centrist factions indicates a lack of commitment to the faction by a substantial proportion of members. Many of these deputies had other jobs, including around 80 (mostly centrist) *sumisnyky* employed in the executive.

The role of factions in the Verkhovna Rada leadership and organization increased substantially during the convocation, gradually offsetting the previously superior role of committee heads and, at the same, becoming indispensable to the speaker for consultations to ameliorate political conflict.

Until 1995 the inherited Soviet single-channel form of parliamentary organization was retained – a Presidium of committee chairs that controlled the agenda and parliamentary organs. From 1994, faction heads attended its meetings as non-voting members. The *Dohovir* formally incorporated faction leaders into the Presidium, creating a dual-channel structure. With the adoption of the 1996 Constitution, the Presidium was abolished, formally downgrading the role of factions (and committees). However, speaker Moroz informally utilized the Conciliation Council of Factions and created the Council of Committee Chairs to perform many of the functions previously performed by the Presidium. These bodies were not mentioned in the constitution and barely in the *Reglament*.[14] They regularly held joint meetings to decide the plenary session agenda and parliamentary organization. Step by step, factions upgraded their position relative to committees and the speakers. As factions developed an organizational network, so interest in factions as a mode of organization increased. Furthermore, faction leaders tended to be ambitious politicians and this post guaranteed them good access to the president, the government and Rada leadership. In general, factions as institutions gained their own momentum and *raison d'être*.

Specifically though, individual factions struggled to maintain the interest and even membership of members. The rules that allocated an office, resources, a seat on the Presidium or the Conciliation Council of Factions to *each* faction regardless of size (above the 25 deputy threshold) meant that larger factions could split at the first disagreement and, as long as each had 25 members, would not loose out in terms of selective benefits. As a result, there were few incentives for factions to consolidate and many could exist with the barest minimum of deputies. Thus, the Communists were willing to 'lend' the Socialists six deputies so they could form a faction, to increase the number of leftist factions. The Agrarians were able to divide fairly painlessly in June 1995 and re-unite when faced with the prospects of dissolution and split again once more deputies had been recruited (see below). Putting together a faction was worthwhile in terms of resources, etc., but holding it together as a unit was infinitely more difficult.

Coherence

Huntington (1968: 22–4) emphasizes the importance of coherence and discipline to an organization: 'The greater the disunity ... the less it is institutionalized Discipline and development go hand in hand.' This is logical, because any group seeking to achieve specific aims (for instance, gaining political influence and shaping policy) needs a regular team of engaged players that work together for the group's goals (cohesion) and are willing to accept and act upon the decisions of the leader (discipline) (Bowler *et al*. 1999: 4–5). As shown in Table 4.1 above, over half the factions in the Rada did not even exist for the entire convocation. It would be expected that precisely these factions exhibited the lowest levels of coherence and discipline. Moreover, of those that did survive, it is important to understand the differences between them in terms of group coherence and

identify the causes of (in-)cohesion and (in-)discipline. Membership stability and voting discipline are seen as the most viable indicators of faction coherence.

Turning firstly to membership stability, Table 4.3 shows the size of factions at six-monthly intervals over the convocation. Taking into account factions' longevity, the most stable were *Rukh*, the Communists and the Socialists. These factions were largely party-based and were the most defined ideologically. These deputies proved more likely to eschew faction switching, as shared principles acted as a cohesive agent. On the other hand, centrist deputy groups had a high degree of membership fluidity, as well experiencing regular creation and dissolution.

Yet the absolute faction size to some extent disguises the extent of so-called 'political tourism' and the fact that all factions experienced mercurial membership to some extent. Comparing membership lists from 1994 and later 1997 reveals that the Communists were remarkably stable, the most common reason for leaving the faction being death. By December 1997, *Rukh* and

Table 4.3 Changes in faction size during the thirteenth convocation (1994–8)

Faction	June 1994	Dec 1994	June 1995	Dec 1995	June 1996	Dec 1996	June 1997	Dec 1997
Communists (CPU)	84	90	90	89	87	88	88	79
Socialists (SPU)	25	28	27	26	26	26	–	–
SPU and Peasants Party (SelPU)	–	–	–	–	–	–	34	35
Agrarians of Ukraine (SelPU)	36	49	47	28	–	–	–	–
Agrarians for Reforms	–	–	–	25	25	–	–	–
Agrarian Party of Ukraine	–	–	–	–	–	–	30	28
Rebirth and Development of Agro-Industrial Complex	–	–	–	–	–	–	34	13
Unity	25	34	29	31	22	37	36	33
Interregional Deputies Group	25	33	30	29	29	27	26	35
Centre	38	32	30	29	26	–	–	–
Constitutional Centre	–	–	–	–	–	49	58	52
Social-Market Choice	–	–	–	–	26	24	25	24
Independents (*Nezalezhni*)	–	–	30	29	25	25	23	25
Reforms	27	36	35	31	30	28	29	30
Statehood	25	29	28	29	29	–	–	–
Rukh	27	27	28	28	28	30	27	25
Non-aligned deputies	23	47	27	31	45	46	41	35

Sources: Author's calculations from roll-call votes published in Lapin *et al*. (1995), Lapin, *et al*. (1996) *Holos Ukrainy*, 20 July 1997 and 25 December 1997 and roll-call votes supplied by NGO Laboratory F4.

Reforms retained 18 of their original members, while the Socialists had 15. Meanwhile, both Unity and the Interregional Deputies Group had just ten (Lists from *Holos Ukrainy*, 12 July 1994 and 25 December 1997). Therefore, even enduring factions were not necessarily so stable, although was most marked in the centrist deputy groups. The high level of 'political tourism' underscores the absence of both formal rules and informal norms creating incentives for faction loyalty.

Here, the impact of the electoral law was substantial. As it was a Soviet-style majoritarian system that favoured the nomination of independent candidates, it produced a parliament where only 26.3 per cent of deputies were nominated by a party. Therefore, three-quarters of deputies did not owe their election directly to a party and were less likely to feel loyalty to a faction or be bound by their decisions.

To an extent, the anti-party nature of the electoral law was reinforced by aspects of the new *Reglament*. The rules did not formally distinguish between factions and deputy groups: both required 25 deputies to form and gained equal material resources (although given the majoritarian nature of the electoral law, this is perhaps logical),[15] and the number was not sufficiently high to constrain deputies' movement. Furthermore, the imperative nature of the mandate (until the Constitution's adoption in 1996) also undermined a deputy's responsibility to their faction. However, in other respects, the *Reglament* did establish path-breaking incentives for greater faction organization. The key innovation was that deputies were only allowed to join one faction at a time, which created more clearly defined factions than in the previous convocation, although of course this did not necessarily entail greater stability. Although the exogenous and endogenous institutional rules did not specifically promote faction loyalty, they do not explain why deputies switched factions. To understand this, other factors – agency and contingency – are required.

In a weak, permeable institution like the Verkhovna Rada, where up to half of deputies regarded themselves as free of any ideological affiliation, informal methods such as financial incentives to attract a deputy to switch faction flourished. For example, in late summer 1997 ousted Prime Minister Lazarenko took over Unity. His appointment as deputy group head provoked the departure of over half of its members, but the decision of 17 deputies to join the faction of one of Ukraine's richest men on the same day lends credence to the idea that deputies were simply paid to join. One deputy indicated that this was an innovation in the Verkhovna Rada: 'When Lazarenko's faction was formed ... it was obvious that it was created on a financial basis. At the start of the convocation, such a thing was inconceivable – people changed factions for mostly ideological or political motives' (Deputy of the thirteenth convocation, interview 2000). This new phenomenon bears witness to the weakness of deputy groups in the centre of the political spectrum in parliament. Affiliations were based on the personality and status of a leader on a tactical basis of personal and/ or sectional interests. Deputies' salaries were comparatively low and by the mid-1990s, a contingent of deputy-oligarchs existed that could offer them financial

inducements to change faction. Thus, many deputies proved susceptible to bribery. As a consequence, the centre in parliament was unstructured and, therefore, largely incapable of independent strategic action.

However, deputies from right and left factions (except the Communists) were also tempted to join centrist factions. Statehood merged with Centre to consolidate pro-presidential forces and the Agrarian faction's regular splits weakened the left. Both moves were beneficial to the president and, given his 'divide and rule' tactics identified above, it is probable (but difficult to prove) that the Presidential Administration was instrumental in engineering these faction permutations. During the convocation, the Agrarian faction experienced frequent splits and (with the exception of a few Peasant Party members that joined the Socialist faction in 1997) realigned to the political centre. The splits and mergers are simplified in Figure 4.1.

Although the interference of powerful external agency is a suspected factor in the splits, contingent events also clearly had a significant influence (but the two were interwoven to an extent that is difficult to disentangle). The passage of the *Dohovir* prompted the initial Agrarian split, crystallising ideological and regional cleavages (see Wilson 1997b: 1309). The constitutional process (with its attendant close supervision by the Presidential Administration) led to the formation of the united, centrist Agrarians of Ukraine. Such shifts were the most visible signs of the wider faction shake-up engendered by the constitution's passage.
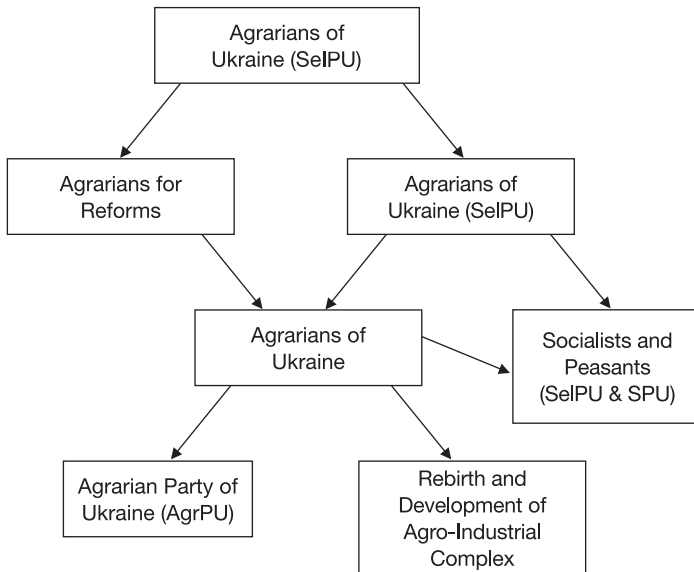
Figure 4.1 Permutations of the Agrarian factions.

Source: Author's mapping, based upon faction membership lists of the Verkhovna Rada secretariat.

Most factions were unstable in terms of membership and this was particularly marked in the case of centrist deputy groups where party allegiances that could cement loyalty were largely absent. Internal rules provided incentives for deputies to join factions, but these did not override other factors encouraging 'political tourism', particularly the strategies of powerful actors such as Kuchma and Lazarenko, but also important 'events' such as the constitutional process.

Understanding membership instability is essential to any considerations of voting discipline, because even if a faction recorded 100 per cent unanimity in voting, this would be not be a good indicator of faction cohesion if its membership changed on a monthly basis. Several studies of faction discipline in the Verkhovna Rada have been undertaken: Tysbenko (1997) and Haran and Maiboroda (2000) based their research on qualitative analysis of a small sample of controversial votes, which complements and corroborates the work of Laboratory F4, an NGO engaged in longitudinal statistical analysis of all roll-call votes since 1994 (Lapin et al. 1995; 1996 and Tkachuk and Lykhody (1999: 17). Although these studies do not explicitly confront the implications of 'political tourism' in their analyses, they provide a thorough examination of faction's voting cohesion that the membership study above can enrich.

Laboratory F4 found that during the first parliamentary session (May–July 1994), Reforms, the Socialists and Communists were most disciplined, followed by Agrarians, Statehood and *Rukh*. Centre, Unity and the Interregional Deputies Group were by far the most incoherent. In the eighth session (September 1997–January 1998) *Rukh*, the Communists and Socialists/Peasants were voting together most regularly, while the centrist deputy groups (especially Constitutional Centre) were the least disciplined. This is broadly consistent with the patterns of membership fluidity and party-belonging. Moreover, there was little evidence of change in the level of discipline over the convocation.

However, it should be noted that the cohesion of the deputy groups was adversely affected by relatively poor attendance compared to the left and right. Most votes were taken secretly, depriving faction leaders of information about how their faction was voting and the opportunity for applying informal sanctions. Factions did not even sit together in the chamber (they sat by region), minimizing the potential for intra-faction contact and supervision. The majority of bills were passed with shifting tactical majorities as a proportion of centrist deputies voted with either the left or right depending upon the issue under consideration. However, the fact that such majorities were based broadly upon *factions* represented a change from the previous convocation, where the impact of factions on a deputy's voting decision was not detectable.[16] In sum, factions were characterized throughout the convocation by fluidity of membership and low levels of discipline, but this was less marked at the ends of the political spectrum. Therefore, the institutional coherence of deputy groups was particularly weak and this meant that their capacity for strategic action was limited, intensifying the political polarization of parliament because of the relatively greater coherence of the right and (especially) the left factions. This made parliament itself prone to deadlock and thus, a reactive body.

Looking inside factions as organizations has produced an ambiguous picture. On one hand, they became more structured as sub-institutions compared to the previous convocation. To a significant extent, this was facilitated by innovations to the parliamentary rules base for factions: allowing deputies to belong to only one partisan faction and providing privileges and material resources. In short, factions began to look more like internal institutions. On the other hand, 'political tourism' was common and did not diminish during the convocation, while voting discipline was poor, suggesting that on the whole factions remained weakly defined institutions. This limited their capacity to influence legislation and meant that forging agreement between deputies to pass a decision was usually difficult.

Factions as actors: the legislative process

This section aims to elucidate the role of factions in the legislative process. Both before and especially after the constitution's adoption, the legislative process was extremely conflictual due to the polarized spectrum of deputies in parliament (reflecting Ukraine's political cleavages) and the institutional uncertainty (both between the branches and within parliament). However, the constitutional process did lead the Rada to develop new institutional methods to channel and mediate conflict within the parliament, such as the formation of temporary special commissions. While these helped to facilitate compromises among factions for the adoption of key laws, in the wider context of executive–legislative conflict and the impending elections (presidential as well as parliamentary), competition between factions was not ameliorated, negatively impacting upon the quality of laws.

During the convocation, overall legislative productivity (i.e. the number of laws passed) increased significantly compared to the previous convocation (Secretariat of the Verkhovna Rada of Ukraine 1998: 37). However, at the same time, the number of presidential vetoes grew substantially. Early in the convocation (May 1994–December 1995), the president applied a veto to an average of 11 per cent of laws passed by the Verkhovna Rada. After 1996, the proportion rose sharply, so that for the period January 1996–March 1998, 27 per cent were vetoed (ibid.: 38). The shift indicates the escalation of inter-branch conflict after the adoption of the constitution and the extent to which it was played out via the legislative process. This was typified by the attempts to adopt constitutional framework legislation.

In 1996–7, there was a consensus within parliament about the need to urgently adopt the fifty or so constitutional laws required to bring the constitution into force. However, there was less agreement among factions about the content of these laws, so that nine months after the constitution's adoption, only one (on the Constitutional Court) had been passed. Compromises were achieved on this law via extensive negotiations between factions and, ultimately, the exclusion of the most controversial articles (*Zerkalo Nedeli*, 5 October 1996) – a tactic regularly used to diffuse conflict. Other key

constitutional laws submitted by the government (e.g. on local self-government, on local state administration, on the Cabinet of Ministers) evoked bitter controversy and the proposal of at least two alternative drafts initiated by deputies. The government's (formally, actually the president's) drafts were regarded by many deputies from across the political spectrum as attempting to vest too much power in the presidency. Deputies' bills articulated alternative interpretations of the constitution that would augment the prerogatives of the Verkhovna Rada and the Cabinet of Ministers *vis-à-vis* the president. The drafting and elaboration process was dominated by factions rather than committees via the creation of temporary special commissions to create an agreed draft. Support was sufficiently widespread to facilitate parliamentary overriding (300 votes needed) of the corresponding presidential vetoes. In the case of the law on local state administration, the law was vetoed three times (*Holos Ukrainy*, 13 and 16 August 1997). Thus, the legislative process became the primary battlefield for inter-branch conflict after the adoption of the constitution, and where (as in the case of constitutional laws) the president could not use a decree, the result was legislative ping-pong and impasse.

Meanwhile, during the drafting of the *Dohovir*, the Rada had developed a new institutional mechanism to resolve internal conflict that began to be widely used. By May 1997, 35 temporary special commissions had been formed, of which 23 were still working (*Holos Ukrainy*, 20 May 1997). Comprised of faction representatives, these commissions were formed to produce reconciled drafts of controversial bills and worked upon some of the most important legislation.[17] The use of these commissions necessarily implied sacrificing the accumulated specialist expertise of standing committees in order to manage inter-faction conflict. Standing committees were often dominated by one political orientation and proved incapable of reconciling opinions on the most controversial bills. It was therefore easier to circumvent them with a new institution that could hammer out situational agreements between factions. While the commissions did help to widen the support base on contested bills, the laws supposed to regulate inter-branch relations themselves formed part of the wider executive–legislative conflict and illustrated the inability of the Verkhovna Rada to realize its prerogatives. The Rada could do little to persuade the president to sign a bill he opposed, especially while *Reglament* violations were routine, providing Kuchma with (somewhat dubious) legal justification to veto any bill.[18]

The specific 'rules culture' of the Verkhovna Rada posed a significant obstacle to the parliament realizing its constitutional prerogatives as the supreme law making body. The term 'rules culture' intends to convey the idea of the behaviour exhibited by deputies in relation to formal parliamentary rules and procedures. Although the *Reglament* adopted in 1994 attempted to lay down procedures for the legislative process, their imprecision permitted their systematic manipulation by the speaker, Oleksandr Moroz. Stages of the legislative process were frequently concertinaed or leap-frogged, the agreed agenda was reshuffled,[19] and bills were put to the vote over and over in order to get them passed. Deputies also demonstrated little regard for formality. Voting

for each other was common practice, regarded as 'normal and practical' as deputies did not have to remain physically in the chamber to exercise their duties (*Holos Ukrainy*, 6 March 1997). Factions of the left and right would refuse to register, brawl or walk out to deprive the session of quorum, usually for the purpose of getting an item included or excluded from the agenda.[20] Therefore, factions with sufficient coherence attempted to use the *Reglament* as an instrument to confer a political advantage and ignored formal rules where they were perceived as encumbering their political aims. In such a rapidly changing political environment, with the attendant institutional uncertainty, deputies' perceptions of their opportunities and constraints were constantly reshuffled. This led to a preference for flexibility regarding the rules, which was deleterious to parliament's legislative capacity and, more generally, to wider institutionalization as rules did not become generally adhered to. The Rada's capacity to adopt legislation and the dynamic impact of factions in shaping it will be illustrated by an in-depth examination of the passage of a key law.

A modern odyssey: the law on the election of people's deputies

The passage of this law was chosen as a case study of the legislative process because it was one of the most controversial laws since the constitution and concerned deputies shaping the future 'rules of the game' for their institution and their jobs. This ensured a relatively high degree of engagement with the bill as deputies sought to write the rules to their personal or party's advantage. Deputies' preferences were shaped by their imperfect knowledge of the likely effect of a given electoral system; on whether a deputy was a member of a political party and the strength of that party; on their proximity to the executive and expectations of key players' preferences. The case will be examined by considering the matrix of preferences, the sequence of events and, finally, the quality of the law. This will illustrate the cleavages between and within factions and the ability of the Rada's institutional mechanisms to overcome conflict and pass a law in conformity with the constitution and bearing the president's signature. The law is also crucial to understanding the faction dynamics of the next convocation.

The principle divergence of opinions was over the type of new electoral system: whether it should be majoritarian, mixed or proportional. The main cleavage cut across ideology as the factions of well-established parties like *Rukh*, the Socialists and the Communists supported a mixed 50:50 proportional majoritarian system. As these parties had nationwide grassroots organizations, they felt prepared to benefit from a mixed system. The Communists' support was initially less committed though, as the largest, best organized party with good networks in local administrations, they felt confident of doing well under either system. Deputies from small parties like the Republican Party also initially supported a mixed system. Opposition to the mixed system had various dimensions. Most importantly, non-party deputies (mostly centrists plus Reforms) were unlikely to see an advantage in parties gaining half of

parliamentary seats. They argued that society and parties were not ready for a proportional element, while the press speculated that it was easier to buy a constituency than a party.[21] Such deputies feared a mixed system would produce a leftist majority or at least pose a more formidable challenge to the 'party of power'. Furthermore, factions supportive of the president and Prime Minister Lazarenko were influenced by the perceived pro-majoritarian preferences of these two key players.

Drafting a new electoral law had begun in 1995, but with the complete absence of agreement on the type of system, the process had stalled. The adoption of the constitution and the proximity of the scheduled March 1998 elections gave new impetus to the law. On 14 November 1996, parliament took a rating vote on the six prepared draft laws and charged a temporary special commission based on proportional representation of factions to reconcile the bills. The commission worked intensively, meeting at least once per day from December 1996 to February 1997 (Commission transcripts 1996–7). At the first meeting, they agreed on a mixed proportional–majoritarian system by 15 to 6 votes (ibid.: 3 December 1996). Due to the different positions of the faction representatives and the reconciling of six bills, the commission made extensive compromises (Mishura, interview, 2000). The draft was passed in first reading in March 1997, but this was achieved only after four votes. Although the commission produced the foundation for inter-faction accord, eight failed attempts at a second reading between March and June starkly demonstrated the limitations of faction-based special commissions in a weakly structured system of factions, as deputies representing centrist deputy groups proved unable to carry the votes of their group. The head of the special commission understood this:

> 'To find compromises, the faction representatives did not always represent the opinions of their factions ... At the time many deputies rejected 'partyness' and considered themselves free and not responsible to the faction ... because of the majoritarian system.'
>
> (Mishura, interview 2000)

So the existing majoritarian system had created incentives for self-replication that would act as a brake on institutional reform. However, this was not the only reason for the bill's repeated failure to pass in second reading. Small parties like the Republican Party and pro-presidential factions like Constitutional Centre and Unity, who had supported the bill in first reading, deserted it. Some deputies on the right argued that this was orchestrated by the Presidential Administration (e.g. Orobets in *Den'*, 21 March 1997). Moreover, the Communists did not attend or vote in full compliment, drawing criticism from their erstwhile allies (ibid.). With few indications that a parliamentary majority could be found in favour of any type of system, the Rada was deadlocked over the issue.

According to the constitution, any new electoral law had to be adopted by September 1997. Two contingencies helped to break the impasse: Lazarenko's

removal as prime minister and a bluff attempt to impeach the president by the Committee on Legal Policy for not signing laws passed by parliament. The committee's move, perhaps unwittingly, rapidly led to the announcement by Kuchma that he was willing to sign a law creating a mixed electoral system (Tyshchenko and Pikhovshek 1998: 57). Meanwhile, Lazarenko's preferences had changed, now openly competing with the president, he wanted a strong base in the next parliament ready for the 1999 presidential campaign. To this end, he had effectively bought a small party, *Hromada*, with the aim of obtaining party list seats. Nevertheless, in September, conflict over the bill intensified. The second reading finally began with the threat of time running out for a new law. As speaker Moroz was ill, deputy speaker Musiiaka chaired the session. His scrupulous adherence to the *Reglament* had little force in the Rada and he could not deliver a decision on the type of system (Stenographic reports of the Rada session, 18 September 1997). On 24 September, Moroz returned to the speaker's chair determined to adopt a mixed system. He was assisted by the 'heavy artillery' of ex-Prime Ministers Marchuk and Lazarenko, who both spoke in favour of a mixed system on a 50:50 majoritarian–proportional basis (*Holos Ukrainy* 25 September 1997). Moroz put the question of a mixed system to the vote five times before it passed. Seizing the moment, he then proposed to adopt the draft law as a whole without completing the second reading and obtained 230 votes (226 required) (Stenographic reports of the Rada session, 24 September 1997). Although the parliament had finally agreed to the 'rules of the game' for its origin, the president vacillated on signing it. Finally, he sent a letter with 15 proposed amendments, saying he would veto the law if they were not incorporated (Kuchma 1997). The Rada immediately included 95 per cent of them and the law was signed.

The law was far from perfect: parliament amended it three times before it could become operational in December 1997 and the Constitutional Court ruled 21 provisions unconstitutional just a month before the March 1998 elections were held. Temporary special commission head, Valery Mishura (interview 2000), recognized the law's shortcomings as the product of its compromise nature. Legislative quality was sacrificed in order to achieve agreement between the factions and this was not uncommon, demonstrating a significant obstacle to raising the parliament's legislative capacity. The fact that it proved impossible to pass the law adhering to the rules and that their manipulation and the force of speaker Moroz's personality were key to the law's adoption was a consequence of the Rada's 'rules culture', operating in the context of unstructured, undisciplined factions unclear of their aims. On one hand, the work of the temporary special commission demonstrated that party-based factions were capable of overcoming their entrenched ideological differences to work strategically for common aims. On the other hand, deputy groups were internally divided in their aims and could not agree a common position.[22] Here, the removal of Kuchma's objections and the three-pronged attack of Moroz, Lazarenko and Marchuk played a significant role in persuading a sufficient number of deputies to vote in favour. The incoherence of factions meant that the temporary special

commission could not fulfil its conciliatory role. Although the work of the commission was crucial in forging agreement between party-based factions and, indeed, deputy group representatives, deputy groups lacked an internal *Weltanschauung* and discipline so that the compromises made in the commission were not transferable to the group. At the heart of the problem were the composition of the parliament and the lack of well-institutionalized factions, which made it exceptionally difficult for the Rada to take strategic action without an exogenous 'push' from the Presidential Administration. In essence, parliament was weak because factions were weak. Nevertheless, the new law on elections did create the conditions for the next convocation to be more party-based and structured.

Conclusion

The path of faction institutionalization during the convocation was ambivalent. Factions became more institutionalized, but at the same time remained fluid and weak. While internal rules laid the foundation for faction development, this was undercut to a significant extent by the confluence of exogenous factors: the electoral law, the party system, the constitution and the president.

Compared with the previous convocation, factions were more structured, began to institutionalize and played a more significant role in shaping the activities of the Verkhovna Rada. To the extent that this occurred, it was largely a response to endogenous institutional engineering – the rights and material incentives created by the new *Reglament* and the shift to dual-channel institutional design via the incorporation of faction leaders into the leadership organs, so that factions became an important organizing entity within parliament. However, although factions began to develop internal structures, they remained undisciplined and incoherent as parliamentary sub-institutions. In part, this was due to the absence of more thoroughgoing internal institutional incentives – the low cost incurred for faction switching, secret voting and the lack of sanctions available to faction leaders for voting or faction defection. Thus, the internal parliamentary rules did not fully support the institutionalization of factions.

There was a significant distinction between the institutional coherence of party-based and non-party based deputy groups. Party-based factions retained more members and were more disciplined due to the shared convictions of deputies, greater ideological definition and connections with a grassroots party organization. Deputy groups were more incoherent, often grouping along regional, sectional or personality based lines. In effect, political parties provided the 'glue' which helped to hold factions together. However, while the internal rules provided the basis for a degree of structurization, the external environment ensured that this development was largely superficial.

The majoritarian electoral law in the context of a weak party system produced a polarized corpus of deputies where no one group could dominate. As all deputies were elected on a majoritarian basis, they did not owe their position

directly to a political party and were less inclined to be bound by faction loyalties. In such circumstances, non-party deputies' link to their faction was likely to be even more tenuous and susceptible to incentives offered by powerful actors (e.g. President Kuchma, Lazarenko) to switch affiliation. The left's plurality during the first session created strong incentives for cohesive, disciplined behaviour as factions and as a bloc, but once repeat elections altered the parliamentary composition, the left found it increasingly difficult to coalesce monolithically. This illustrates that parliamentary coalitions and majorities are more than pure mathematics of party-seat distribution in parliament. Deputies need a reason to act collectively.

Before 1996, the constitutional arrangement allocated no role to parties or factions and the role of the Rada itself was vaguely defined. The president–parliamentary system outlined in the 1996 Constitution was the product of extensive inter-faction compromises that failed to define a role for party caucuses as political entities that could potentially create incentives for faction coherence and further institutionalization. Moreover, the unclear division of powers outlined in the constitution perpetuated inter-branch conflict, encouraging the president to use 'divide and rule' tactics, which undermined the internal incentives for deputies to develop factions into coherent institutions.

The constitutional and legislative processes illustrate the impact of factions upon parliament as an institution. These activities were hampered by the polarized political composition and the heterogeneous centre, so that the Verkhovna Rada was characterized by both conflict and inertia. Institutional innovations (such the temporary special commissions) did provide mechanisms for conflict resolution. However, this occurred at the expense of legislative quality, which was sacrificed in compromises designed to facilitate a law's passage. Presidential intervention was able to stimulate the Verkhovna Rada into action, but, at the same time, this contributed to the ongoing institutional weakness of the parliament.

5 Factions dominant, 1998–2002?[1]

The new parliament elected in March 1998 was different from its predecessor in several decisive respects. The new mixed 50:50 proportional–majoritarian electoral law produced a parliament that was more party-based. In turn, this led to the increased importance of party caucuses, i.e. factions, as institutions in the Verkhovna Rada via endogenous rule changes that would move parliament towards a linked dual-channel design. Second, the new Rada contained many more entrepreneurs than previously (see Chapter 2) and a corollary of this was a significant increase in the role of money in the internal functioning of parliament and especially factions. The convocation was also distinguished by the mid-term formation of Ukraine's first ever parliamentary majority. This critical development was prompted by the actions of President Kuchma and demonstrated the important role of presidential preferences in the internal organization of the Verkhovna Rada. The removal of presidential pressure during the Gongadze scandal resulted in the majority's collapse. However, during its brief existence, the majority implemented notable structural changes in parliament and there was a marked increase in organizational complexity and voting discipline. Yet deputies changed their faction membership more regularly than ever and the party spectrum became more fragmented, indicating de-institutionalization of factions. Therefore, while factions assumed a dominant role within the Verkhovna Rada *vis-à-vis* other institutions such as standing committees, institutionalization took place in a patchy, uneven manner and the pre-eminent position of factions was increasingly illusory in light of the growing influence of the president and groups of deputy-oligarchs close to him.

The chapter will explore the changing role of factions in parliament, pinpointing the areas of institutionalization and demonstrating why this development remained lopsided and non-linear. This analysis will explicate the patterns of institutionalization by identifying the role of endogenous institutional engineering and deputies' strategic action shaped in the context of the new electoral law, the constitutional framework, the weak party system and the intensified assertiveness of the president. In this way, the case study of factions will illustrate key aspects of the development of the Verkhovna Rada as an institution, such as the extent of parliament's institutional integrity and autonomy.

In order to identify and explain change, it is necessary to begin with a contextual analysis of key 'stages' that can incorporate multiple factors. Therefore, a descriptive–analytical explanation of the most important developments in parliament relating to factions will provide the basis for an exploration of the extent of factions' institutionalization. This will be assessed along the same criteria as in Chapter 4 (i.e. internal organization, coherence, stability) to facilitate comparison and the identification of change. Finally, the roles played by factions in parliament will be explored with regard to law-making and the organization of parliament. This will locate the role of factions within parliament as a whole and assess the impact of majority formation on parliamentary development.

Introducing factions in the Verkhovna Rada

As covered in more detail in Chapter 2, the March 1998 elections produced no overall majority, with the left gaining 39 per cent of seats, the right 10.4 per cent and the centre 30.7 per cent, with the remaining 20 per cent made up of non-affiliated and non-aligned deputies. Table 5.1 shows all factions and deputy groups that registered between 1998–2002, of which 13 of 19 did not even exist for the entire convocation.

Those factions that were unable to maintain an organizational presence in parliament are likely to be the least institutionalized. Although faction proliferation and 'mortality' was particularly marked in the centre, where only three of 11 centrist factions existed for the whole period, this tendency extended across the entire political spectrum.

The left

The left factions showed strong continuity with the previous convocation: they were based upon comparatively well-established factions from political parties with grassroots organizations. They had clearly articulated ideological positions and were the most coherent and disciplined part of the political spectrum. Initially, the left comprised the Communist, Socialist-Peasant ('Left-Centre') and Progressive Socialist factions. Most leftist deputies were elected via the party lists and were party members.[2] The Communists and Left-Centre factions existed in the previous convocation and therefore the largest previous occupation group for both was deputy.[3] A small proportion of deputies (e.g. about ten Communists) were entrepreneurs, an early indicator of the willingness of the Communists to compromise their ideological principles. In October 1998, the Peasants formed their own faction as a consequence of the speaker's post and presidential ambitions of party member Oleksandr Tkachenko. Both the Peasant and Progressive Socialist factions were dissolved in February 2000 due to diminished numbers. The left began the convocation with 39 per cent of seats; by the end of 2000 this was around 30 per cent – a similar trend to the previous convocation.

Ideologically, the Communists did not alter significantly from the previous convocation. As detailed in Chapter 4, they represented the unreformed left and

Table 5.1 Factions and deputy groups of the fourteenth/third convocation, May 1998–March 2002

Faction	L–R	Political party basis	Duration
Communists	Left	Communist Party	Whole convocation
Left-Centre (Socialists)	Left	Socialist (and initially Peasants)	Whole convocation
Peasants	Left	Peasant	October 98–February 00
Progressive Socialists	Left	Progressive Socialists	May 98–February 00
Hromada	–	*Hromada*	May 98–February 00
Solidarity	Centre	Solidarity (late 2000)	February 00–March 02
Trudova Ukraina	Centre	Trudova Party, then *Trudova Ukraina* (late 2000)	April 99–March 02
Social Democrats (SDPU(o))	Centre	Social Democrats (United)	Whole convocation
Greens	Centre	Green	Whole convocation
Revival of the Regions*	Centre	Democratic Union (from 2001)	February 99–March 02
Regions of Ukraine	Centre	Party of Regions	April 01–March 02
Yabluko	Centre	*Yabluko*	September 00–March 02
People's Democratic Party (NDP)	Centre	People's Democratic Party	Whole convocation
Independents (Nezalezhni)	–	–	July 98–March 00
Unity	Centre	Unity (late 2001)	November 01–March 02
Fatherland	Centre	Fatherland	March 99–March 02
Reforms-Congress	Right	Reforms & Order, later Congress of Ukrainian Nationalists too	December 98–March 02
Ukrainian People's *Rukh* (Kostenko)	Right	Ukrainian People's *Rukh*	March 99–March 02
People's *Rukh* of Ukraine (Udovenko)	Right	People's *Rukh* of Ukraine	Whole convocation

Source: Data of the Verkhovna Rada secretariat, provided by Laboratory F-4.

Note: * Changed name to Democratic Union, 6 April 01.

vocally opposed President Kuchma and the current regime. However, in practice their opposition was compromised by relations with the Presidential Administration. The Socialists maintained their more moderate position and leader Oleksandr Moroz continued to push the party towards social-democracy. Nevertheless, the faction was parliament's most vociferous critic of the current regime. Although the Peasants entered the Verkhovna Rada on a joint programme together with the Socialists, the Peasants remained distinct in their accommodation of market reforms (except for agriculture) and in their willingness to co-operate with the existing regime. In contrast, the Progressive Socialists were the most radical left faction: staunchly anti-Western and reactionary populists, they generally avoided alliances with the other left factions, a factor that seemed to substantiate persistent rumours about their covert support from the Presidential Administration.

The centre

The centre remained the most fluid and fragmented area of the political spectrum. Most centrist factions were built as a parliamentary power base of one or several so-called oligarchs and were closely linked to the Presidential Administration.[4] Their splits and reformations reflected the on-going power struggle for access to the president. Several of these factions formed political parties with the same name during the convocation (e.g. *Trudova Ukraina*, Fatherland). Like the majority of parties in Ukraine, these were largely based on the respective leader's personality and especially his/her resources and built 'top down' as a vehicle for parliamentary entry. Increasingly, they were referred to as 'oligarch parties'.

After 1998, there was increasingly widespread use of the term 'oligarch' in political commentary, following the trend in Russia (Schröder 1999). The slack, catchall expression was used to connote a small group of extremely wealthy entrepreneurs (predominantly connected to the energy, media and banking sectors and often combining interests in all three) in close proximity to the president. In exchange for policy influence, they offered the president media and financial support, especially during the 1999 presidential election campaign. Factions provided a vehicle for the so-called oligarchs who held a deputy's mandate to build a parliamentary power base as an instrument to influence key decisions made by parliament.

Ideologically, the keyword for centrist factions was pragmatism and the low levels of party identification made the factions' composition as salient as ideology or party membership to understanding the interests of centrist factions. The original three factions: the Greens, the Social Democratic Party (United) (SDPU(o)) and the People's Democratic Party (NDP) were based on parties, but did not have such a high proportion of party membership as the left or right.[5] There was often a sharp divergence between their official programme and the goals pursued in parliament. For instance, the SDPU(o) and *Trudova Ukraina* espoused left-centre rhetoric, but were right-centre due to the sectional business concerns of their members and were closely linked to various executive organs. Along with Revival of the Regions and the Greens, these factions were strongly loyal to

President Kuchma. The ideological position of Fatherland (*Batkivshchyna*), Solidarity (*Soldarnist'*) and *Yabluko* ('Apple') was also pragmatic and closely linked to members' business interests, but they tended to be more ambivalent in their attitude to the president. For example, the Solidarity leadership was supportive of both the Yushchenko government and the president, but the faction was a heterogeneous mix of ex-SDPU(o) and ex-Peasants and Communists and the 'ex-leftists' were decidedly ambivalent *vis-à-vis* the executive.[6] Fatherland developed into one of Kuchma's most ardent opponents from 2001.

In terms of composition, it was in the centre that most single mandate deputies, many of whom were non party-affiliated entrepreneurs, coalesced in factions. For example, Revival of the Regions, *Trudova Ukraina* and the Green faction were largely composed of entrepreneurs with substantial interests in the energy sector, media and banking.

The right

The key features of the right factions were their party basis and ideological nature. However, compared to the left, right factions were more prone to fragmentation and more vulnerable to presidential influence. At the start of the convocation, the right consisted of one long-established faction, *Rukh*, which accounted for 10 per cent of parliamentary seats.[7] By 2000, there were three, making up 12 per cent. The split of *Rukh* as a faction and party in March 1999 was not primarily ideological – both *Rukh*s still prioritized the nation-building project, a pro-European orientation and liberal economic reforms. However, People's *Rukh* of Ukraine (*Narodnyi Rukh Ukrainy* (NRU), led by Hennady Udovenko) stressed the 'national' aspect and was closer to the president. Ukrainian People's *Rukh* (*Ukrain'skyi Narodnyi Rukh* (UNR), led by Yury Kostenko) emphasized its liberalism and 'constructive opposition' to Kuchma.

Reforms-Congress was the faction of the liberal Reforms and Order party. Over 50 per cent were former deputies and the faction attracted part of the liberal wing of the People's Democratic Party.[8] In June 1999, the faction became the senior partner in a tactical alliance with several members of the Congress of Ukrainian Nationalists, a nationalist party.

In sum, there are patterns of continuity with the previous convocation – the left and right were the most party-based, in terms of membership and election by party list, while centrist factions tended to be more heterogeneous and non-partisan.

Interpreting change: factions in context, 1998–2002

The period 1998–2002 was particularly turbulent for factions, as well as the Rada more generally. Three main time periods have been identified as most significant for faction change and institutionalization:

- From the parliamentary elections in March 1998 until the formation of the majority (called the fourteenth convocation).

- The 'first stage' of the renamed third convocation, a period of majority dominance over parliamentary procedure i.e. February 2000 until approximately November 2000.
- The beginning of the 'second stage' of the third convocation with existence of a 'phoney majority' from November 2000 until the end of the convocation in March 2002.

It will be demonstrated that although the electoral law increased party representation in parliament, the political spectrum was fragmented and disposed to impasse. While a temporary change to the *Reglament* made factions appear more structured, they remained susceptible to presidential manipulation. The president was able to provoke the coalescence of disparate factions into an artificial parliamentary majority, which remained dependent upon presidential pressure for survival because the constitutional framework did not produce incentives to ameliorate its internal differences.

The 'fourteenth' convocation

The fourteenth convocation comprises two distinct phases due to a temporary rule amendment, which meant factions were formally more structured until December 1998. After the amendment was overruled, faction switching and splitting became possible and was augmented by the impending presidential election.

The Verkhovna Rada was elected by a mixed electoral law in Ukraine, which aimed to solve two problems simultaneously: the weakness of the party system and the absence of a parliamentary majority, but actually produced greater fragmentation because the proportional representation aspect was undermined by the majoritarian component of the law (D'Anieri 2000: 13–15). The 4 per cent threshold was surmounted by eight parties (three of these had less than 5 per cent of the vote), while a further 23 parties gained representation via the single mandate constituencies. Therefore, the law produced a fragmented party spectrum encompassing extremes at both ends in parliament and no majority for any party or political orientation. Moreover, 31.5 per cent of deputies did not belong to any party. Nevertheless, the electoral law did reduce the number of non-party deputies in comparison with the previous parliament (55.7 per cent) and, more significantly, ensured that half of the deputies owed their mandate directly to a political party, even if they were not a member of that party.[9] This directly implied an increased importance of parties in the Rada and created opportunities for a greater structuring of factions in parliament by opening space for the internal rules to shape incentives for party consolidation within parliament.

Therefore, the *Reglament* was amended by the new Rada so that 'factions are formed exclusively on the basis of political parties that surmounted the 4 per cent barrier ... on the condition that no less than 14 deputies join' (VRU Resolution 7/XIV, 13 May 1998). This meant that deputy groups (non-partisan deputy associations having equal rights to party-based factions) would no longer be allowed to register in parliament and benefit from the attendant organizational

power and resources. The reduction of the minimum faction size from 25 to 14 was deemed necessary because both the Progressive Socialists and SDPU(o) won only 14 seats on the electoral list and these parties, having overcome the 4 per cent threshold should have the right to their own faction. The People's Democratic Party faction was the most obvious beneficiary of the innovation, growing rapidly from an initial 31 party members to 89 deputies. As the party was close to the president and its leader was Prime Minister Pustovoitenko, it was attractive to a substantial number of single mandate deputy-entrepreneurs. Therefore, the change generated a clearly structured parliament, with the registration of eight factions. The Rada's composition is shown in Table 5.2.

However, clarity of structure did not translate into a parliamentary majority. The new parliament was polarized between 175 left and 185 centre and right deputies who were more or less loyal to the president. Neither orientation had a majority necessary to take decisions (226 deputies), and *Hromada* and non-affiliated deputies that comprised 20 per cent had the opportunity to play kingmaker. The centre-left *Hromada*, the parliamentary power base of presidential candidate Lazarenko, proved willing to vote with the left on many occasions, but together they only had a plurality of 214 votes. Thus, the new Rada had a high propensity to deadlock.

This was immediately demonstrated by the parliament's inability to elect a speaker for two months. The involvement of the Presidential Administration was widely acknowledged as the president had a strong interest in blocking the election of credible presidential candidates (especially Socialist Party leader Oleksandr Moroz) prior to the October 1999 presidential election. The result was

Table 5.2 Composition of Verkhovna Rada after the March 1998 elections

Faction	No. of deputies	% seats
Communist Party (CPU)	123	27.4
'Left-Centre' (Socialist/Peasant bloc) (SPU-SelPU)	35	7.8
Progressive Socialists (PSPU)	17	3.8
Total 'Leftists'	175	39.0
Social Democratic Party (United) (SDPU(o))	25	5.6
Green Party (PZU)	24	5.3
People's Democratic Party (NDP)	89	19.8
Total 'Centrists'	138	30.7
Rukh (NRU)	47	10.4
Total 'Rightists'	47	10.4
Hromada (non aligned oppositionist)	39	8.7
Non-affiliated deputies	49	10.9

Source: Registration of the first factions by the secretariat of Verkhovna Rada, 14 May 1998, provided by Laboratory F4.

a bitter power struggle within parliament that illustrated the deeply divided nature of the non-left, pro-presidential factions and the ability of the president to exploit these divisions. While the Communists and Left-Centre factions repeatedly nominated CPU leader Petro Symonenko as their single candidate, centre and right factions remained unable to agree and each nominated one or more candidates (for example, see *Holos Ukrainy*, 23 June 1998).

Eventually, in the eighteenth round of voting, the left's candidate Oleksandr Tkachenko obtained 232 votes. This was particularly startling considering he received only 148 votes previously, leading to speculation about the bribery of deputies. It has been argued that the vote was orchestrated by the Presidential Administration directing deputies from pro-presidential factions such as SDPU(o) and the Greens to vote for Tkachenko (Haran and Maiboroda 2000: 137). The election of Tkachenko appeared beneficial to Kuchma for several reasons. Tkachenko was not a credible presidential candidate and he was suspected of embezzling 70 million dollars of government funds. This meant that the executive had compromising materials that could be used to exert leverage over him.

The election of Tkachenko marked the left's ascendancy inside the Rada, permitted by the tactical support of elements of various centrist factions. A wealthy businessman in a leftist party, Tkachenko initially supported the president and government, easing the passage of government legislation. However, at the same time, his crude, populist style and unabashed affection for aspects of Soviet rule found favour with the left and irked the right, contributing to an intensification of ideological confrontation within parliament. The amorphous nature of centrist factions and their pragmatic approach to parliamentary politics facilitated the left's dominance of the Verkhovna Rada. Although the new rules for party-based factions had created a clearer parliamentary structure, in the centre of the spectrum this formal arrangement was rather artificial.

The party-only organization of parliament was short-lived. A ruling by the Constitutional Court in December 1998 upheld the appeal of 51 single mandate deputies (who would later form the Reforms-Centre and Independents factions) that this rule contravened their right to unite in factions (Decision of the Constitutional Court, N17-rp/98, 3 December 1998). This cleared the way for the formation of non-party deputy groups and new factions by parties that did not surmount the 4 per cent barrier. However, the court upheld the Rada's amendment reducing the minimum faction size to 14. The ruling dealt a significant blow to the parties that had overcome the barrier, leading to their reduced size and influence in the Rada's organization. It also prompted a large volume of faction switching by individual deputies and within a few months *Rukh*, *Hromada* and People's Democratic Party factions had split. As Figure 5.1 shows, within four months, eight factions became 15.

The forthcoming October 1999 presidential election contributed to these faction splits. It also aggravated inter-branch tension, particularly as the presence of 12 presidential aspirants in parliament gave the president additional incentives

14 May 1998

Non-Affiliated

Rukh

SDPU(o)

Greens

Communist

Left Centre

Progressive Socialists

NDP   Hromada

18 May 1999

Non-Affiliated
Rukh-Udovenko
Rukh-Kostenko
Reforms-Congress
Fatherland
Independents
Greens
NDP
Trudova Ukraina
Revival of the Regions

Communist

Left Centre

Progressive Socialists

Peasants

Hromada

SDPU(o)
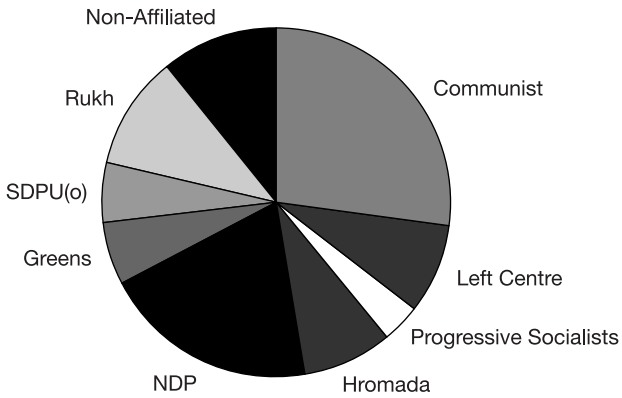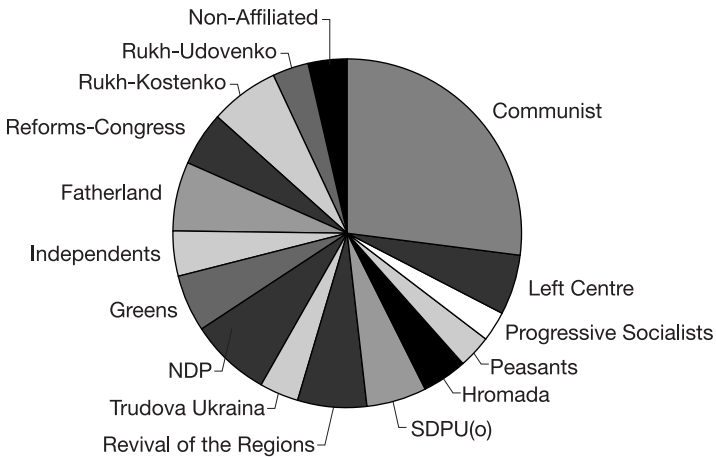
Figure 5.1 Comparison of the composition of factions in the Verkhovna Rada, May 1998 and May 1999.

to try to discredit parliament. One of these presidential candidates was speaker Tkachenko who consequently began to pursue his own agenda and ceased to accommodate the Presidential Administration. In sum, the Court ruling and the election campaign exacerbated factions' fragmentation in parliament. In the aftermath of the election, President Kuchma's victory gave him the opportunity to claim a renewed mandate to press parliament into a more compliant shape.

The 'artificial' majority

Ukraine's first parliamentary majority was formed in January 2000 as a consequence of external stimuli provided by the president. Kuchma threatened to call a referendum to reduce the constitutional powers of parliament and dissolve it if deputies did not form a pro-presidential majority, while at the same time, he offered an incentive that a majority could play a significant role in government formation. Deputy-'oligarchs' close to the president (particularly the unofficial leader of Revival of the Regions, Oleksandr Volkov) backed these moves by organizing the collection of the 3 million signatures necessary for the referendum 'on the people's initiative' and by leading the negotiations between factions for the formation of a majority. As argued in Chapter 2, the president's proposal of Viktor Yushchenko as the candidate for prime minister was a move calculated to appease Western financial institutions over Ukraine's lending and to encourage the right-wing factions to join a majority. A heterogeneous mix of eleven centre and right factions announced the formation of the majority just as the government's appointment was completed, and Kuchma, whose priority was clearly to augment his constitutional powers, decreed the constitutional referendum anyway. Intrinsically, the majority was composed of diverse interests that had a variety of sometimes contradictory motives for uniting. These can be summarized as follows:

- Self-preservation: the potential dissolution of parliament threatened deputies with the loss of their mandates and attendant privileges such as immunity from prosecution. This was an important consideration that influenced deputies regardless of political affiliation.
- Support for the president in exchange for influence over key government portfolios in their areas of business interest, such as energy. This was key for Revival of the Regions, SDPU(o), *Trudova Ukraina*, NDP and the Greens, as these factions were competing among themselves for such influence.
- Support for the new reformist government of Viktor Yushchenko and his economic reform programme. Key for the right (both *Rukh*s and Reforms-Congress).
- Support for the government and particularly their party leader Deputy Prime Minister Yulia Tymoshenko and her proposed energy sector reforms was crucial for Fatherland.
- Protection of the parliament as a legislative organ from a feared 'Belarusian scenario' if the referendum went ahead. This influenced especially right-wing deputies.

- Increased influence in parliament as the majority would appoint the speakers and all committee leaderships.
- Financial incentives must have been an important factor for some deputies to join majority factions (see below).

Thus, conflicts of interest within the majority were immediately apparent, but as Volodymyr Lytvyn, the head of the Presidential Administration explained, the threat of the referendum concentrated deputies' minds wonderfully (*Holos Ukrainy* 19 January 2000).

Amid the most severe confrontation seen in the Verkhovna Rada, the new majority moved to change the parliamentary leadership. This resulted in the spectacle of parliament splitting into left opposition and majority parts and sitting in different buildings. Fearing dissolution, the conflict was eventually resolved in the majority's favour, and they were able to install a new speaker (Ivan Pliushch), remove the leftist heads of committees and amend the *Reglament*. Aggressive recruiting of non-aligned and disillusioned left deputies by the 'oligarch' factions meant that the majority grew from 237 to around 270 by summer 2000 (of 450 in total).[10] However, the majority continued to be riddled by serious tensions. One of the most significant divides was between the pro-presidential and pro-governmental factions. The core of oligarch factions strongly supported President Kuchma, but they continued to demand revisions of the government's composition.[11] The right factions and Fatherland were firmly pro-Yushchenko's government and the integrity of its composition.

Moreover, the constitutional framework did not support the existence of a majority, making its functioning surreal and dependent upon the whim of the president. The 1996 Constitution created a president–parliamentary system where the powers of parliament and president overlapped in terms of oversight and dismissal of the government, the organization of other executive bodies and law-making. Even so, in many ways the president had precedence over parliament regarding the formation, control and dismissal of the government. There were weak provisions for the Verkhovna Rada to play a role in appointing the government or in taking responsibility for its actions. Parliament was simply required to confirm the president's nomination for Prime Minister (art.85.12) and the government's annual programme (art.85.6). This formally implied that there was no role in the current constitution for a parliamentary majority and thus, no incentives for factions to form and maintain a coalition that would enact the government programme and take responsibility for its actions.

However, throughout the year, the president required a majority to augment his powers by altering the constitution in line with the overwhelming (but legally dubious) results of the 16 April 2000 referendum.[12] The Presidential Administration maintained pressure on the Rada to pass the president's bill, which entailed the removal of deputies' immunity from prosecution, the reduction of the number of deputies from 450 to 300 and granting the president the right to dissolve parliament if it failed to form a majority or pass the budget. After intense activity by the Presidential Administration and the oligarch

factions, the bill was passed in first reading (by 251 votes) in July 2000, but required 300 votes in the autumn session in order to become law. As the autumn session progressed, it became evident that this would be extremely difficult to find and the majority began to lose its voting integrity on other issues (Whitmore 2000).

The period since the majority's formation had been important for factions, because the impetus of the referendum, the desire for increased political influence and the parliamentary rule changes had facilitated a greater role for majority factions inside parliament. This took place in formal and informal negotiations with the executive as well as via greater internal organization and unprecedented voting discipline. At the same time, however, this had come at the price of reduced independence from the executive. The artificial nature of the alliance meant that the majority was fundamentally unstable and unviable in the long term.

The 'phoney' majority

The 'Gongadze scandal' erupted spectacularly in November 2000 when Socialist Party leader Oleksandr Moroz played cassettes of conversations allegedly recorded in the president's office between the president, the interior minister and the head of the security service discussing 'getting rid' of journalist Gongadze, who had disappeared in September. Forthwith, the Verkhovna Rada led the protest against the president and the opacity of the original investigation, gradually being supported by growing popular demonstrations. Within parliament, the left was joined by the pro-government forces in the majority and went on the offensive – voting together to recommend the president dismiss senior ministers and the procurator general. Despite calls for Kuchma's impeachment, this was never a viable option, as the legal mechanisms did not yet exist. At the same time, the president and pro-presidential centrist factions of the majority generally kept a low profile. In this context, the president's bill to augment his constitutional powers *vis-à-vis* parliament failed. Although the pro-presidential factions voted for it, the most they could muster was 210 votes on 18 January 2001. The next day, Deputy Prime Minister Tymoshenko was sacked (and later arrested for corruption) provoking her Fatherland faction to leave the majority. Other pro-government factions (Reforms Congress, Solidarity and most of both *Rukh*s) distanced themselves from the president due to the tape scandal. The result was a phoney majority – that voted together more or less as before on social policy, culture, labour and most economic questions, but disagreed on 'political' issues. For a while, the majority still functioned formally, although it was regularly incapable of reaching agreement on certain issues.[13] As a consequence, the influence of the left was again more tangible – especially as the Communists proved willing to facilitate the right or the centre passing a decision, including assisting the 'oligarch factions' to dismiss Yushchenko's government on 26 April 2001. This situation lasted until the March 2002 elections. The collapse of the majority, like its formation, was ultimately

conditioned by an external factor: the behaviour of the president. This indicated factions' lack of autonomy as internal parliamentary institutions, which shaped parliament's ability to exercise its prerogatives.

An overview of factions in context has facilitated the identification of important characteristics of factions and parliament and the key trends in factions' development. Although the new electoral law increased the role of parties in parliament, it produced a polarized composition that made the body prone to deadlock. In turn, this created opportunities for the president to direct parliament by manipulating its constituent factions. Therefore, the majority's existence was essentially artificial, produced and maintained by presidential stimuli and co-ordinated by the pro-presidential forces organizationally based on factions inside the Rada. Tensions apparent at the outset did not diminish because the constitutional structure and parliamentary organization did not produce incentives to override or channel the majority's divergent interests and ideological positions. Thus, the majority could only be a temporary, pragmatic phenomenon reliant on external pressure for cohesion. Ultimately, the temporary weakening of the president's position during the Gongadze scandal removed this pressure and the factions reverted to type: to forming situational, tactical majorities depending on the issue under consideration, not dissimilar to the previous convocation.

Nevertheless, as we shall see, internal rule changes promoted greater internal structuring and organization of factions as sub-institutions of parliament. The extent to which this occurred will be considered in the next section.

Factions as parliamentary sub-institutions

An assessment of factions' institutionalization is possible through the examination of the key institutional aspects identified in Chapter 1 and utilized in Chapter 4 – factions' internal organizational complexity, coherence and stability. In this way, this section will demonstrate that internal rule changes supported factions' growing organizational capacity, although dissonance between formal rules and actual behaviour was evident. The uneven character of faction institutionalization was also evident in factions' coherence: while becoming significantly more disciplined, factions also evinced marked instability.

Coherence

As argued in Chapter 4, institutional coherence is a fundamental tenet of institutionalization and in the case of factions, it can be assessed by looking at membership stability and voting discipline. Table 5.3 provides a broad indication of faction membership fluctuations, illustrating the main patterns of faction growth and diminutions, by giving faction sizes at six-monthly intervals, plus immediately before and a few weeks after majority formation in early 2000.

The figure indicates that all factions experienced membership instability to some extent, although this was very minor for the Communists and those

Table 5.3 Changes in faction size during the fourteenth/third convocation

Faction	14 May 1998	10 Dec 1998	18 Jun 1999	21 Jan 2000	29 Feb 2000	14 Jul 2000	18 Jan 2001	22 Jun 2001	11 Jan 2002	6 Mar 2002
Communists	119	122	122	115	116	114	111	113	113	113
Left-Centre	35	24	24	22	19	17	16	17	18	17
Peasants	–	14	15	15	–	–	–	–	–	–
Progressive Socialists	17	14	14	11	–	–	–	–	–	–
Hromada	39	45	17	14	–	–	–	–	–	–
Solidarity	–	–	–	–	16	28	23	21	21	20
Trudova Ukraina	–	–	17	23	31	44	48	46	38	38
SDPU(o)	25	23	25	34	33	33	33	36	32	32
Greens	24	26	23	18	16	17	17	17	15	16
Revival of the Regions*	–	–	28	36	36	36	35	26	15	15
Regions of Ukraine	–	–	–	–	–	–	–	22	23	23
Yabluko	–	–	–	–	–	–	14	16	15	13
People's Democrats (NDP)	89	76	31	27	25	23	20	16	14	14
Independents	–	25	20	14	–	–	–	–	–	–
Unity	–	–	–	–	–	–	–	–	18	21
Fatherland	–	–	26	35	34	34	32	24	24	24
Reforms-Congress	–	–	24	13	14	15	15	15	14	15
Rukh (Kostenko)	–	–	30	26	21	21	23	22	22	23
Rukh (Udovenko)	47	48	15	17	18	19	17	14	14	14
Non-affiliated	36	32	16	25	50	49	45	44	48	46

Source: 21 January 2000 and 29 February 2000 figures taken from Haran, O. and Maiboroda, O. (eds) (2000: 222), *Ukrains'ki Livi: mizh Leninismom i Sotsial-demokratieiu*, Kyiv: KM Akademiia. Others from the Verkhovna Rada secretariat, provided by Laboratory F4.

Note: *Changed name to Democratic Union, 6 April 2001.

factions created towards the end of the session (Regions of Ukraine and Unity), which scarcely existed for long enough to display substantial deputy movement. It also demonstrates that some centrist factions were successful at recruiting significant numbers of new members (especially *Trudova Ukraina*, SDPU(o), Revival of the Regions, Fatherland), although this varied over time and was especially prevalent prior to and after majority formation. During 1998, the size of factions was relatively stable, with the exception of the relatively neat uncoupling of the Socialist–Peasant alliance and the formation of Independents by a group of non-affiliated deputies. From 1999 faction membership fluidity

increased dramatically, with the splits of *Rukh*, *Hromada*, NDP and SDPU(o) forming the basis of new factions, and a large volume of faction switching by individual deputies.

As the left- and right-wing factions were based on well-established parties with significant grassroots organizations, these seem likely to be the most stable in terms of retaining members compared to centrist factions with their lack of an ideological basis and low levels of party membership. In order to establish whether the centre factions' membership was more fluid than the left and right, the number of times a deputy departed from a faction was considered alongside the size of left, right and centre of the political spectrum (as identified in Figure 5.1) at the beginning and end of the convocation.[14]

Table 5.4 demonstrates that faction membership was fluid across the political spectrum, although this trend was less marked among the leftist factions. This was due to the high coherence of the Communists, who rarely left the faction. Furthermore, it shows that centrist factions were able to attract deputies from the left (and non-affiliated) to join their ranks. What motivated deputies to change faction so frequently? This can be explained by exploring the incentives produced by changes in the *Reglament* and the strategic behaviour of executive bodies and different groups of deputies.

Turning firstly to institutional factors, the effect of the electoral law was not so considerable. A trend was tangible, but other factors took primacy in determining deputies' 'political tourism'. Deputies elected in single mandate constituencies were more likely to switch faction,[15] because they did not owe their seat to a party and over 50 per cent did not belong to any party. However, party list deputies also moved often – with the exceptions of Communists who rarely left their faction, regardless of mandate type.

Internal rule changes had a much more significant impact on behaviour. The relative faction stability during 1998 can be attributed to the amendment to the *Reglament* granting parties that passed the 4 per cent barrier the exclusive right to unite in factions. This removed the possibility of new faction formation and acted to constrain deputies' 'political tourism'. Therefore, the Constitutional Court ruling had a significant impact on the internal dynamics of factions. While ruling the amendment unconstitutional, the court upheld the amendment reducing the minimum size of factions to 14. This latter amendment had in

Table 5.4 Faction membership fluidity across the political spectrum

Area of the political spectrum	No. of deputies belonging to these factions, 18 May 98	No. of deputies belonging to these factions, 6 March 02	No. of times a deputy left one of these factions
Left	171	130	69
Centre	138	216	219
Right	47	52	59

Source: Data of the Verkhovna Rada secretariat, provided by Laboratory F4.

effect been dormant due to the countervailing affect of the party-only factions rule, but now it started to structure factions' incentives and opportunities. It allowed larger factions to split without incurring costs that the loss of faction status brought (such as the loss of office space and resources) and the formation of new factions and deputy groups with minimal start-up costs.

This rule facilitated wider fragmentation than seen in the previous convocation, as then 25 deputies were required for faction status. It permitted the split and survival of the *Rukh* and *Hromada* factions, but these splits were encouraged by the interference of the president, who sought to weaken his opponents. Tensions within *Rukh* had been brewing for some time as a consequence of the party leader, Viacheslav Chornovil incorporating several entrepreneurs onto *Rukh*'s party list and maintaining close relations with the president (for example, see *Zerkalo Nedeli*, 16 May 1998). In March 1999, the party and faction split into NRU(Udovenko) with 16 deputies and UNR(Kostenko) with 30. If the *Reglament* had stipulated a minimum of 25 deputies as previously, the incentives for the split would have been reduced significantly. Moreover, this split was cemented by Chornovil's death in a road accident many regard as suspicious. The theory that senior executive officials were involved was given more credence by the recordings allegedly made in the president's office. Furthermore, *Hromada* was perceived as particularly troublesome and was subject to intense pressure from the executive. When criminal proceedings for corruption were instigated against its leader, Lazarenko, he fled abroad, later being apprehended in Switzerland. Lazarenko's close counterpart in the faction (and previously in business), Yulia Tymoshenko, was a vociferous critic of Kuchma, but she was regularly seen meeting with the president in late 1998, and by March 1999 she split the faction to create her own, Fatherland.[16] One analyst summarized this practice: 'some people are brought close [to the president] and others are distanced. This is an ongoing, deliberate process, but was particularly obvious before the presidential elections' (Shevchenko, interview, 2001). By a strategy of 'divide and rule', exploiting the differences within and between factions, Kuchma's administration was able to shape the patterns of influence inside the Rada by manipulating the form and size of factions, as well as voting (see below).

The court ruling also removed constraints on deputy movement, permitting powerful individuals to form centrist factions. As pointed out above, the Rada contained a small number of deputies (so-called oligarchs) with vast resources – financial, media and proximity to the president – who were capable of organizing their own faction or deputy group and attracting other deputies by their influence and, in some cases, with financial incentives.[17] Such factions were likely to be attractive to deputy-entrepreneurs due their powerful connections.[18] NDP, for instance, admitted that so many single-mandate deputies joined the faction 'because they wanted guaranteed access to power structures with the aim of realizing certain private and group interests' (NDP 2001). There were at least 100 deputies with commercial interests and without strong ideological convictions who could choose and switch faction on the basis of personal connections. Furthermore, these resource-rich factions were able to recruit

deputies aggressively. This tendency became particularly marked after the presidential election, as factions sought to maximize their size at the expense of their competitors in order to strengthen their bargaining position, firstly over government formation and then in the new majority, as larger factions would be entitled to more leadership positions in strategic committees.

The referendum threat and majority formation prompted faction switching on an extraordinary scale. During interviews, representatives from five factions (majority factions *Rukh*-Kostenko, Reforms-Congress, Greens, plus the Socialists and Communists) reported pressure on factions and attempts to dissolve them. Such reports were widespread, but the mechanisms by which this was pursued were more obscure.[19] 'Pressure' was described by parliamentary staff and deputies as having two forms: pressure on a deputy's business (i.e. blackmail) and financial enticement of deputies (i.e. bribery). One source (from a majority faction) stated:

> 'Because we are in opposition to Kuchma, there were attempts to dissolve our faction. Some entrepreneurs were forced to leave due to pressure [on their businesses]. Others were simply bought. It's no secret that they were paid $30–50,000 to leave. So some of them left.'
>
> (Anonymous, interview 2000)

Clearly, only agencies of the executive have the apparatus to apply pressure to a business (in the form of various 'inspections'), but this aspect of pressure remains opaque and open to speculation about its extent.[20] Bribery was more openly discussed as a tactic of the so-called oligarchic factions, most blatantly by SDPU(o) member and ex-president, Leonid Kravchuk: 'I can say nothing bad about oligarchs – if someone is for sale, they will buy him. Here everything occurs in this manner – voting and [faction] transfers.'[21] During the second half of 2000, such trends were influenced by the need to increase the majority to 300 deputies to facilitate the passage of the president's amendments to the constitution.

In sum, faction coherence was extremely weak, although the Communists remained remarkably intact.[22] The *Reglament* amendment temporarily reduced faction fluidity, demonstrating the potential role of internal rules in structuring deputies' behaviour. Once overruled, 'political tourism' and 'political prostitution' exploded on an unprecedented scale. In the absence of constraining rules, the deliberate tactics of the president and deputy-'oligarchs' close to him exploited and contributed to the weakness of factions. Therefore, on the whole, factions exhibited lower institutional coherence than in the previous convocation, making it possible to talk of de-institutionalization. Such a process severely limits factions' capacity to develop as strategic actors within parliament, posing the gravest threat to the development of a parliamentary party system and making the legislature itself extremely vulnerable to outside manipulation.

It is against this backdrop that any consideration of voting discipline must take place, as it impossible to draw meaningful conclusions about institutionalization

from voting coherence alone. The longitudinal statistical analysis of all roll-call votes that was undertaken by Laboratory F4 has been used to identify the general patterns of faction discipline during the convocation (Laboratory F4 2000–2; Tkachuk and Lykhody 1999). These will be explained in terms of faction composition, internal parliamentary rules and the circumstances in the aforementioned key stages. During the 'fourteenth convocation' (March 1998–February 2000), continuity with the previous convocation in patterns of voting was evident. Factions at the extremes of the political spectrum were consistently more disciplined than the centre, where comparatively poor attendance augmented voting coherence problems.[23] Thus, the Communists, Left-Centre and *Rukh* were most disciplined, while Fatherland, SDPU(o), Revival of the Regions and Reforms-Centre were least coherent in voting (Tkachuk and Lykhody 1999), and the party-only faction rule amendment did not significantly affect voting discipline. And, as argued in Chapter 4, the secret voting procedures did not assist faction discipline.

The formation of the majority intentionally brought key changes in faction discipline – one of the first decisions taken was to amend the *Reglament* to ensure all voting took place on an open, roll-call basis (VRU Resolution N1400/XIV, 21 January 2000). This gave faction leaders hitherto unavailable information about how faction members were voting, enabling them to monitor the results of strict voting decisions and apply informal sanctions where appropriate. As well as empowering faction leaders to increase discipline, the amendment also tackled the perennial problem of poor attendance by stipulating that all voting takes place on Thursdays. This made it easier for deputy-entrepreneurs to vote (Deputy A, interview 2000).

The impact on voting discipline for the centre factions was dramatic. During the fifth session (February–July 2000), these new rules combined with the psychological effect of a majority (particularly under pressure from issues attendant to the referendum) and produced unprecedented discipline in factions SDPU(o), NDP and Revival of the Regions, which together with the relatively well-disciplined Greens and *Rukh*s created a critical mass to get decisions passed. Although they were supported in voting decisions by *Trudova Ukraina* and Fatherland, these factions continued to have problems with discipline (Laboratory F4 2000a).[24] Solidarity exhibited exceptionally low voting coherence due to the composition and status of the faction – formed by 6 ex-SDPU(o) deputies in alliance with former Peasants and Communists, its relationship with the majority was ambiguous, as the former left deputies refused to vote with the majority on most decisions (Pysarenko, interview, 2000).

The impact of the Gongadze scandal on voting discipline was mixed. On the whole, during December 2000–January 2001, there was no significant change in the coherence of left and centre factions. For Reforms-Congress and *Rukh* (Kostenko), however, a considerable degree of discipline was lost as these factions were internally divided about the actions to be taken as a result of the scandal (Laboratory F4 2000b). The patterns of faction discipline did not alter substantially in the period termed the 'phoney majority' (January 2001–March

2002). By this time, high levels of voting coherence were attainable by all factions.

In sum, although the Communists and Socialists had maintained strong voting coherence since the previous convocation, the rule change enacted by the majority to open, roll-call voting led to increased discipline in all factions due to increased transparency and this effect was augmented by the very existence of a majority. The creation of an institutional mechanism to facilitate faction leaders' greater control over their members and increase faction cohesion and identity was a positive step towards factions' institutionalization in the Verkhovna Rada. However, the marked increase in faction membership fluidity during and after the formation of the majority substantially undercut the significance of greater discipline.

Organizational complexity

On the whole, factions' internal organizations became more structured and developed in comparison to the previous convocation.[25] The increased status of factions was indicated at the start of the convocation with the provision of a secretariat to each faction. In comparison to the one consultant allocated in the last convocation, now the minimum was three staff, but the allocation depended on faction size. Therefore, the size of secretariats paid for from the Rada budget ranged from three to twelve people, but the factions or the party paid for additional consultants and made use of deputies' assistants, so that on average, factions were operating with staffs of around 15. The secretariats provided administrative support and expertise on legislative matters. However, given the aforementioned wealth and resources of the so-called 'oligarchic factions', inevitably there was a visible disparity in the equipment and expertise base that factions were able to draw upon. Although the resources from the parliament budget were quite meagre, centrist factions such as Revival of the Regions and *Trudova Ukraina* were able to provide a broad range of technical support to their deputies.

Faction secretariats also kept records and a protocol (brief minutes) of faction meetings and these help to reveal the transparency of factions' operations. A hangover from the Soviet past was a culture of secrecy and conception of information as power that permeates many aspects of the Verkhovna Rada's operations. Correspondingly, most factions evinced unwillingness to allow outsiders access to any faction documents[26] and nine out of 19 factions did not lodge any documents in the parliamentary archive.[27] Therefore, this analysis is based on archive documents and reports by deputies and secretariat staff. Factions met more regularly than in the previous convocation – usually once or twice per plenary week. All three right-wing factions, continuing the now established tradition, met every plenary day. Faction meetings were used primarily to discuss voting decisions (which were usually strict – free votes were rare), for faction leaders to report back on meetings with the president and government ministers attended to lobby for forthcoming bills. However, centrist

factions sometimes struggled to find quorum to adopt decisions at their meetings. For instance, the leadership of SDPU(o) recognized that absenteeism had a negative effect on the quality of decisions taken by the faction, including voting decisions (SDPU(o) 1999).

As well as gaining their own secretariat support and meeting more regularly than the previous convocation, approximately half of the factions took steps to increase the formal structure within their internal organization. Some factions adopted internal rules that set out procedures for meetings, the responsibilities of deputies and the leadership (*Rukh* 1998; NDP 1998, Socialists undated). Other secretariat staff explained that the (vague) guidelines provided by the Verkhovna Rada's *Reglament* were currently adequate and stressed the crucial role of interpersonal relations and the leader's influence in intra-faction co-ordination (Dovbysh; Kostenko, interviews 2000). Thus, these factions exhibited a preference for flexibility and were unwilling to set down rules or a formal faction structure that could potentially foreclose options in the future, reflecting the wider parliamentary 'rules culture'. Furthermore, these factions were those with the least stable membership and minimal party basis, so that they were less a parliamentary party caucus and more a vehicle for lobbying sectional interests in the Rada.

In a minority of factions, a division of labour between deputies and consultants was laid down. The Socialists, both *Rukh*s and the People's Democratic Party organized the faction into several 'internal committees' broadly along the divisions of legal, economic and social/humanitarian policy areas (for example, NDP 1998a). In these internal committees, deputies from the relevant profile committees and consultants could discuss their committee work and impending legislative bills. These factions reported that this was a more dynamic way to analyze the work of committees, and that the internal committees were responsible for tracking bills in all of the committees in the specific policy area, including those where the faction does not have a representative on a profile committee (Yasinsky; Tymochko; Chupakhin, interviews 2000). In practice, the level of activity of these 'internal committees' was difficult to discern as interviews produced countervailing evidence to the formal rule documents. For instance, staff of *Rukh*-Udovenko secretariat said there was no formal procedure for co-ordinating committee work and a Socialist deputy showed no awareness of his faction's internal committees (Interviews 2000). This sub-institution level evidence suggests a thoroughgoing congruence with the Verkhovna Rada as a whole, where formal rules lacked authority and had a 'decorative' purpose (rather like Soviet-era constitutions) that masked actual behaviour and organizational power. This was not necessarily deliberate as factions' good intentions to better structure deputies' legislative work probably dissipated as the day-to-day realities of work in the Rada unfolded.

The increased institutional support provided to factions in the form of a secretariat and basic space and equipment raised the possibilities for factions to develop a greater organizational capacity. However, the result was patchy, as factions on the left and right tended to take the initiative to develop a party

caucus organizational base. Not accidentally, these factions – Socialists, Communists, both *Rukh*s, Reforms-Congress – existed in the previous convocation and had organizational experience and traditions to build upon. To some extent, centrist factions could bypass the need for this kind of structure by buying expertise from external bodies and relying on personal connections and good access to the president. This pattern was not significantly affected by the formation of the majority. Yet on the whole, all factions did become more structured and organizationally complex and thus more capable of supporting deputies in their legislative work and of ensuring they were better informed. It laid the groundwork for greater faction participation in the legislative process and parliamentary leadership, more disciplined factions and the creation of a stronger sense of faction belonging and identity, but these potential developments were substantially inhibited by faction membership instability.

Faction activity and influence

This section explores the practical role that better structured and organized factions played in the work of the Verkhovna Rada. To this end, two key sites of faction activity – leadership bodies and the legislative process (excluding committees, which will be considered in Chapter 6) – have been selected because they are both fundamental to the functioning of a parliament and they can usefully illustrate the changing role of factions during the convocation.

'Factions in first place': leadership organs

The growing organizational work of factions as parliamentary sub-institutions and in the running of parliament was recognized early in the convocation with the exemption of faction heads from attending committee meetings (VRU Resolution 42/XIV, 14 July 1998). However, the role of faction leaders in organizing parliament remained vaguely defined. The *Reglament* briefly described the Conciliation Council of Factions, envisaging *ad hoc* meetings of faction leaders to settle inter-faction disputes, particularly during plenary sessions (art.4.2.4). However, following the tradition established by Moroz in the previous convocation, the body was used by speaker Tkachenko as a substitute Presidium, where faction leaders and committee heads would meet before plenary session weeks to discuss the speaker's draft agenda and forthcoming issues. The Conciliation Council of Factions played a substantial role in the initial allocation of leadership posts. While its endeavours were repeatedly unsuccessful in facilitating the election of a speaker, it did organize the division of committee leadership posts between factions. After their election, committee heads also attended the weekly planning meetings so that the left, with eight committee heads and the intermittent support of *Hromada* (with four committees) or one of the centrist factions, could dominate the proceedings. The role of the body was not formalized and *de facto,* speaker Tkachenko was able to exercise strict personal control over the agenda. Although the Conciliation

Council was the key formal site for faction heads to influence the Rada's organization, it was widely seen as a talking shop loyal to Tkachenko and relatively unimportant once the allocation of committees and resources had taken place (Kononov; Kachur, interviews 2000). Crucial decisions were made elsewhere: either in the speaker's (by now, rather extensive) apparat; in the regular meetings between faction leaders and the Presidential Administration; or in the corridors of parliament.

The formation of the majority in January 2000 fundamentally altered the leadership and organizational role of factions. By a combination of endogenous institutional engineering and more informal means, the majority augmented the position of factions in parliamentary decision-making to ensure their control over all aspects of the Verkhovna Rada's activity. This represented the shift to a linked dual-channel institutional design, whereby factions controlled the Rada's leadership and committee organization. The role of the Conciliation Council of Factions was codified by an amendment to the *Reglament*, so that it officially comprised the speaker and faction heads as voting members, and committee heads and the deputy speakers in an advisory role. Faction leaders had the number of votes corresponding to the size of their faction and decisions were taken with 226 votes. It was stipulated that the Council must meet at least weekly to set the draft agenda (which would be confirmed by a vote in a plenary session) and decide bill prioritization (VRU Resolution 1544/III, 16 March 2000). Thus, formally, the Conciliation Council of Factions was designated as the Rada's leadership organ and the role of factions via their leaders was decisive.

Yet in reality, it was the Co-ordination Council of the Majority (*Ko-ordinatsyina Rada Bil'shosty* or KRB) that took on the key decision-making role in parliament, illustrating the thorough-going disparity between parliamentary operation and formal rules. The KRB was formed in January 2000 on the basis of the signed agreement by the then eleven factions comprising the majority as its leadership body. The majority faction leaders met on Mondays immediately before the Conciliation Council of Factions' meeting to decide the week's draft agenda. Decisions were taken in the same way as the Conciliation Council: faction leaders reported how their faction would vote on a bill so that 226 'votes' was expected to translate into a bill's passage in a plenary session and bills not supported by the majority would not be put on the agenda (Myronov, interview 2000). This method of decision-making in both leadership organs represented an important change from the days of the Presidium where it took place on a one faction, one vote basis, which created incentives for factions to divide. Now the leadership structure could help to encourage faction consolidation in the future, if countervailing influences such as financial inducements could be eradicated.

After ascertaining which bills they could pass, the KRB formulated a draft agenda to pass to the Conciliation Council for technical corrections (for example, the Council would remove bills where committee heads reported that they were not ready). By making all committee heads representatives of the majority, the pre-eminence of majority interests in the Conciliation Council was assured. The KRB worked closely with the Presidential Administration and

became very influential in factions' voting decisions, which reduced majority factions' autonomy in deciding how to vote on a particular bill. Concomitant to this, the 'minority' factions were left outside this framework, so that their ability to influence legislation was largely restricted to committee work. The formal provision of a secretariat to the KRB in May 2000, but not to the Conciliation Council, confirmed its status as the key decision-making organ of the Rada.

These changes initiated by the majority were widely regarded as positive by parliamentary staff and deputies, who reported that parliament's calendar, weekly legislative agenda and bill prioritization had become significantly better organized and more predictable. Deputies and staff complained that before the majority, they rarely knew what was on the agenda because Tkachenko exercised personal control over it and often 'literally overnight the morning's agenda changed', making it difficult for them (and indeed, the government) to organize their legislative work (Chubarov, interview 2000). With the majority, the agenda was fixed on Mondays. However, agenda manipulation by the speakers continued, albeit in a more subtle manner. For example, first deputy speaker Medvedchuk would move the order of bills for voting so that bills he did not favour were left until the end of the day, reducing their chances of adoption because deputies began to leave.[28] On the whole however, the procedure was clearer and gave individual (majority) factions a weighted voice in parliament agenda-setting and organization.

Correspondingly, the role of the speaker and committee heads diminished vis-à-vis factions. Factions allocated the committee leaderships between them, and committee heads came to play a primarily consultative role in the leadership (see Chapter 6). Furthermore, the new speaker, Ivan Pliushch, was elected by the majority after a deal struck in the KRB. Therefore, he was obliged to take decisions together with the KRB and was more circumscribed in his actions than his predecessors. In this respect, the Rada speaker began to resemble a Western parliamentary speaker. As the majority drifted into a 'phoney majority' towards the end of 2000, these structures and procedures did not alter significantly – only the majority was less capable of guaranteeing a bill's passage and, consequently, the position of the left factions was given greater consideration.

Legislative activity

The most tangible impact of the formation of the majority was on the number of normative acts passed by parliament. In the fourth session (September 1999–February 2000), 124 laws were passed, compared to 196 in the following session (February–July 2000) (Yarosh *et al*. 2002: 100). Official sources claim this was a direct result of the majority formation and proof of its effectiveness due to improved relations with the executive (Besmertny 2000). However, figures tell but part of the story and during the convocation, the shifts in faction behaviour towards the legislative process were subtle and contained strong elements of continuity not only between the earlier identified stages of faction development, but also with the previous convocation.

The dramatic change in the number of bills passed can largely be explained by the altered contexts in which the two sessions took place, although internal rule changes also had an impact. The fourth session and the three preceding it were subject to the overbearing influence of the impending presidential elections upon factions' behaviour. With the presence of twelve presidential candidates in parliament, considerable plenary session time was taken up with campaigning via the legislative process. Such measures included introducing populist issues that stood little chance of enactment. For instance, led by left factions, a law to freeze prices on public services was passed in July 1999 and later annulled by the Constitutional Court. Therefore, the forthcoming election raised tensions within parliament and with the executive.

The existence of the majority led to increased law-making for two main reasons. First, the majority created mechanisms to expedite the passage of bills through plenary sessions by making Thursday the only voting day, by reducing the allocated time for reports and debates on bills (VRU Resolution 1426/III, 8 February 2000), and by often sidestepping the procedure for full article-by-article second reading.[29] Furthermore, the majority and the KRB provided a forum for horse-trading between factions, so they could strike deals to mutually support each other's bills. For instance, in June 2000 Fatherland agreed to vote for the privatization of Ukrtelecom in return for SDPU(o)'s support of their leader and deputy Prime Minister's amendments to the law 'On electro-energy' (Romovska, interview 2000). It is instructive to note that in this case, the deal failed to hold, with Fatherland splitting on the Ukrtelecom bill, and SDPU(o) reneging completely (Roll-call votes of 22 June 2000). The majority was always 'amorphous like *kholodets* [aspic]' (Romovska, interview 2000). Thus, a second factor is required to fully explain the increased legislative activity: the president's influence. As argued above, the main cohesive agent for the majority was presidential pressure, which encouraged compromises between its constituent factions. However, the president himself remained ambiguous in his attitude to Yushchenko's government, so that the president–government–parliament triangle was riddled with tensions and even with the majority, the passage of government bills was far from guaranteed.[30]

Relations between factions and the government before the formation of the majority were remarkably similar to the previous convocation. Centrist factions provided the core support for Prime Minister Valery Pustovoitenko and passed bills by tactical issue-based alliances with either the left or right. At the same time, left factions made several attempts to dismiss the government, coming closest in October 1998, but the Peasant faction voted with the centre (*Zerkalo Nedeli*, 17 October 1998). After the majority formed, government relations with parliament remained fraught. The main difference was that Yushchenko's core support came from the right (both *Rukh*s, Reforms-Congress) and two centrist factions, Fatherland and, to a lesser extent, Solidarity. Support from the pro-presidential and so-called oligarchic factions was ambivalent and the left factions very occasionally helped to pass government bills where centrists would not.[31] Although nearly all bills were passed by the majority factions voting

together, it is important to note that most bills were initiated by deputies, not the executive and that in the fifth session (with the majority), fewer government bills were passed than in the third session.[32]

Prior to majority formation, conflictual legislative–executive relations were in part played out via the legislative process, as occurred in the previous convocation. At the institutional level, relations between the president and Verkhovna Rada were hostile, but at the same time, the president and factions interacted on a bilateral basis to lobby for bills. The legislative process was marked by regular impasse: the president vetoed one in three laws passed and the Rada, rarely able to find the 300 votes necessary to override a veto, passed 'new versions' of these laws by making small adjustments and adopting them again. Unsurprisingly, such bills were often vetoed again. Even where a veto was overridden by the Rada, Kuchma sometimes refused to sign them. Such shenanigans were especially common over any legislation concerning inter-branch relations. For example, the law on the Cabinet of Ministers was passed and vetoed twice between 1998–9 (*Holos Ukrainy*, 12 December 1998 and 8 October 1999). Even after the majority's formation, deadlock over all bills in the sphere of executive–legislative and local government relations persisted. The most pertinent example of this was the president's bill no.5200 to implement the constitutional changes according to the results of the April 2000 referendum. Compromise between the branches over the division of powers proved elusive as both parliament and president sought to maximize their influence within the constitutional framework, and the majority had no clear position on these issues. The pro-government factions more or less sought to protect parliament's prerogatives and believed that the government should be formed by a parliamentary majority. The 'oligarch' factions had no united position, even within individual factions, as prominent pro-presidential parliamentarians, such as deputy speaker and SDPU(o) leader Viktor Medvedchuk, were torn between greater power for their party in parliament and their presidential ambitions.

However, in other spheres (such as economic or social legislation) the existence of the majority did lead to improved relations with the president. While the Presidential Administration began routinely to survey all bills going through parliament (Majority 2002), the president regularly met with majority faction heads, so each could ascertain the other's attitude to a bill and make the corresponding changes to get it through parliament and gain the president's signature. The majority took measures to implement better the president's constitutional right to priority examination of his bills (*Holos Ukrainy*, 14 June 2000). In this respect, relations with the Presidential Administration became more constructive, based on trading and compromises, making the legislative process more predictable. As a result, the proportion of bills vetoed fell from one in three to less than one in five (ibid.). However, while this trading took place at the level of factions, it also transcended them (although the precise extent is difficult to determine). While the faction leaders met with the president, and made deals between themselves, it is evident that support for bills was also gathered by more unorthodox means similar to those used to stimulate faction membership fluidity.

The president and so-called deputy-oligarchs close to him could engineer the requisite number of votes for a bill by payment to deputies and by applying pressure to their businesses.[33] For instance, the Socialist faction allowed their deputy-entrepreneurs not to participate in voting in an attempt to alleviate the pressure from state agencies (Anonymous, interview 2000). The presence of such influences on deputies' voting decisions indicates the power of so-called oligarchic groupings (or 'clans') within and beyond inter-faction relations, which served to undermine the role of factions *per se* in legislative decisions.

As in the previous convocations, factions along with individual deputies and the speaker continued to routinely violate the Constitution, laws and the *Reglament.* This extended to all aspects of the legislative process – procedures and time schedules for preparation, plenary debate and voting on bills. One deputy commented, 'The violations are so huge that no-one notices' (Romovska, interview 2000). For example, both speakers Tkachenko and Pliushch put bills to the vote several times to achieve a positive result and deputies habitually voted for up to six of their colleagues. The 'rules culture' based upon *ad hoc* interpersonal agreements was perpetuated, further undermining the authority of the Rada in the eyes of the electorate and other state organs, and giving the president a pretext to veto any bills he disliked. At the same time, such violations indicated the increased role of factions in deputies' voting decisions – faction leaders regularly collected deputies' voting cards to prevent them from voting for a bill and deputies left their cards with faction colleagues to vote for them, a practice not perceived by deputies as dubious (despite its unconstitutionality) because all voting decisions were taken by the faction or KRB in advance (Kliuchkovsky; Kononov, interviews 2000). Thus, in some respects, deputies were willing to delegate their authority to their faction.

On one hand, factions' activity during the convocation was characterized by continuity with the previous convocation: the abuse of formal rules which reflected factions' and deputies' preferences for flexibility; perpetual president–parliament conflict over all legislation regulating their relations that in turn prompted inter- and intra-faction discord over this pivotal issue; and the pervading influence of the president's attitude to a bill on factions' voting decisions. On the other hand, the mid-term formation of the majority did produce important changes, achieved largely through internal rule amendments. Outside the sphere of legislative–executive relations, the legislative process became more consensual, productive and predictable. Factions assumed the dominant role in the leadership and organization of parliamentary organs, activity and the legislative process. Yet at the same time, the majority factions' close collusion with the Presidential Administration and manipulation by 'oligarchs' associated with the president undermined the decisiveness of factions' role in the Verkhovna Rada.

Conclusion

The convocation was distinguished by the rise of factions to become the supreme sub-institution inside the Verkhovna Rada. By 2002, factions had superseded

committees in organizing the parliament's legislative work and as the dominant institution in the Verkhovna Rada leadership. To a large extent, these changes were achieved by endogenous rule changes enacted by parliament (i.e. not requiring the president's signature), especially as the majority sought to consolidate its position within the Verkhovna Rada. The mixed electoral law did ensure that parliament was more party-based than previously, but by itself the law was insufficient to create a parliament more structured along political lines. The internal rule change permitting only party-based factions briefly achieved greater political structurization, but this was overruled by the Constitutional Court. Therefore, the extent of institutional change was not thoroughgoing, with internal tinkering surpassing use of more broad-based legislative acts as the primary instrument of institutional engineering. Yet, these did help to promote nascent institutionalization of factions – with the development of greater organizational complexity and voting discipline, they were able to play a larger role directly in the legislative process and in the leadership of parliament.

However, the role factions (and hence parliament itself) could play in Ukrainian politics was circumscribed by the broader institutional nexus and political context. While the Constitution and other legislation made no provision for the functioning of a parliamentary majority, and crucially, given the absence of a substantial role for a parliamentary majority to form and take responsibility for the government, incentives for factions' institutional consolidation and co-operation (as with political parties more generally) remained poor. Furthermore, attempts made by parliament, both before and after majority formation, to augment the role of parliamentary parties and parliament in political life (e.g. the laws on the Cabinet of Ministers, on political parties, on a 100 per cent proportional representation electoral law) were blocked by the president, who throughout the convocation demonstrated his interest in feeble, fluid factions susceptible to his influence or that of his allies within parliament. The tactics pursued by these agents to split and break factions ensured that the latter remained fragile and mutable institutions. Although factions assumed the prime position in parliament, their weakness meant that parliament itself remained open to external pressure and thus incapable of providing genuine 'checks and balances' to the executive, such as legislative scrutiny, oversight and popular accountability.

6   Committee institutionalization, 1990–2002

If factions represent the partisan organization of a parliament, standing committees are its 'professional' institution – a specialized division of labour for the preparation and/or oversight of legislation, as well as other organizational functions. As such, scholars have widely recognized the central importance of an institutionalized committee system for a well-developed, effective parliament (e.g. Longley and Davidson 1998). The aim of this chapter is to explore the changing role of committees in the Verkhovna Rada and assess the extent of institutionalization during the 1990–2002 period. The approach is informed by the established literature on committees (see Chapter 1), directing the inquiry to consider the impact of their structure and composition upon committees' activities. The second dimension of the study is concerned with development and change over time. Here, as in the preceding chapters on factions, the concept of institutionalization derived from the work of Huntington (1968: 12–24) and Polsby (1990: 138–41) is utilized. The assessment of organizational complexity, coherence and autonomy is based on criteria appropriate to the functions performed by committees identified in the study of other legislatures. These include the permanence of committee organization and policy jurisdiction, the extent of internal differentiation, stability in leadership and membership, and differentiation from party (faction) and government control (Olson et al. 1998: 102). Furthermore, there is an overarching concern with the changing capacity of committees to perform the functions designated to them by the Verkhovna Rada and a sensitivity to its specific circumstances and features. Therefore, the approach will be broadly inductive and exploratory. The chapter is structured thematically across the 12-year period to highlight the structural and agential patterns of continuity and the problems that transcended convocations.

The study demonstrates that the roles and the internal and external relations of committees (called commissions until 1996)[1] changed during the period as a consequence of the growing influence of factions in the Rada. This relationship is consistent with theoretical predictions based on cross-national research, where an inverse relationship between faction and committee strength is posited (Olson in Shaw 1998: 228). At the same time, committees developed their capacity to perform their allocated parliamentary functions, making notable progress in the acquisition of their own expertise base and the development of procedures.

However, there was an abiding variation in the importance, structure and workload of individual committees, a feature common to most other world legislatures including US Congress (Fenno 1973), but the Ukrainian case evinces certain extreme variations that were deleterious to the functioning of the committee system as whole. Moreover, key areas of activity remained poorly defined – the gaps and sometimes absence of legislation or procedures governing committees' operation persisted as a result of their politicization. In addition, in many areas there was an enduring contrast between legal-formal arrangements and practical activity, evidencing the thorough-going nature of the 'cultural deficit' in the Verkhovna Rada (Ǻgh 1995: 206–7).

The Soviet institutional inheritance

Unlike factions, committees' development did not begin in 1990 with a *tabula rasa*. A commission structure had existed since 1937 and had been elaborated over time, at least formally.[2] A cursory glance at the structure of commissions indicates a growth in their role and organizational complexity during the Soviet period. This is consistent with the trends identified by Vanneman (1977) and White (1982) taking place at all-Union level. In 1937, the first three commissions were created, whose membership comprised approximately 10 per cent of deputies. By 1967, there were 17, involving over 80 per cent of deputies. These were mainly 'rank and file' deputies, as the head, members of the Presidium and those holding posts in the Council of Ministers were not commission members. Commissions, which met more frequently than plenary sessions, had about 30 members and were involved in the preliminary examination and preparation of bills and in overseeing their implementation. Their growing role was recognized in the 1978 Constitution, which strengthened their legal status and increased their prerogatives. Increasing organizational complexity and differentiation was reflected in the adoption of individual statutes (*polozhennia*) by four commissions. By 1985, there were 18 commissions covering all areas of social, political and economic life in the republic.

The growth in the commission structure in a republican Supreme Soviet raises interesting questions about their role. Given the very low legislative activity of the Verkhovna Rada and especially the fact that this did not increase over time, claims of a greater role for commissions in the Rada must be approached with extreme caution. The low legislative load of the Verkhovna Rada as a whole means that the workload of a commission could rarely have exceeded two bills per convocation (i.e. every four to five years) which means a commission's ability to develop expertise was severely circumscribed. Shemshuchenko (1999: 156) suggests that their greatest role was in oversight of government institutions. Although lack of evidence makes the claim difficult to disprove, it is unlikely that commissions were capable of exercising scrutiny over the implementation of laws since they were reliant on the bodies they were scrutinizing for information.

The extent and significance of the elaboration of the commission system over time is difficult to assess. As these changes mirrored all-Union developments, it

seems likely that the reasons for change were external/'from above' rather than reflecting increased demands of the state on the republican Soviet. Nevertheless, the system did become more structurally complex and the 1978 Constitution reflected that commissions, along with the Presidium, were the most important internal institutions of the Verkhovna Rada. This was a significant legacy as this Soviet-era institutional arrangement of parliament survived until 1996.

Structure

In this section, key aspects of committee structure will be examined, such as the legislative basis for their operation, their jurisdictions, number and size. Their impact upon committee functioning and institutionalization will be considered, issues that will be returned to later in the chapter when committees' activity is discussed. In addition, a full list of committees and their size is available in the Appendix.

The legislative basis for operation

Unsurprisingly, given the enormity of challenges faced by the Verkhovna Rada to transform itself from a 'rubber stamp' institution into a genuine legislature, legislation governing the structure and activity of committees changed relatively frequently during 1990–2002. Yet the changes were incremental, building upon and elaborating the existing (Soviet-designed) system rather than wholesale reforms. Initiatives for a more far-reaching restructuring of the committee system gained support among deputies (and were promoted by international technical assistance programmes like USAID's Parliamentary Development Project), but always fell victim to the political circumstances and internal power play between factions. Thus, an ongoing feature of the Rada was an outdated and inadequate legislative basis for committee operation.

Committees' activity was regulated by the Constitution, the *Reglament* and the law 'on standing commissions', as well as by statutes adopted by individual committees. Although a draft law 'On standing commissions' was debated by the Rada several times from as early as June 1990, the bill drowned in political contestation and commissions continued to work according to the brief and obsolete statute 'on standing commissions of the UkrSSR' passed in 1980, which contradicted the acting Constitution (Kosinsky 1998: 14). The new law was finally passed on 4 April 1995, i.e. mid-convocation. The timing is significant because commissions were already formed, jurisdictions and personnel had been allocated and factions were particularly interested in retaining their designated commission leadership posts and composition (see below). This severely impeded the scope for reform in the law, which ultimately elaborated the defective Soviet-based system already in operation.

The law was formally outdated just a year later, as the Constitution adopted in June 1996 required a new law on standing *committees*, implying a significant

overhaul of the existing system. Despite widespread consultation by the Verkhovna Rada on changes to the structure, composition and number of commissions from September 1995 and the examination of two bills in 1997 and 1999 proposing radical reform of the entire system, political preferences and short-term thinking prevailed and neither were adopted. A similar example is to be found in the operation and repeated failure to adopt a new *Reglament* law. This meant that after more than a decade, committees' structure and procedures were widely recognized as inexpedient, ill-defined and outdated, but at the same time, they were perceived as too difficult to alter.[3] As in other areas of Rada operation, it was seen as easier to make *ad hoc* alterations to existing legislation or to develop informal procedures to 'get things done'. As will be demonstrated below, this lent at best a rather unpredictable character to committees' operations and the legislative and oversight processes. Moreover, the inability of successive parliaments to even agree on the 'rules of the game' points to thorough-going problems with committee institutionalization in the Verkhovna Rada and suggests the presence of overriding incentives for maintaining the existing, inefficient system.

Types

Although the committee system was based upon Soviet institutions, in certain respects it also resembled the US system, as committees were permanent, largely parallel to the structure of government agencies and were engaged extensively in all stages of the drafting and scrutiny of legislation.[4] As in US Congress, the list of standing committees was not laid down in legislation and was decided at the beginning of each convocation, although the changes made each convocation were relatively minor. In addition, the Verkhovna Rada formed temporary special commissions and temporary investigatory commissions to work on specific issues and occasionally standing committees were formed mid-term.[5] The majority of standing committees corresponded to branches of government and shadowed a specific ministry or state committee, dealing with the preparation and oversight of all legislation in that sphere and reviewing the budget for the ministry. However, in addition to branch committees, there were three committees delineated by function: the jurisdiction of two of which cut across the work of all government agencies – on legal policy and on state building and local self-government, while the third, on *Reglament*, deputy ethics and organization of the Verkhovna Rada, was concerned exclusively with internal parliamentary affairs. This combination of branch and functional committees proved to be a stable arrangement after 1990.

Jurisdiction

The main functions of committees included legislative work, research/information gathering, oversight of legislation and the state budget and advance discussion of candidates for posts appointed or confirmed by the Verkhovna

Rada. The formal legislative powers of committees were comparatively strong in relation to West European parliaments (see Mattson and Strøm 1995). For example, a committee debated a bill prior to its first examination in a plenary session, had the power to redraft bills and to prepare legislation on its own initiative. However, the right to redraft a bill was circumscribed by the right of deputies to insist on a vote in a plenary session of an amendment rejected by the committee. In addition, the right of committees to initiate legislation was not foreseen by the 1996 Constitution, so thereafter this took place via committee members exercising their right of legislative initiative as individual deputies. This was seen by committee staff and experts as representing a significant downgrading of the role of committees in the legislative process and requiring rectification (e.g. C and Zaiets, interviews 2000). Committees did have considerable control over their own timetable as committees themselves generally decided when to introduce bills into plenary sessions. However, in terms of controlling their own agenda, they became increasingly subject to the influence of factions. As faction leaders took precedence in the Rada leadership bodies, increasingly they set the draft legislative agenda rather than committee heads, leaving the latter with only the negative power of delay. Committees also had strong powers of informational acquisition as executive organs, officials and representatives of enterprises were obliged to provide documents and to attend meetings as required by the committee. Thus, in formal terms, the authority of committees was substantial. This grew out of the Soviet model where committees were formally the key parliamentary internal institution. The general jurisdiction of committees remained stable over the period under consideration.

However, the jurisdictions of individual committees altered over time, reflecting the increasing and changing demands of the state on the Verkhovna Rada as well as group interests within parliament. The jurisdictions were defined by the Presidium until 1996, and in 1998 by the then informal Conciliation Council of Factions. During the twelfth convocation (1990–4), jurisdictions were not well-defined and there was considerable overlap of competences between commissions. The starkest example of this is the presence of two agricultural commissions (see Appendix).

The election of the thirteenth convocation in 1994 saw considerable restructuring of commissions' jurisdictions (see Appendix). Some of these innovations reflected the new needs of the state: the old commission on planning, the budget, finance and prices was remoulded into two commissions – on the budget, and on banking and finance. The remit of the mandate and deputies' ethics commission was expanded to cover the operation of the parliamentary *Reglament*. Other changes represented an attempt to streamline the system and make the jurisdictions clearer and more logical. Thus, the two agriculture commissions were merged, and most of the remit of the women's affairs, protection of the family, motherhood and childhood commission was incorporated into the health commission (Rudy, interview 2000). However, other modifications reflected both the emergence of new interests in state policy

and competition among factions for the attendant leadership posts and influence over specific policy areas. For example, this led to the creation of two new commissions with overlapping competences – on the fuel-energy complex, transport and communication and on nuclear policy and safety. These were formed in addition to the existing commission on the Chornobyl catastrophe.

The beginning of the fourteenth/third convocation (1998–2002) also brought attempts to clarify jurisdictions and reduce the number of committees. Four committees were merged into two: Chornobyl was amalgamated into the ecological policy committee; law enforcement and crime and corruption were joined together, only to be separated again after the formation of the majority in January 2000. At the same time, the competences of some committees were broadened,[6] although the overall number was not reduced. Factions' interests in influencing the legislation in certain policy spheres meant that they sought to control committees. For instance, this led to a (failed) attempt to split taxation issues away from finance and banking and into a separate committee (A; C, interviews 2000). Furthermore, the political agenda of factions had a tangible impact upon the number and jurisdiction of committees. For example, the resurrection of a committee on pensioners, veterans and invalids in 1998 appeared to be a specific attempt by the Communist faction to appeal to their electoral constituency. In sum, some streamlining and clarification did occur, but this took place on a piecemeal basis.

As a result of the ongoing unclear division of competences between committees, arrangements were made informally between them on an *ad hoc* basis. This was made clear in interviews with senior committee secretariat staff:

'From time to time, some questions [that the committee was responsible for] were given to other committees. ... In the previous [thirteenth] convocation, finance and banking took over some questions. They took over the Customs Code, but then that question came back to [the economic policy committee] because it was so complicated.'

(Nochvai, interview 2000)

'The law on standing committees does not really correspond to reality, but everyone knows the boundaries and order exists. We have traditions. For example, the bill on VAT on agricultural products was passed [from finance and banking] to the agricultural committee. This is not strictly correct, but it is tradition, and takes into account the [high] workload [of finance and banking] and the fact that some deputies in the agricultural committee want to decide these issues.'

(C, interview 2000)

Therefore, in many cases committees negotiated the overlapping jurisdictions between themselves. Sometimes, however, the overlap resulted in strained relations and inter-committee competition over legislation. Committees fought for the right to examine a bill or simultaneously submitted competing drafts

for examination (Sinclair 1998: 11). One example of this is the unclear competences of two functional committees – on legal policy, which has the authority to review all legislation, and on state-building and local self government, a name that betrays a nebulous remit. The latter commission was formed in 1994 on the basis of the commission on activities of local councils and local self-government. This was driven by the interests of the Communist faction, who were seeking means to influence key state-building legislation (such as the constitution drafting process) (author's conversation with Wolczuk, 7 February 2002). For instance, during 1995–6, both commissions were charged with drafting the new law on elections of people's deputies, both felt their version was superior and lobbied the Rada for their passage (Legal commission 1995; Steshenko 1995, 1996). This was not ideologically driven, as both bills envisaged a 50:50 mixed majoritarian–proportional system and were similar. The case illustrates the inherent inefficiencies of unclear jurisdictions and the potential for generating avoidable tensions within the committee system. Although there were areas where competences were clarified, overlap and its attendant problems persisted throughout the decade under investigation.

Number of committees

In 1990, the number of committees was increased from 18 to 25. During the thirteenth convocation, there were proposals to reduce the number to 17 or 19, but 23 were created, along with the special commission on privatization. This number is considerably higher than the average of 15 committees in Western and East Central Europe (Ágh 1998: 91), and closer to the Russian experience, where 28 committees were created in 1995. Each committee formed three to five subcommittees along policy lines. Furthermore, the Soviet-era practice of forming working groups to devise preliminary drafts of legislation perpetuated. Thus, the number and internal structure of committees in the Rada was relatively stable and well-elaborated, demonstrating organizational complexity – a key characteristic of institutionalization. The literature suggests a positive correlation between the number of committees and their strength, based on the logic that a large number of small groups is more efficient, has a greater capacity for dealing with legislation and is harder for the executive to control. Generally, a large number of committees connotes a more productive, autonomous and institutionalized committee system (Mattson and Strøm 1995: 259–60). However, this theoretical proposition takes clear jurisdictions between committees and other factors such as the even distribution of workload as given. In the case of the Verkhovna Rada, these conditions did not apply. In Ukraine, the large number (paralleling the situation in the Russian Duma) was indicative of the prioritization of deputies' political interests over the most efficient division of professional labour.[7] One senior member of the secretariat encapsulated this pattern of behaviour: 'Some committees just exist because someone wants to be the chair. ... This is understood, [but] it does not help the

effective work of committees. The artificially created committees have less of a workload' (C, interview 2000). Deputies consistently resisted any attempt to reduce the number of committees: this would mean fewer leadership posts to share between factions. This was a key stalling point in the passage of the 1997 and 1999 draft laws 'on standing committees' as both bills envisaged a rationalization to 17 committees as optimal to streamline the competences and increase their size to raise their overall effectiveness (Romovska, interview 2000). Committees are a source of material privileges: office space and equipment, staff, access to a car, etc., as well as institutional ones, like conferring status, opportunities to influence the legislation in a specific area and access to executive officials.

Size

Through efforts in the Conciliation Council of Factions, in 1998 a resolution was passed by the Rada to increase the size of committees (*Holos Ukrainy*, 14 July 1998). The resolution stipulated that committees should have no less than ten and no more than 30 members and represented an attempt to even out the wide variance in committee size that existed in previous convocations. In the twelfth convocation, committees had between seven and 27 members, in the thirteenth the disparities expanded, ranging from six to 37 members. Although the Rada agreed the size of each committee before the places were allocated, there were regular deviations from this figure. Some committees, such as finance and banking, economic policy, energy and foreign affairs were oversubscribed, while others, such as health and pensioners and invalids affairs had difficulty finding members. The variations in status and prestige attached to each committee by deputies accounted for the divergence in committee size, although workload disparities were also recognized in the size allocation (Mishura; Chubarov; Nochvai, interviews 2000). The aforementioned resolution did reduce the extremes of membership variations and increased the average size of committees from 18 (1990–8) to 20 (1998–2002). This was particularly important because not all members participated fully in committee work.

In terms of the formal structure of the committee system, the Verkhovna Rada took steps to elaborate the legislative base and rules governing the size of committees with some limited success, but clarification of individual committee jurisdictions and agreement on the most expedient number remained elusive, largely because in these issues, efficiency considerations clashed with factions' preferences. Factions also had a growing impact upon another key aspect of committees' form: their composition.

Formation and membership

Each deputy was allowed to serve on just one committee. Only the speaker and two deputy speakers were exempt from committee membership. The literature on committees points to three main areas of importance in

considering the impact of committee membership on effectiveness – the method of assigning deputies; the distribution of party (faction) representation and the stability of membership (Damgaard 1995). In addition, the issue of deputies' attendance emerged during the fieldwork as particularly salient for the case of the Verkhovna Rada. Each area will be examined, highlighting the specific circumstances in the Rada and the changes that occurred over time.

Committee assignment

The method of assigning deputies to committees is an important factor in shaping the capacity of factions to work effectively. Most parliaments in Western Europe form committees that will be representative of the political spectrum within parliament and based on the professional experience of deputies so that committee recommendations on a bill will have authoritative weight in terms of expertise and political balance. In the Verkhovna Rada, there has been gradual progress in this direction. In the twelfth convocation (1990–4), a procedure to allocate deputies to commissions was absent. Commission allocation took place during the Soviet era (i.e. in 1990) when factions were embryonic formations and in practice, each deputy was largely free to select his/her assignment. This tended to be based on their profession or interest (including specific constituency interests). This meant that some commissions lacked regional diversity (Bach 1996: 218). Therefore, commissions were often not representative of the parent chamber.

The emergence of a more defined faction system in the thirteenth convocation facilitated the adoption of a formal allocation procedure. The *Reglament* stipulated that committees would be formed after factions according to the principle of proportional representation of factions in committees (art.4.4.2). Factions would draw up lists of candidates according to the proportional quota agreed by the Conciliation Council of Factions and with the agreement of the candidates (art.4.4.3) and these lists would be confirmed by a Rada vote. However, the procedure also included the provision that a faction's refusal to adhere to the agreed quota would not prompt the re-examination of committee or chair assignments (art.4.4.5). This clause was a recognition of weak and fluid faction identity and the lack of sanctions available to faction leaders to compel faction members to join a particular committee. It implied that in the circumstances of the time, the proportional system would be difficult to adhere to.

Nevertheless, the establishment of a formal procedure similar to those of West European parliaments, based on a combination of faction and individual preferences, represented an important step towards institutionalizing committees as a microcosm of the parent chamber that would give committees' recommendations greater authority.[8] Although it will be demonstrated that proportional representation was scarcely enforced in the thirteenth convocation, the growing strength of factions meant that this began to change in the fourteenth/third convocation.

Faction representation

In the thirteenth convocation, deputies' preferences played an important role in determining their committee assignment, but the more disciplined factions, especially the Communists, were able to play a greater role in directing deputies to committees considered to be of strategic importance. Factions demonstrated their interest in gaining a 'controlling share' or at least disproportionate influence in committees covering certain policy areas by nominating candidates to such committees above the agreed faction quota. For instance, the Agrarian faction secured a controlling share of the committee on the agro-industrial complex, the Communists dominated the state building and freedom of speech committees, while Reforms were disproportionately represented on the legal committee and *Rukh* on culture and spirituality.

While there were strong incentives to try to 'capture' a committee perceived as prestigious or covering an important policy area, this meant that there were also few incentives for factions to delegate members to less popular committees such as health or ecological policy and these committees remained small and unrepresentative. Regarding the committee on the Chornobyl' catastrophe, the chair Volodymyr Yatsenko lamented: 'In our committee, there are only six deputy-enthusiasts. ... The work attracts few nowadays ... only those capable of sincerely sympathizing with a stranger's suffering' (*Holos Ukrainy*, 12 June 1994). Thus, a majority of committees were not composed of representatives of all factions. As committees' representativeness of the parent chamber is a core basis for the authority of their recommendations in plenary sessions, disproportionate representation and lack of political balance helped to undermine this authority.

This experience prompted deputies at the start of the fourteenth convocation to make a greater effort to ensure a more proportional allocation and to increase the role of factions in the process. As a consequence, most committees now had representatives of all factions, although smaller factions (such as the Progressive Socialists with 17 members) clearly could not be represented in all 23 committees. However, some factions still found it difficult to persuade their members to take up posts in less prestigious committees such as on pensioners, veterans and invalids, where only four factions were represented and the membership was overwhelmingly comprised of the Communists' quota. Therefore, a more even representation was achieved, but some committee memberships deviated significantly from proportionality.

The formation of the majority engendered renewed efforts to redistribute committee memberships. As this took the form of shuffling individual members between committees rather than a wholesale reallocation, the majority tended to focus upon ensuring that they had a majority in each committee, rather than a strict faction-based proportionality. This aimed to make decision-making easier in the committees and to better reflect the situation in plenary sessions. Yet this was still not possible for the pensioners, veterans and invalids committee, where the Communists maintained an overall majority.

If factions' low levels of internal discipline made it difficult to adhere to proportional representation in initial committee allocation, their membership instability reinforced the non-proportional nature of committees' composition and made it virtually impossible to achieve. When deputies changed faction, they rarely changed committee as a consequence. This inevitably impeded the development of a link between factions and committees and meant that the balance of faction representation within a committee changed quite regularly, especially in the fourteenth/third convocation. The creation of new factions did not usually lead to a redistribution of committee memberships, so that in 1999, new factions *Trudova Ukraina* and Revival of the Regions were represented in only 11 of 23 committees (Tomenko 2000: 25–6). Furthermore, the reduction of the minimum faction size from 25 to 14 in 1998 permitted the proliferation of factions too small to be represented on all committees.

Therefore, obstacles to achieving proportional representation remained. However there was overall a growing trend towards increasing the role of factions in committee allocation and towards proportional representation or at least greater political balance in committees' membership. This brought practice into closer congruence with procedure.

Membership stability

Membership stability in committees is essential for the development of members' expertise and good working relationships both within the committee and with external bodies relevant to a specific policy area. If a deputy is confident that their committee placement will last for a whole convocation, and especially across convocations, this creates incentives to acquire specialist knowledge, which in turn increases the capacity of a committee to fulfil its functions effectively. In the Rada, the high turnover of the deputy corpus at elections meant many inexperienced deputies entered parliament each convocation, creating very low levels of committee membership continuity and limiting the potential for accumulated expertise. There is emergent evidence that the rate of turnover is gradually decreasing at each election (just 65 deputies were returned in 1994, but this figure increased to 149 in 1998)[9] and there is some evidence that membership continuity is beginning to be established. For example, the legal committee had one member who served for three convocations and two who were members from 1994–2002.

Nevertheless, deputies continued to change committees mid-term fairly regularly. There were 21 changes in 1999 and 50 in 2000, the increase being a temporary phenomenon as a result of the aforementioned membership engineering by the newly formed majority. Although factions were a growing cause of inter-committee movement, many changes continued to be motivated by individual preferences. Some deputies attempted to move to more prestigious or influential committees, while others moved to committees where there would be a lighter workload (Romovska; Nochvai, interviews 2000). The level of movement also reflected the extent of faction discipline: deputies from centrist factions

tended to switch committee more often, while the Communist faction did not encourage deputies to change once they had been appointed by the faction.

The ongoing membership instability restricted committees' capacity to develop their role as specialist bodies in the legislative and oversight process. The main underlying cause was the lack of a strong, consolidated party system that could make politics a long-term career choice, rather than a privileged sabbatical.

Attendance

Membership stability is only one dimension by which the opportunities for the acquisition of expertise can be assessed. Participation in all committee meetings was formally required by the Rada's rules and regular attendance facilitates not only a deputy's specialization and engagement with key issues, but also the availability of skilled labour to share a committee's workload and to ensure the representation of views from across the political spectrum in decision-making. During the period under consideration, there was an ongoing problem with attendance, with the partial exception of leftist factions (especially the Communists). The introduction of sanctions was slow and had limited effect. This continuing problem limited the potential for developing the professionalism and efficiency of committees.

In 1990, the Verkhovna Rada was elected as a part-time body. As a consequence, most deputies had other full-time jobs in the executive, local government or state enterprises. Gradually during the twelfth convocation, deputies began to switch to full-time work, although by the end of the convocation, the figure was still below 200 deputies, less than half of the total (Stadnyk 1998: 404). For the commissions, this meant regular operation was dependent on less than half of their allocated membership. For instance, the commission on economic reform and management of the national economy had just eight deputies working full-time (out of 26), with the part-time members attending only rarely (Nochvai, interview 2000). Moreover, for part-time deputies, there was little motivation to gain expertise or even to be well-informed about current issues and the effect on legislative work was encapsulated by full-time commission member, Ivan Zaiets:

> Commission members work in a well-organized [manner]. … However, there are complications … connected with the fact that … the deputies who don't work in the commission full-time often bring irritability to the work. Why? They don't participate for weeks and when they do come to a meeting, not having studied the documents, not knowing the opinion of other deputies, they propose their own ideas
>
> (*Pravda Ukrainy*, 9 June 1990)

In this respect, the fact that only 65 deputies were re-elected must at least partially be interpreted as a 'house-cleaning' of disinterested and uncommitted deputies.

The need to increase professionalism was recognized by deputies in the thirteenth convocation, which gradually moved to become a full-time body. For example, over 300 deputies were full-time by the beginning of 1995 (*Ukrains'ka Hazeta*, 5 January 1995). Of the remainder, there were approximately 80 *sumisnyky* with posts in the executive, but after dual-office holding was prohibited by the 1996 Constitution, they were gradually forced to give up one of their posts over the next two years.

Nevertheless, poor attendance was a persistent problem, particularly among members of less-disciplined factions, as deputies made clear in interviews. Committee secretariats became extremely reticent to release information about attendance and the opportunities to obtain data were limited to interviews with deputies and committee staff. This was because attempts made by the speaker of the thirteenth convocation, Oleksandr Moroz, to introduce sanctions for non-attendance – the publication of the names of non-attendees and salary deduction – became bitterly politicized and upset internal committee relations (Nochvai, interview 2000). In interviews, deputies and staff continually noted that leftist, particularly Communist, deputies' attendance approached 100 per cent and that in general committee meetings obtained quorum (50 per cent of members). However, deputies and staff also suggested that it was not uncommon for some deputies to come just for the first ten minutes (e.g. Mishura; Romovska, interviews 2000).

Interviews imply that deputy participation was dependent upon personal conviction and/or faction discipline, but also that deputy-entrepreneurs were generally less engaged. One deputy-entrepreneur encapsulated this attitude:

> 'The wages do not stimulate full-time work. If a deputy gets only $200 a month, they have no need to stay and work here, because … they would have to leave their businesses to write laws. Deputies come on issues that interest them.'
>
> (A, interview 2000)

The implementation of sanctions for non-attendance began during the fourteenth/third convocation. Deputies' salaries were routinely docked for missing meetings without just cause. However, given the large number of deputy-entrepreneurs with substantial outside incomes, such sanctions could provide incentives to attend to only a limited proportion of the deputy corpus.

Amendments to the *Reglament* made by the majority did not attempt to improve the situation: all voting was moved to Thursdays, reducing the need for deputy-entrepreneurs to attend on other days, and a provision permitting deputies to vote *in absentia* at committee meetings by sending a formal statement was instituted (VRU resolutions 1426–III, 8 February 2000 and 1475–III, 22 February 2000). Given that most deputy-entrepreneurs were members of the majority, it is scarcely surprising that these amendments sought formally to legitimize the status quo.

Therefore, although there were some improvements in attendance as a result of the move to a full-time parliament during the thirteenth convocation, for most

committees the problem perpetuated. While deputies were able to continue running their businesses whilst holding a representative mandate, this seemed unlikely to alter on a large scale.

The gradual establishment of rules and procedures for the allocation of committee membership and the ongoing progress towards their adherence indicates a positive step in institutionalizing the form of the committee system. The wider shift of the Verkhovna Rada to a full-time body was also important in this respect. However, the ability of committees to develop as specialist institutions remained circumscribed by the ongoing lack of membership continuity and stability and the low commitment to committee work exhibited by a substantial proportion of deputies.

Leadership

Each committee had its own leadership headed by a chair, who was elected by the Verkhovna Rada as whole. Chairs performed a role in committees akin to that of the speaker in the wider parliament and their authority included agenda-setting and representing the committee in the Rada's leadership bodies and in plenary session discussions. Thus, the post of chair was influential in shaping a committee's activity, in the wider legislative process and in the organization of parliament. Therefore, there was considerable competition among political groups for committee chairs and, as factions became more organized, a shift in the role of chairs in the Rada.

Electing the leadership

In 1990, there was no established procedure for the allocation of committee chairs. These assignments were particularly crucial for parliament because committee chairs (together with the speakers) comprised the Presidium, which at that point was parliament's full-time leadership organ with broad powers including the right to issue binding decrees and grant amnesty. In effect, the Presidium was the republic's collective leadership. After the election of the first president, in 1992 the Presidium divested itself of many of these powers, but retained powerful prerogatives as the steering body of the Verkhovna Rada, such as agenda-setting and the allocation of resources. The apportionment of chairs was an important patronage resource of the speaker to consolidate his control over the parliament. In 1990, the Communist majority commandeered the speaker's and deputy speakers' posts and they intended to do the same with the committee chairs, following the established tradition of formally approving the speaker's nominations. However, the prospect of being excluded from all Rada leadership positions compelled opposition deputies (comprising 27 per cent of deputies) to organize formally as the People's Council and threaten to paralyze the parliament by walking out. This move prompted speaker Ivashko to initiate secret negotiations with the People's Council, which resulted in the opposition gaining almost one third of the chairs. This was an important compromise that

set a precedent for proportional representation of parliamentary forces in the leadership.

Thus, in 1994 the new convocation formally established the basic principle that committee chairs were to be distributed proportionally, although a procedure for this was not elaborated until later (VRU resolution 11/94, 13 May 1994). Nevertheless, given that the composition of the parliament was extremely polarized and that the left held a relative majority in the first session of parliament (until repeat elections in July–August 1994 began to fill vacant seats), the left were able to elect their speaker and deputy speaker and pushed for a 'packet vote' of a list of all committee chairs. Right-wing deputies considered this an attempt to 'rubber stamp' the speaker's choice of chairs to secure the predominance of the left in the Rada (e.g. Chornovil in *Holos Ukrainy*, 1 June 1994). Despite the protest of the right, the list was passed. The proportional principle was broadly adhered to, but the right was slightly underrepresented (23 per cent of deputies, but only 15 per cent of chairs) and strict adherence to proportionality would have afforded them a further two chairs. Meanwhile, the left cornered 46 per cent of the leadership posts (including the two most powerful speaker's positions) whilst comprising 43 per cent of the parliament, while the centre and independents gained 38 per cent of the posts with 32 per cent of the composition. To an extent, the July–August rounds of elections would even out the over-representation of the centre and independents, but the left would remain over-represented after their relative majority had been diluted. It was a further repercussion of the electoral law that leadership posts were allocated before all deputies had been elected, and in fact the parliament was short of over 100 deputies at this point.

In 1998, as in the preceding convocations, disagreements over procedure dogged the election of chairs. The Conciliation Council of Factions drew up a list according to proportional representation based upon quotas for each faction. However, the agreement brokered in the Conciliation Council collapsed in voting, despite speaker Tkachenko putting it to the vote 18 times (*Holos Ukrainy*, 10 July 1998). Finally, *Hromada* was able to make deals with the Communists and *Rukh* to forge an agreement that broadly represented most factions proportionally (and *Hromada* disproportionately). The distribution is illustrated in Table 6.1.

Ostensibly, the main losers in this process were the small Progressive Socialist faction and the non-aligned deputies, who gained no chairs as the larger factions divided them between themselves. However, the negotiations were informed also by the relative prestige of a committee and in this respect, the clear winners were the Communists, *Hromada* and *Rukh*. Nevertheless, the distribution was roughly proportional, although this was eroded by the faction membership fluidity that exploded after the Constitutional Court ruling ending the restriction on non-party based factions. This meant that by December 1999, NDP were significantly over-represented as faction splits left them with only 6.6 per cent of seats, but 22.7 per cent of chairs while there were six new factions that were not represented at all (see Tomenko 2000: 25). Thus, by the time of

Table 6.1 The distribution of committee chairs between factions, 1998

Faction	No. chairs	% seats	% chairs	Committees allocated
Communist	6	27.4	27.2	Economic policy; legal policy; foreign relations; state-building; defence; pensioners and veterans.
NDP	5	19.8	22.7	Energy sector; transport and communications; health; industrial policy; science and education.
Hromada	4	8.7	18.1	Budget; law enforcement; *Reglament*; youth and sport.
Rukh	3	10.4	13.6	Finance and banking; human rights; culture.
Left Centre	2	7.8	9.0	Agriculture; freedom of speech and media.
Greens	1	5.3	4.5	Ecological policy.
SDPU(o)	1	5.6	4.5	Social policy.
Progressive Socialists	0	3.8	0	–
Non-aligned	0	10.9	0	–

Source: *Zerkalo Nedeli*, 11 July 1998 and author's calculations based on the size of factions in July 1998.

majority formation in January 2000, the need to reallocate committee leaderships was widely recognized by many of its constituent eleven factions.

The majority sought to secure control over the Verkhovna Rada and especially over the legislative process by removing all leftist committee chairs and redistributing them among the majority factions on the basis of proportionality and, for the first time, explicitly taking into account the relative prestige of committees. The speakers' posts and deputy chairs of committees were incorporated into the calculations and each committee was weighted with a coefficient determined by its importance. Thus, the chair of the budget committee 'cost' more than social policy. Factions horse-traded their quotas until a list was agreed upon. Even small factions like *Hromada* and Reforms-Congress (both on the verge of dissolution with only 13 members) gained chairs. This reallocation represented a move from proportional to majoritarian representation of the parliamentary leadership, by excluding the left opposition from their posts. This greatly reduced the scope for the left to influence the activity of the Rada as a whole and, combined with the accompanying committee membership shifts, meant that the committees broadly represented and reinforced the new distribution of power in parliament. Majority control over committees created opportunities for an increase in legislative output by raising the probability that a committee recommendation would be put on the agenda in good time and passed by the majority in plenary sessions. The gradual dissolution of the majority was

not accompanied by any reallocation of chairs, so that although majority influence gradually dissipated, it still operated informally until 2002.

The polarized composition of each convocation, combined with ill-elaborated procedures, set the stage for bitter clashes over both procedure and the actual distribution of posts. The necessity of conflict resolution led to *ad hoc* provisions that were gradually elaborated by each successive convocation into a formal procedure based upon proportional representation. However, the proportional principle was an inadequate method to ensure even representation of factions in the Rada leadership simply because it was rapidly undermined by faction membership instability, especially in the fourteenth/third convocation. In this respect, the attempt by the majority to implement a majoritarian distribution with elements of proportionality was also doomed to become unrepresentative rather quickly. Thus, the Rada was faced with making a trade off between ensuring representation (by regular rotation of committee heads) or stability. Given the difficulty of hammering out deals in the first place, it is unsurprising that stability became the default option. Therefore, committee chairs tended to remain in place even if the faction that had nominated them dissolved.

The role and influence of committee chairs

The powers of committee chairs were elaborated in the 1995 law 'on standing commissions' which, as argued above, broadly reflected the then existing situation that developed out of the Soviet-era arrangements. The role of the chair was primarily organizational. Their authority included organizing the agenda of committee meetings, inviting experts and representatives of government, other state organs or citizen's associations to meetings, proposing candidates for the committee's deputy chair(s) and secretary. They were also responsible for the committee's budget (for the payment of staff, experts and deputies' business trips, etc.) and representing the committee in the Rada's leadership organs. Taken together, these formal powers comprised substantial levers for chairs to control the activity of their respective committee.

However, it was a chair's personal qualities that were emphasized by deputies as being key to their influence within a committee. Attributes such as professionalism, procedural strictness, intelligence and tolerance were stressed as important to a committee's functioning. The character of the leader was seen as more or less crucial to how a decision was taken (e.g. Kocherha; Kliuchkovsky; Zadorozhna, interviews 2000). And although instances of ideological conflict in committees as a result of the position of the chair were reported, deputies' attitude to the chair to some extent transcended partisan affiliation as they spoke highly of the professionalism of chairs from the opposite end of the political spectrum. For instance, *Rukh* deputy Yury Kliuchkovsky (interview 2000) spoke of the professionalism of former state-building committee chair, Communist Oleksandr Kushnir. Thus, the chair could play a role in the modification of partisanship as is commonly seen in other legislative committees worldwide (Shaw 1979: 424). Yet committee chairs could face divided loyalties – between

the faction that gained them the post and the committee they led. For example, tensions would arise if a Communist chair who had won the confidence of a committee's cross-party membership was pressurized by the party's Central Committee or the faction in a direction contrary to the will of the committee as a whole.[10] The trend of chairs having responsibility to the faction that secured their position grew over time as factions became more organized and coherent. Unsurprisingly, this was most evident among the more disciplined factions like the Communists, but was a also general pattern reflected in and supported by the procedures developed for the election of chairs.

A key source of chairs' influence was their role in the Rada's leadership bodies. The pattern of development in this area also denotes the gradual shift in decisional power from committee chairs to faction leaders. Prior to 1996, the parliamentary leadership body was the Presidium, which had wide powers over the agenda and calendar as well as the parliamentary budget and accounts. The Presidium was responsible for co-ordinating the legislative process. In addition, it was in charge of the organization of national referenda and, given the absence of a Constitutional Court, for overseeing adherence to the constitution (Presidium 1995).

Until 1994, the body consisted of the speakers and commission chairs. In 1994, faction leaders were invited to meetings in an advisory capacity, but following the conclusion of the constitutional *Dohovir* in 1995, they were formally included as full Presidium members. After the Presidium was abolished by the adoption of the 1996 Constitution, its agenda-setting and legislative co-ordination functions informally passed to two bodies: the Council of the Heads of Standing Commissions and the Council of Representatives of Deputies' Groups (Factions) (in effect the same as the Conciliation Council of Factions), yet the activities of either body were never legally codified. Although, the speaker was widely regarded as the dominant figure in the Presidium, its abolition gave the speaker more latitude, particularly regarding the agenda and budgetary allocation, a trend that became particularly evident under speaker Tkachenko (1998–2000). At the same time, faction leaders were establishing a their role as key decision-makers in parliament and step-by-step committee chairs were allocated a more consultative role. This was formalized in the amendments to the *Reglament*, which made the Conciliation Council of Factions parliament's main organizational body, where faction leaders had decisional voting rights, while committee chairs' votes were advisory (see Chapter 5). Therefore, in the area of leadership – both at the wider parliamentary level and within individual committees – there was a clear trend towards factions becoming the most influential institution, but also of growing co-ordination between the activity of committees and factions.

Staff and resources

In 1990, the Verkhovna Rada inherited a very weakly developed resource and expertise base for committees to draw upon, simply because during the Soviet

period these had not been necessary. The general resource and expertise shortage that afflicted the emergent parliament undoubtedly strongly influenced commissions and their ability to prepare and scrutinize legislation. There was a shortage of computers, facsimile machines, office space and trained staff. Databases of legislation, bills and of the international experience began to be developed only at this point. The staffing of the secretariat began to be expanded considerably from 1990, employing especially much-needed lawyers and economists, but the lack of trained policy research specialists remained problematic (*Pravda Ukrainy*, 19 March 1991 and *Holos Ukrainy*, 18 April 1992). Although commissions drew upon external academic specialists for advice with drafting legislation, this alone was insufficient. Therefore, commissions were largely dependent upon ministries for information, which severely circumscribed their capacity to scrutinize government bills (Wise and Brown 1996a: 241).

By 2000, nearly all those interviewed still perceived the technical base of committees as inadequate. However, it had improved substantially since 1990. The Rada had invested in material resources such as networked computers and photocopiers for committees, but the provision was minimal. Deputies complained that they had to buy their own computer or photocopy paper. A minority of deputies evinced a different attitude: that the resources could be found if there was the individual will (e.g. Kozhyn, interview 2000). This reinforced the impression that personal connections were extremely important in the day-to-day functioning of the Rada.

In terms of committee staff, there was investment in training and committees built up a pool of external expertise that they could draw upon. However, in some areas, such as specific spheres of human rights, these were simply not available.[11] On the one hand, there was the feeling that the level of the committee secretariat expertise had improved due to training and especially accumulated experience. On the other, the fact that they were so badly paid, and often paid late, was seen as adversely affecting the quality of specialists that could be attracted or retained by the legislature:

> 'In terms of human resources, there is a problem of attitude. [Staff] get low wages. They are late and there is no stimulus to keep them working properly. Commitment is low. It doesn't permit the best specialists for a bill to be employed.'
>
> (A, interview 2000)

> 'The secretariat has improved qualitatively and become more experienced, but the problem is that they leave. [Recently] two very highly educated consultants who had worked here for over a year and prepared bills independently left because of the wages. They are ten times higher in commercial structures.'
>
> (C, interview 2000)

Clearly, such problems acted as a brake on the qualitative improvement of the expertise available to committees in their day-to-day functioning.

In terms of the number of staff, the pattern was closer to the US experience of building a large, specialist staff for each committee – a trend linked with the stronger role of committees in a legislature. In many parliaments of the world, committees have only one or two consultants.[12] In the Rada, staffing levels varied from six to 15 in the thirteenth convocation and generally increased with each convocation. Although figures were not available for every committee or convocation, Table 6.2 shows the general pattern.

However, despite this increase, both deputies and secretariat heads felt that there were insufficient staff to deal with the workload effectively and that committees were operating on the barest minimum necessary to function. In both the 1998 and 2002 end of convocation reports, several committees criticised the level of staffing as inadequate for the tasks faced (Cherniak and Nochvai 2002; Samoilenko 2002; Steshenko 1998; Yakovenko 1998; Zhyr and Boltivets 1998). This feeling was echoed by deputies from various committees interviewed in 2000. Nevertheless, there is evidence to suggest that the problem of staffing lay not in the absolute number working in committees *per se*, but in their distribution, which did not fully take into account the variations in workload between committees (Aloshyn 2002). This was a cause of resentment in the

Table 6.2 Number of staff allocated to committees, 1990–2002

Committee	Twelfth	Thirteenth	Fourteenth/Third
Legal policy	N/A	15	13
Economic policy, ownership . . .	10	13	13
Budget	N/A	12	15
Agriculture	N/A	12	15
Health, motherhood . . .	4–5	7	8
Reglament	N/A	7	8
Finance and banking activity	N/A	13	16
State-building	N/A	7	16
Law enforcement	N/A	10	10
National security and defence	N/A	10	11
Fuel–energy complex	N/A	10	12
Youth, sport and tourism	5	6	8
Ecological policy and Chornobyl'*	N/A	10 + 8*	12

Sources: Cherniak and Nochvai 2002, Zadorozhny and Kosinsky 2002, Turchynov and Ohon 2002, Samoilenko 2002, Andresiuk 2002, Hudyma and Lisovy 2002, plus interviews with committee secretariat heads and deputies. For the thirteenth convocation, figures were taken from an untitled table of commissions, their workload and staffing levels sent to the Presidium by the legal commission with letter 06-1/5-724, 13 September 1995, from the committee's documents, VRU Archive.

Note: *This committee was formed from a merger of two at the start of the fourteenth convocation, therefore, both staff sizes are listed for the thirteenth.

larger committees such as economic policy and finance and banking: 'There are enough [staff] if it was balanced out between committees. ... There is one committee with the same number of staff as ours but which adopted just five bills this session' (C, interview 2002). Thus, the perceived problems with staffing related strongly to the number and jurisdiction of committees and how this was reflected in their respective workloads. Although the material and expertise resource base of committees improved considerably during the decade, the problem of staff retention was likely to persist in the economic and political circumstances. The issue of optimal redistribution of staff remains linked to the adoption of a new law 'on standing committees' and whether the law tackles the issue of overlapping jurisdictions and uneven workloads.

Workload variations

A consideration of workload is not usually included in studies of parliamentary committees, but in the Verkhovna Rada the presence and persistence of wide variations in this area is an important feature of the committee system that is key to understanding their functioning and institutionalization. The uneven distribution of work between committees suggests that the parliament's limited resources were not used in the most efficient way. Over-burdened committees were likely to have difficulty producing consistently high quality legislative bills and performing other key parliamentary functions such as oversight and reviewing candidates for executive or judicial appointments. Moreover, the presence of under-worked committees not only meant that resources were not used optimally, but also created resentment among staff and deputies from the busier committees.

The most direct method to compare the workload and productivity of committees is to examine the official figures of the number of issues examined by each committee and the number of laws adopted where the committee was primarily responsible for its examination. This is a somewhat crude method as the size of draft legislative acts varies enormously between an amendment of a single article of a law to the 1000-page legal codes dealt with by the committee on legal policy. Therefore, the figures will be considered as a rough indicator rather than as being able to provide specific information about the extent of variations. As such, it is also helpful to consider the number of meetings held as committees tended to meet as required to cope with their respective workload. A further complication to this examination is the limited availability of data on all committees on all the aforementioned variables. For the twelfth convocation, no information at all was obtainable, though it is plausible to suggest that the workload variance was present at this time, given that the structure and overlapping jurisdictions of commissions was similar to that in the following convocations. As complete data sets were available for the thirteenth and fourteenth/third convocations, the thirteenth convocation will be used to establish the extent of variations between committees. These will then be compared with the figures for the fourteenth/third convocation. Table 6.3 indicates the extent of variation during the thirteenth convocation.

Table 6.3 Variation in committee workloads during the thirteenth convocation

Committee	No. of meetings held	No. of questions examined	No. of laws passed	Size of committee secretariat
Legal policy and judicial reform	223	649	47	15
State-building and local councils	98	342	21	7
Social policy and labour	145	430	59	12
Health, motherhood and childhood	122	224	6	7
Youth, sport and tourism	129	404	3	6
Science and education	141	350	16	8
Culture and spirituality	94	273	7	6
Economic policy	184	949	116	12
Budget	199	613	23	12
Finance and banking	228	805	196	13
Branch industries and socio-economic development of the regions	158	500	11	9
Fuel-energy complex, transport and communications	195	696	26	10
Agro-industrial complex	157	477	21	12
Ecological policy	95	289	12	8
Chornobyl' catastrophe	133	524	6	10
Nuclear policy and safety	143	435	8	7
Law-enforcement	100	486	53	10
Organized crime and corruption	144	502	14	8
Defence and national security	129	403	25	10
Reglament and deputies' ethics	151	697	7	7
Human rights	101	302	9	7
Freedom of speech and mass media	193	375	14	7
Foreign affairs and the CIS	153	511	53	9

Source: Secretariat of the Verkhovna Rada of Ukraine (1998: 26–7) and an untitled table of commissions, their workload and staffing levels sent to the Presidium by the legal commission with letter 06-1/5-724, 13 September 1995, from the committee's documents, VRU Archive.

This figure indicates the existence of stark variations in the activity of committees. While the mean number of committee meetings held over the convocation was 149, the most active committees held far more. Both committees on finance and banking and legal policy met in excess of 200 times. On the other

hand, the committees on culture and on ecological policy held under 100 meetings. This pattern is replicated when the number of questions examined is considered. While the mean was 489, economic policy considered 949, finance and banking 805 and at the other end of the scale, the committees on health, ecology and culture looked at less than 300. The contrast is particularly sharp in the number of laws passed. Finance and banking worked on 196, economic policy on 116, while seven committees had less than ten laws adopted. Thus, there were clearly vast differences in the volume of work undertaken between the economic committees (economic policy, finance, budget) and legal policy at one end of the scale and the committees on health, culture, youth and human rights at the other. Moreover, this disparity in levels of activity was not adequately reflected in the allocation of staff. For instance, the committee on youth, sport and tourism was one of the least active (and had worked on only three adopted laws), but had a staff of six. The finance and banking committee had worked on 196 adopted laws with only twice as many staff. Even taking into account differentials in the size of laws, this strongly suggests that resources were allocated inefficiently.

Inequalities in workload distribution persisted during the fourteenth/third convocation, as demonstrated by Table 6.4.

The figures suggest that although committees did become more productive, overall workload variations remained pronounced. In general, committees did meet slightly less often in 1998–2002 (mean of 140 meetings) than in 1994–8 (mean 149 meetings). However, the variation between committees did fall as the average deviation (sometimes called the mean absolute deviation)[13] shows. In 1994–8, the average deviation from the mean was 31.5 meetings, but by 1998–2002, it was 21.7. Similarly, in 1998–2002, on average committees examined more questions (mean of 564 compared to 1994–8's 489) and the average deviation fell from 135.8 to 120.4. Nevertheless, although the mean number of laws passed grew from 33 to 49, the average deviation also increased slightly from 28.6 to 30.5. Therefore, on the whole, workload variations between committees did diminish in some areas, but not in others. Furthermore, the structure of staffing and resource allocation was not altered.

Therefore, the committee system was characterized by an enduring pattern of inequality in the size of workloads. This resulted in sub-optimal use of deputies' time and skills. Moreover, it was accompanied by inefficient application of the available human resources. The root of the problem lay with the uneven jurisdictions of committees. The number of committees was kept artificially high because, when deputies came to decide how many there would be at the start of each convocation, they were driven by interest in obtaining leadership posts. Put simply, more committees meant more leadership positions to divide between factions as this could facilitate inter-faction compromise. This incentive acted as a strong barrier to reducing the number and evening out the workload disparities between committees.

Table 6.4 Variation in committee workloads during the fourteenth/third convocation

Committee	No. of meetings held	No. of questions examined	No. of laws passed†	Size of committee secretariat‡
Legal policy and judicial reform	161	655	57	13
State-building and local councils	125	502	33	16
Social policy and labour	120	496	62	N/A
Health, motherhood and childhood	122	356	23	8
Youth, sport and tourism	131	338	19	8
Science and education	146	419	45	N/A
Culture and spirituality	117	379	14	N/A
Economic policy	131	1113	162	13
Budget	186	633	21	15
Finance and banking	204	825	189	16
Industrial Policy and entrepreneurship	145	596	27	N/A
Fuel-energy complex, nuclear policy and safety	160	510	35	12
Construction, transport and communications	149	588	67	10
Agro-industrial complex	165	648	51	15
Ecological policy and Chornobyl'	148	719	57	12
Law-enforcement*	82	433	36	10
Organized crime and corruption*	109	455	36	N/A
Defence and national security	118	503	93	11
Reglament, deputies' ethics and VRU organization	137	645	5	8
Human rights	135	607	20	N/A
Freedom of speech and mass media	121	482	18	12
Foreign affairs and the CIS	121	559	21	1
Pensioners, veterans and invalids	183	520	27	

Sources: Yarosh *et al*. (2002: 44, 96), except‡, which was taken from Cherniak and Nochvai (2002), Sushkevych and Semovonyk (2002), Zadorozhny and Kosinsky (2002), Kruk and Kramarenko (2002), Turchynov and Ohon (2002), Samoilenko (2002), Andresiuk (2002), Hudyma and Lisovy (2002), Tsukanov (2003) and Kalinchuk (2003).

Notes:
*These comprised one committee until 2000, when they were divided into two.
† This figure is the number of laws passed by the VRU and not the number of laws signed and promulgated (i.e. laws that were vetoed by the president are not excluded).
‡ The VRU secretariat were unwilling to make these data public as of June 2003, therefore, the information available is based on committee reports in the VRU archive and interviews.

Legislative activity

Oversight and legislative activity are the two areas to which committees devote most of their efforts and are arguably the most important for the functioning of parliament. Therefore, it is these two areas that will be focused upon in order to assess committee's activity. The Constitution (art.89) recognized legislative work as the key function of committees. The law 'on standing committees' pointed to the main areas of this activity, including drafting and scrutinizing bills and information gathering. By examining how the role of committees in the legislative process developed over time, signs of nascent institutionalization can be identified, but as in the wider Verkhovna Rada such progress was patchy.

The figures for each convocation during the 1990–2002 period indicate the Rada's growing capacity to adopt legislation. If in 1990–4, 402 laws were passed, then by 1994–8, this figure had nearly doubled to 753 laws. A further increase was evident in the fourteenth/third convocation with 1016 laws adopted. Although this is a positive trend, it is argued above that the number of laws passed is a crude measure and does not necessarily indicate committee institutionalization, because this increase could be the result of a range of factors. To ascertain accurately whether committees increased their capacity to deal with legislation, a better guide could be provided by the session-by-session figures for each committee over all three convocations. Unfortunately, concerted efforts to obtain these data from the Verkhovna Rada secretariat were unsuccessful. Some data sets were available for the 1994–8 and 1998–2002 convocations, but they are not comparable due to their incomplete nature. However, sufficient data were available to examine the impact of majority formation on the committees' legislative activity. Before the majority (first–fourth sessions, fourteenth convocation, May 1998–January 2000) committee activity (in terms of the number of questions examined and number of laws passed) appears broadly similar to that of the previous convocation (see Figure 6.4 above). However, after majority formation – for example, during the fifth session (February–July 2000), some committees' legislative activity increased quite dramatically, as Table 6.5 demonstrates.

In terms of the number of questions examined, some committees examined over half as many questions in the fifth session as they did in all four preceding sessions. Table 6.5 shows that these included the committees on legal policy, health policy, industrial policy, construction and *Reglament*. Other committees such as social policy, economic policy and defence demonstrated a less marked but still tangible increase. When the number of laws passed is considered, a similar trend is evident for many committees (such as legal policy and social policy), although not for others (for instance, agriculture and foreign affairs). Thus, it is possible to conclude that, on the whole, committees did become more productive in absolute terms after the formation of the majority.

This significant increase in legislative activity was noted in Chapter 5 and explained as a consequence of the streamlining (and sidestepping) of the procedures for examination of bills, the existence of a majority as a forum to

Table 6.5 Committees' legislative activity, 1998–2000

Committee	No. of questions examined		No. of laws passed	
	1st–4th sessions	*5th session*	*1st–4th sessions*	*5th session*
Legal policy and judicial reform	59	50	14	7
State-building and local councils	85	22	16	5
Social policy and labour	86	34	11	9
Health, motherhood and childhood	14	10	24	6
Youth, sport and tourism	19	5	9	3
Science and education	24	9	14	7
Culture and spirituality	13	4	5	4
Economic policy	182	80	69	40
Budget	33	16	9	3
Finance and banking	346	101	85	32
Industrial policy and enterprise	12	19	8	3
Fuel-energy complex, nuclear policy and security	31	11	14	8
Construction, transport and communications	36	43	21	20
Agro-industrial complex	80	38	30	6
Ecological policy and Chornobyl' catastrophe	35	13	19	7
Law-enforcement	–	31	–	9
Organized crime and corruption	–	18	–	9
Defence and national security	64	30	33	16
Reglament and deputies' ethics	14	14	1	3
Human rights	22	10	8	3
Freedom of speech and mass media	37	14	12	1
Pensioners, veterans and invalids affairs	39	18	13	5
Foreign affairs	32	4	11	3

Source: VRU Chief Organizational Department (2000) and VRU Chief Organizational Department (2000a).

forge inter-faction agreement and presidential pressure stimulating such agreement. However, the meaning of this increased legislative activity for the Verkhovna Rada as an institution was often contested by parliamentary staff and deputies from across the political spectrum. Part of this growth was attributed to an increase in the number of small bills, amendments and international agreements passed after the majority's formation. For example, the record number of laws worked on by the *Reglament* committee in the fifth session is explained by the fact that the formation of a new government in January 2000 required a separate law to discharge the deputies' mandates of each deputy appointed to the government. Staff and deputies also reported that the workload of committees had not increased because bills that had been elaborated in previous sessions were finally passed by the majority.

Furthermore, deputies from majority and minority factions pointed out that the increased quantity of laws had led to deterioration in their quality and that avoidable mistakes had occurred because of the majority's haste to adopt legislation.[14] One example of this is an attempt to examine the Tax Code on 5 July 2000, despite the fact that the profile committee had not completed its work on this bill. The bill was withdrawn from the day's agenda after the committee's protests that it was not ready were finally heeded (Author's observations, VRU plenary session, 5 July 2000). This important bill, by no means an atypical example, had been prioritized for urgent passage by the president. The pressure on the majority to pass legislation affected all stages of the legislative process so that committees were in turn under greater pressure to elaborate laws. Therefore, quantitative indicators of increased legislative activity after majority formation do not provide clear-cut evidence with which to evaluate committee or wider legislative capacity change, because of the perceived trade-off between quantity and quality. Therefore, these need to be complemented by considering several substantive issues, such as how the role of committees evolved in conducting hearings, agenda-setting and the examination and adoption of legislation.

The procedures for examining legislation were laid down in the *Reglament* adopted in 1994. Prior to their adoption, a huge amount of plenary session time was used up in procedural debates. Moreover, a large proportion of the scrutiny of bills was also done in plenary sessions rather than in commissions. Although gaps and ambiguities in the *Reglament* permitted some continuation of these 'traditions', gradually the main examination shifted to committees. However, the *Reglament* did not elaborate procedures for committees to examine and draw conclusions on bills. According to article 6.3.2, this was to be determined by the individual committee. Therefore, internal committee procedures were not formally laid down and varied between committees (Parliamentary Development Project 1997: 62). During the thirteenth and fourteenth/third convocations, the majority of committees did not elaborate such internal procedures formally within their statutes (indeed, where such statutes were adopted at all) or in a separate rules document. Nevertheless, at least one committee did attempt to adopt internal rules detailing procedures for most aspects of the committee's work, including the legislative process (Budget 1994 and 1998). However, as

with some factions' internal rules, whether this was the initiative of an enthusiastic committee member or was actually implemented and adhered to remains difficult to determine. What is clearer is that committees (as well as the Rada leadership, the government and president) were not consistently mindful of the general legislative procedures that were laid down. For example, the time periods for examining and submitting bills and committee conclusions were routinely violated throughout the period, so that the preparation of some bills dragged on for years.

Furthermore, despite regular amendments to the Verkhovna Rada's calendar to encourage the shift of the main legislative debate to the committee arena, this move was slow. Deputies continued to regard plenary sessions as a forum for contributing to a law. With the aim of expediting the legislative process, the majority introduced various amendments to the *Reglament* in 2000 to make plenary sessions more streamlined and committees more productive as 'legislative workhorses'. As noted in Chapter 5, these amendments included procedural changes to reduce the time of plenary session debate on a bill and to separate its discussion from the voting (which was moved to Thursdays). Yet, evidence suggests that in both committees and plenary sessions, deputies were not fully adjusted to the new circumstances and procedures. Although the changes necessarily implied that the main legislative debate took place in committees, deputies still used plenary sessions to propose changes to bills. In addition, the Thursday voting for around 100 bills in rapid succession created scope for confusion over what exactly was being voted on and for error. The potential results of the new rules and deputies' difficulty in adapting to them is illustrated by the following example: When passing the law 'on the population census' in the second reading, an amendment that had been proposed by the Communist faction and rejected by the committee was 'accidentally' passed by the majority. The amendment upset the sense of the entire draft law, creating considerable problems for the committee preparing it for the final reading (Nochvai, interview 2000). However, evidence of the greater relative weight of committee recommendations is provided by the fact that between 1994 and 1996, 57 per cent of committee initiated bills were adopted by the Rada compared to just 16 per cent of those initiated by deputies (Secretariat of Verkhovna Rada 1998: 36–7).[15] In sum, the legislative procedures did become more elaborated over time but, as in other areas of the Rada's activity, gaps and non-adherence remained problematic. At the same time, there were clear signs that the primary debate on legislation was moving to committees, which, given the improvements in their expertise and resource base, were becoming more able to cope with the increased demands.

The gradual shift of the main debate on legislation to committees was a key factor impacting upon the authority of a committee's recommendations when a bill came to a plenary vote. There was a tangible growth in this authority from the twelfth convocation when committees played a relatively minor role in legislative drafting, compared to the thirteenth convocation as the debate shifted to committees (Parliamentary Development Project 1998: 8–9). However, this

trend towards the increased weight of committee recommendations depended upon the perceived importance of the bill and upon the composition of the profile committee. As argued above, especially during the thirteenth convocation, the membership of key committees was stacked by certain factions seeking to gain control over legislation in important policy areas. This had the effect of undermining the authority of a committee's recommendation in plenary sessions, as the committee was seen as unrepresentative of the whole chamber. In order to overcome debilitating partisan polarization, the Verkhovna Rada extensively utilized *ad hoc* temporary special commissions to draft important and controversial legislation. Representatives of all factions were included to facilitate the necessary compromises to get a bill passed. This meant that committees were largely marginalized from the latter stages of drafting key legislation such as the Constitution and the parliamentary electoral law. Therefore, the accumulated expertise of committees was sidelined in order to overcome deficiencies caused by their composition. The temporary special commissions were by nature more amateur and focused upon achieving inter-faction accord. This inevitably affected the resultant legislation as the quality of crucial laws was compromised by the oft-heard principle 'better an imperfect law than no law'.[16] The situation provides an excellent example of the trade-off between representation and efficiency in legislative politics (see Shugart and Carey 1992).

The formation of the majority and the readjustment of committee compositions so that the majority led and comprised a majority in each committee reduced the Rada's reliance upon temporary special commissions. Thus, committees were seen as more representative of the whole chamber, lending weight to their proposals and key aspects of the legislative process were brought back into committees for nearly all legislation. This meant that the professional skills and expertise acquired by deputies and staff of the committee could be utilized for all legislation. If the move away from temporary special commissions proves to be long term, this will represent an important step towards further institutionalization of the legislative process and of committees. Survey evidence (Parliamentary Development Project 2002) confirms that deputies increasingly regarded committees as the place where the key legislative deliberations occurred (70.5 per cent of deputies in 2002), but it also indicates the rapidly growing role of the Presidential Administration during the fourteenth/third convocation. In 2002, 9.6 per cent of deputies considered that the main legislative deliberations took place in the Presidential Administration, compared to 1.5 per cent in 1998. At the same time, only 6.4 per cent thought that the key debate took place in plenary sessions. On one hand, the increased role of the Presidential Administration in the legislative process raises interesting questions about parliamentary autonomy and potential executive interference in parliamentary prerogatives. On the other, the advance discussion of bills with the Presidential Administration helped to iron out inter-branch disputes, reduce the number of vetoed laws and indicates better cooperation between the branches.

Another area where some progress is detectable is in the development of committee hearings. The conduct of hearings can be an effective method of acquiring expertise and gathering information on a bill or law for drafting or oversight purposes. As in other key areas of the Rada's committee activity, procedures for hearings were not elaborated and were under-used. When conducted, they tended to be held in the Verkhovna Rada session chamber and become dominated by grand official speeches followed by the adoption of a resolution. From the perspective of obtaining information for the preparation or oversight of a (draft) law, this procedure was far from effective and was recognized as such by some committees (Aloshyn 2002; Zinchenko and Ivanyna 2002). However, committees did begin to use hearings more regularly: there was only one held 1990–4, but eight in 1994–8 and 19 during 1998–2002. From the mid-1990s, technical assistance programmes such as USAID's Parliamentary Development Project helped committees to organize hearings and provided them with extensive analytical materials to promote their use and improve their effectiveness. This helped the value of hearings to be increasingly recognized by deputies as a means for gathering information and raising deputies' awareness of problems.[17] However, a few committees felt that the experiences of other developing democracies would be more relevant than the US model promoted (Aloshyn 2002) and that the material was sometimes disconnected from their practical experience and patronizing (Anonymous, interview 2003). Overall, the growing use and appreciation of hearings represented considerable progress in laying the basis for their development and institutionalization into committees' activity. Conducting hearings can provide a mechanism for the formulation of better-grounded bills and thus for increasing committee's effectiveness. The trend towards greater utilization of hearings in the legislative process in the Rada also reflected emerging patterns worldwide (Shaw 1998: 230).

An examination of committees' legislative activity indicates areas of the institutionalization of committees' role in the Verkhovna Rada. As a whole, each convocation of the parliament demonstrated growing capacity to process and adopt legislation. Procedures for the legislative process were gradually elaborated, new methods such as hearings were gradually adopted and the main discussions on pending legislation shifted to committees. Taken together, these indicate the growing role of committees in the legislative process and early signs of institutionalization. At the same time, such institutionalization was uneven and patchy. The absence of elaborated procedures persisted in some important areas, plus (as in other sites of Rada activity) the wider 'rules culture' of non- or partial adherence where procedures existed hampered the development of a transparent, efficient legislative process.

Oversight

One deputy called oversight 'the essence of parliamentarism' (Kocherha, interview 2000). Indeed, oversight is a critical function of democratic parliaments as a mechanism for bringing transparency and accountability to

the executive with regard to their actions and the implementation of laws and budgets passed by the legislature. The ability of the Verkhovna Rada to oversee the implementation of its legislation and to hold the executive to account is a key function that embodies the development of parliamentary autonomy in Ukraine. Although parliamentary oversight (or 'kontrol' as it is simply called in Ukraine) powers did exist in the Soviet period, their exercise was rare and wholly perfunctory. Thus, in 1990, the Rada was virtually starting 'from scratch' to define and develop an oversight capacity. In the decade that followed, there was clear institutionalization – both in the establishment of a legislative base and in acquiring practical experience. However, there were still important problem areas that questioned the overall effectiveness of the Rada's oversight, including vague legal and procedural definition, executive non-compliance and politicization of the process. The section will focus upon the oversight undertaken by committees, which gradually emerged as a main arena for these functions, but was not the only one: the Verkhovna Rada as a whole, a special control organ (the Accounting Chamber) and individual deputies also engaged in oversight.

In 1990 the constitutional provisions for parliamentary oversight were extremely vague and fragmentary. There was almost a complete absence of norms, procedures and precedents. For example, in the sphere of budget oversight, there was no constitutional regulation of the process and from 1990 there was legislation in force that contradicted the constitution in terms of the Rada's authority to exercise budgetary oversight, but corrections were not made during the convocation (Barabash 1994: 3–4). Despite the lack of a workable legal framework, after independence commissions increasingly engaged with oversight activities. These tended to focus upon the implementation of laws and Verkhovna Rada resolutions by central and local executive organs, but were assessed by one deputy of the time as inconsequential due to deficiencies in information, legal mechanisms and deputy engagement (Barabash 1994: 5). Although the Rada as a whole periodically called the government to account after 1992, commissions did not begin to call executive officials to account – perhaps because many deputies were also executive officials and were wary of the lack of precedents and of the Soviet 'hangover' of perceiving oversight as personal criticism (ibid.: 6). In sum, by 1994, commission (and parliamentary) oversight had not yet become routinized and depersonalized.

During the thirteenth convocation, there was discernable, if uneven, progress in institutionalizing parliamentary oversight functions, including those of committees. A series of legislation between 1994 and 1996 established a clearer legal basis for 'control': The *Reglament* (1994) contained a chapter detailing oversight rights and procedures. It stated that committees were responsible for legislative and executive oversight and stipulated officials' compliance with committees' requests for information/documents as mandatory (art.8.3.1), but was otherwise vague on committees' oversight authority and did not lay down specific procedures. The new law 'on the budget system' (1995) made advances in defining the Rada's authority in the sphere of budgetary oversight (Barabash 1996: 1). Most important was the law 'on standing committees' (1995) which listed legislative oversight, budgetary

oversight and executive oversight as three of the seven main functions of committees (art.2.5.1) and legally normalized committees' competences, which included the right to hold hearings and to request the attendance of officials at committee meetings. Finally, the 1996 Constitution defined the Verkhovna Rada's oversight powers (art.85), but crucially when outlining the functions of committees (art.89) did not mention their oversight functions. This was a significant gap in the constitution, which weakened the force of the law 'on standing committees' with regard to oversight competences and created legal ambiguity regarding committees' functions. Together, the aforementioned legislation comprised the normative framework for committees' oversight operations, but its fragmented and incomplete nature led commentators to posit that a separate law on oversight was necessary (e.g. Kisly 1999a: 5).

As well as making progress in establishing the legal basis for oversight, from 1994 committees (and the Rada in general) made headway in its implementation by exercising their prerogatives more routinely. When completing the end of convocation reports in 1998 and 2002, nearly all of the 23 committees emphasized their oversight activities. Nevertheless, it is clear that committees' engagement with oversight and their attitude to its purpose varied. On average, 15 per cent of questions examined by committees were concerned with oversight, but with substantial variations (author's calculations from Yarosh *et al*.: 2002: 44). The jurisdiction of some committees (such as crime and corruption, which was granted special oversight powers and the special control commission on privatization) implied more attention to oversight questions, but other committees also became very active (e.g. committees on science and education, culture). At the same time, the approach of others (e.g. on health and on legal policy) was more limited. Increasingly, committees initiated special sessions of 'Government Day' (*Den' Uriadu*), an information gathering and oversight mechanism of the whole Verkhovna Rada, and held their first hearings.

At the same time, there were distinct and persistent problems with the implementation of oversight functions. Despite committees' powers to summon documents and officials, executive non-compliance with committees' requests was ongoing and responses were often formalized and perfunctory (Zinchenko and Ivanyna 2002; interviews 2000). Furthermore, committees' oversight activities inevitably became entangled with deputies' and factions' political aims, which in the context of extended inter-branch conflict often led to a preference for high profile means of oversight that did not provide the most effective site for detailed analysis of intricate questions. The example of holding hearings in plenary sessions has already been mentioned in the case of legislation drafting, but also applied to its use on oversight questions. Equally, the effectiveness of 'Government Day' was questioned by deputies, because a plenary chamber full of several hundred deputies, officials and a large media contingent did not provide the most conducive environment to measured, in-depth scrutiny (Kisly 1999a: 3).

In sum, there is evidence of significant progress made by the Rada in establishing a legal framework for oversight by committees and of the acquisition of some practical experience in the implementation of these prerogatives. At the

same time, as in other areas of parliamentary activity, important gaps and ambiguities in committees' rights and procedural mechanisms for oversight and deficiencies in their application persisted. These remain substantial impediments to the Verkhovna Rada fully realizing its oversight authority.

Relations with the cabinet of ministers

Before considering the nature of committee–government interaction in Ukraine, it is useful to look at the position of the government in law-making more generally. Law-making is one of the main dimensions of co-ordination between the two institutions and is particularly important in terms of reflecting a government's ability to enact its programme. In most West European parliaments, the majority of legislation is initiated by the government and 'private member's bills' are comparatively rare. However, in post-communist systems, the proportion of bills originating from within the legislature tends to be much higher.[18] Indeed, in Ukraine, this trend appears to be growing, as Table 6.6 illustrates.

Although the government was the main initiator of legislation 1994–8, by 2002 deputies introduced much more. The president also made more extensive use of his right of legislative initiative, while committees had been denied this right in the 1996 Constitution, so were forced to rely on deputy-members to exercise this right on their behalf. This high level of legislative activity within parliament indicates that deputies sought to shape Ukraine's legislative base. How far both branches were successful in getting legislation enacted can be illustrated by examining what proportion of bills initiated was actually passed. This is shown in Table 6.7.

Only around 40–45 per cent of government bills were passed by parliament. This figure is very low compared to Western parliaments and suggests that the Verkhovna Rada had significant latitude to alter or resist government legislation – a concept named 'viscosity' by Jean Blondel (1990: 200). This can be illustrated amply by the case of the annual state budget, which was routinely

Table 6.6 Who initiated legislation in Ukraine, May 1994–March 2002?

Subject of legislative initiative	No. of bills initiated 1994–8	Proportion of bills initiated 1994–8 (%)	No. of bills initiated 1998–2002	Proportion of bills initiated 1998–2002 (%)
Government	932	46.0	1108	29.1
President	170	8.4	350	9.2
Deputies	727	35.9	2327	61.0
Committees	151	7.5	–	–
National Bank	44	2.2	28	0.7

Source: Author's calculations from figures taken from Secretariat of the Verkhovna Rada of Ukraine (1998: 36–7) and Yarosh *et al*. (2002: 92).

Table 6.7 Legislative 'viscosity' in the Verkhovna Rada, 1994–2002

Subject of legislative initiative	Proportion of initiated bills adopted by Verkhovna Rada 1994–8 (%)	Proportion of initiated bills adopted by Verkhovna Rada 1998–2002 (%)
Government	44.5	41.9
President	71.7	56.0
Deputies	16.0	19.8
Committees	57.6	–
National Bank	29.5	35.7

Source: Author's calculations from figures taken from secretariat of the Verkhovna Rada of Ukraine (1998: 36–7) and Yarosh *et al*. (2002: 92).

subject to extensive amendment by the committees and the budget committee even produced their own draft version on several occasions. The final budget was always a compromise document between committees and the government. Therefore, the Rada far from 'rubber-stamped' executive bills, as had occurred in the Soviet period. While in one respect, this may be seen as an indicator of institutional autonomy, it is also a function of the extended legislative–executive conflict and illustrative of frequent inter-branch impasse from 1994.

As less than half of government bills made it to the statute books, this also seems to indicate poor co-ordination between governments and the committees scrutinizing their bills. In fact, throughout the period, committees regularly complained that poor quality and insufficiently elaborated bills were introduced to the Rada (e.g. Sushkevych and Semvonyk 2002). At the same time, committees did engage in regular communication with the relevant government organs, particularly on pending legislation, but also for oversight purposes. Government officials participated in committee meetings on a routine basis, and provided information to committees (if somewhat sporadically), although the quality of contacts was not always so high (for example, see Bezsmertny, *Holos Ukrainy*, 25 April 2000). However, that fact that such routinized contact and co-operation became more common over time,[19] suggests a creeping institutionalization of committee-government relations.

At the same time, there was a parallel trend of growing interaction between the government and factions, a sign of the increased importance of factions as actors in the legislative process and in shaping relations between government and parliament. In this respect, committees have developed into the role of a professional instrument of parliament, rather than as a decision maker. Where committee decisions were made, they were increasingly influenced by the factions that formed them.

Relations with factions

As noted in Chapter 1, theorists of legislative studies suggest that committees are fundamentally shaped by the party system. In the case of the Verkhovna Rada,

the trajectory of committee development has been strongly influenced by the formation and institutionalization of a system of parliamentary party caucuses, i.e. factions. Between 1990 and 1994, the speaker and Presidium dominated the organization of parliament, but as committee heads comprised the Presidium, committees had a key role in important functions such as agenda setting. As factions have become more organized, their impact upon the form and role of committees has become increasingly tangible, so that in examining committee institutionalization, it has been necessary at almost every stage to bring in factions as an explanatory variable. Therefore, in order to understand committee institutionalization, it is important to consider explicitly their evolving relationship with factions and the impact this has had upon the Rada as a whole. Therefore, this section will draw together themes emerging earlier in the analysis and elaborate their wider significance.

As argued above, factions gradually emerged as the dominant organization in parliamentary leadership. The organizational power of committees shifted from a decision-making to a consultative role as factions became the decision-making body in the Conciliation Council of Factions and later, in the Co-ordination Council of the Majority. Thus, the autonomy of committees was reduced *vis-à-vis* factions and their role changed. Moreover, as factions increasingly decided the allocation of committee chairs, the committee leadership became more beholden to the factions that appointed them, reducing their independence and room for manoeuvre both within the committee and in the wider Verkhovna Rada, reflecting the shift to a linked dual-channel parliamentary design. Committee chair posts represented one of few administrative and material resources available to factions, providing access to executive decision-makers, influence on legislation as well as the trappings of high office such as staff, cars and status. As such, factions were strongly interested in gaining committee chairs. This motivation 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 perpetuated the uneven distribution of workloads between them and created the potential for inter-committee competition. In addition, from 1994 factions' growing role in the allocation of committee memberships meant that more disciplined factions were able to direct members to a committee and 'capture' prestigious committees, making some committees more conflictual internally and unable to reach accord with the chamber as whole. Hence, reliance upon temporary special commissions developed until obviated by majority control. At the same time, weaker factions found it harder to influence their members' committee allocation, leading to uneven representation on committees perceived as less influential, which in turn reinforced this perception.

Nevertheless, the generally weak level of faction coherence impeded the development of a strong, co-ordinating link between factions and committees. First, this was due to faction membership fluidity. As deputies regularly moved factions, they could not provide an ongoing channel of communication between their committee and faction. Second, the shifting faction alliances had a direct

impact on committee stability and attendant accumulation of expertise by members, especially in 2000 when this was disrupted by the majority's re-engineering of committee compositions for political reasons. Third, weak faction coherence unambiguously influenced the level of deputy participation in committees. Where factions took responsibility for deputies' attendance and were highly disciplined (such as in the Communist faction) participation and engagement was very high; where factions were less organizationally coherent (particularly in centrist factions) they were not. This pattern is consistent with the variances in faction voting discipline demonstrated in Chapters 4 and 5. As faction discipline improved over time, it connoted that gradually the influence of factions superseded that of committees when it came to deputies' voting decisions. This is supported by survey evidence. In the thirteenth convocation, 30.8 per cent of deputy-respondents (by far the highest proportion) saw the committee recommendation as the most important factor in making a voting decision, while 19.6 per cent saw their faction's recommendation as most important (the second highest response). By the fourteenth convocation, this situation had reversed: 37.8 per cent saw faction recommendation as most important compared to 18.4 per cent who cited the committee's position (Parliamentary Development Project 1999: 24). If an analogous survey was held during the existence of the majority, an even more pronounced weighting of faction's recommendations would be expected.

Interviews with deputies and parliamentary staff overwhelmingly suggested that the position of the faction was most crucial in determining not only a deputy's voting decision (a factor borne out by roll-call vote evidence), but also in shaping their behaviour within committees. For instance, one deputy exemplified these expressed opinions:

> 'As a rule, a deputy goes to a committee meeting with a clear directive of the faction. Also if the faction is not specifically examining this question, the deputy will find out in advance the position [of the faction] and represent it at the meeting.'
>
> (Chubarov, interview 2000)

This means that factions had a direct input into committee deliberations and influenced the drafting of legislation via their 'delegated representative'. However, the roles of deputies were multiple. Their 'political' role as a faction representative did become much more pronounced as factions became institutionalized, but many deputies retained a 'professional' role due to their expertise in a specific policy area as well as representing their constituents (after 1998, if they were single mandate deputies) and other interest groups and lobbies. Thus, faction influence on committees was often subtle and the interaction mutually constitutive. While deputies took the opinion of the faction to committee meetings and tried to influence their activity, they also reported back to their factions as the profile committee representative and expert on the issue. Where the position of faction and committee differed, deputies did

sometimes try to convince the faction to vote for the committee's recommendation. However, almost universally, interviewees noted that in such discussions, the faction had the upper hand.

The nature of this committee–faction interaction tended towards informal negotiations and was not clearly defined. As elucidated in Chapter 5, by the fourteenth/third convocation, some factions did attempt to formalize co-ordination channels via the establishment of 'internal committees' (known as 'party committees' in Western Europe), but this was the exception and the actual level of activity of these internal committees was difficult to discern. Overall, links between the two major sub-organizations of parliament was informal and dependent upon the coherence of the individual faction.

Where factions were coherent (for example, exhibiting voting discipline and membership stability), they were also able to exercise discipline in terms of overseeing a deputies' committee activity. Such factions tended to be based upon well-established political parties and thus had access to sanctions that created incentives for deputies to represent the faction line at committee meetings and adhere to the faction line in voting. Where a party was well-established, the party structure itself was important for a deputy's career path and re-election. This was clearly the case for the Communist Party, but also for the Socialists, *Rukh* and SDPU(o) to a lesser degree. For instance, a deputy's loyalty to the faction line could be motivated by a desire to advance within the faction/party. Factions decided the allocation of committee chairs and the party decided the placing (or presence) of a deputy on the party list. The Communist Party used the latter resource in 1998, excluding from the party election list (and thus from re-election) all deputies who had voted for the 1995 *Dohovir* and 1996 Constitution against the party line (Haran and Maiboroda 2000: 114). For most deputies the existence of this potential sanction can provide powerful incentives for loyalty where the strength of the party is such that entry into the next parliament is perceived as likely. In this respect, the switch to a 50:50 mixed electoral law in 1997 and the introduction of party lists endowed parties with a significant (if longer-term, and thus blunt) sanctioning mechanism. The shift also influenced the behaviour of less coherent factions as they transformed into political parties and where deputies expected them to be a viable vehicle for parliamentary entry. Given the maintenance of a 50:50 mixed electoral law and the rule of faction allocation of committee chairs and posts, this trend is expected to continue and grow over time.

Conclusion

Like many aspects of the Soviet political system, the republican Supreme Soviet committee structure was largely a façade: a broadly defined set of norms that did not reflect the distribution of power in the Verkhovna Rada of the UkrSSR. Therefore, it is perhaps ironic that only after the demise of the Soviet Union the Soviet form of committee system was filled with operational content. The Soviet model provided the blueprint from which the Verkhovna Rada's committee

system was constructed, as wholesale institutional reforms motivated by the exigencies of efficiency were blocked by cross-cutting political interests. Committees emerged as a source of material and institutional privileges that created incentives for factions to preserve the existing system and resist sweeping institutional revamps that would reduce the availability of these resources. Instead, mirroring the Rada more generally, institutional change occurred as a product of procedural tinkering evolving out of compromises brokered between factions. At the same time, institutionalization was also a product of reactions to the increased demands on the legislature plus time. This necessitated the gradual (often *ad hoc*, especially at first) creation of norms and procedures for the operation of committees. Considerable progress was made during the first three convocations: almost from scratch a legislative framework was developed to cover nearly all aspects of committees' functioning. That inadequacies and gaps remained unremedied was again indicative of the prevalence of the 'political' over the 'professional' interests of deputies.

Signs of nascent institutionalization were evident in the Verkhovna Rada's committee system, but it is clear that the period examined was only the very early stage of committees developing their capacity to act as parliament's 'workhorses'. Institutional development was patchy, both in terms of formal attributes (structure and procedures) and in practical terms (rule adherence and implementation). In this respect, the case of committees illustrates the broader path of uneven parliamentary institutionalization in Ukraine.

7   The 'last bastion' of democracy in Ukraine?

By 2003, in the context of declining media freedom, opposition forces and some political commentators regarded the Verkhovna Rada as the last bastion of Ukrainian democracy, meaning that it was the most transparent and democratic decision-maker and the only place where the opposition had a voice and influence in politics (e.g. *Zerkalo Nedeli*, 5 April 2003). At the same time, the large array of levers of presidential influence over the Rada led others to conclude that the highest representative institution was no longer important (e.g. Katsouris, interview 2003). So, by 2003, how far was the Verkhovna Rada an autonomous body? Were its key internal institutions sufficiently developed to facilitate independent behaviour and decision-making? Could the Rada resist executive pressure? These were the key questions for parliamentary development as the impending presidential elections raised the stakes for all political actors in Ukraine.

The period 2002–3 exposes the seeming contradictions in the Rada's development. Factions continued to become more disciplined and better organized, but were still subject to presidential manipulation of their structure, size and voting. Committees gained resources to enable them to better execute their functions, but overriding inefficiencies in the committee system structure were maintained due to inter-faction competition. Committees coped with increased quantities of legislation, but at the expense of their ability to hold hearings and conduct oversight. Relations with the executive were characterized by greater consultation, but questions about the quality of contacts and executive interference remained. The fourth convocation illustrated that the president, even in his 'lame duck' phase, was still the dominant actor in parliamentary activity and development, but also that by 2003, the Rada evinced elements of institutional autonomy and should not be considered a 'rubber stamp' legislature.

This chapter will examine the first year and a half of the fourth convocation elected in March 2002, identifying the main trajectories in the institutionalization of factions and committees and assessing parliamentary development. The first section will introduce the factions formed in 2002 and provide an overview of the key developments inside parliament. Second and third, the institutionalization of factions and committees respectively will be assessed according to the criteria identified in previous chapters. Fourth, key changes and continuities in

the legislative process and parliamentary oversight will be examined before finally considering how far the Rada can be considered the 'last bastion of democracy' in Ukraine.

Key developments in parliament, 2002–3

The March 2002 elections again produced a parliament that would require significant presidential manipulation to secure a pro-presidential majority. However, the opposition was now comprised of left- and right-wing factions and, despite their ideological differences, proved capable of joint rearguard action in key instances. The new majority formed a coalition government, but still remained weaker than its predecessor in 2000. Above all, the period was shaped by actors' positioning for the forthcoming presidential elections, a factor that revived the debate over constitutional reform as the president sought a mechanism for the retention of power by himself and/or his allies.

Initially six factions were formed in the new Rada by those parties and blocs that surmounted the 4 per cent threshold in the party list portion of the election. However, by summer 2002, the pro-presidential United Ukraine bloc had fragmented to form nine factions and deputy groups broadly based on its constituent parties and regional lobbies. These are shown in Table 7.1.

Table 7.1 Factions in the Verkhovna Rada, 2002–3

Faction	Date of formation (dissolution)	Size 21 May 2002	Size 15 July 2002
Our Ukraine (*Nasha Ukraina*)	15 May 02	119	111
Communists	15 May 02	63	63
Socialist Party	15 May 02	22	21
Bloc of Yulia Tymoshenko (BYuT)	15 May 02	23	23
Social Democratic Party (United) SDPU(o)	15 May 02	31	34
United Ukraine	15 May 02 (1 October 02)	175	11
Party of Entrepreneurs/*Trudova Ukraina*	20 June 02	–	38
Regions of Ukraine	20 June 02	–	36
European Choice	20 June 02	–	18
Democratic Initiatives	20 June 02	–	17
People's Power	20 June 02	–	17
Agrarians of Ukraine	20 June 02	–	15
People's Democratic Party (NDP)	20 June 02	–	17
People's Choice	5 July 02	–	15
Non-affiliated deputies	–	16	11

Source: www.rada.gov.ua.

All the opposition factions had existed in previous convocations (Communists, Socialists, and Tymoshenko's Bloc as Fatherland), but the lineage (as well as the opposition status) of Our Ukraine was less obvious: this 'mega-faction' comprised the former factions of *Rukh*-Udovenko, *Rukh*-Kostenko (now renamed the People's Party), Solidarity and Reforms and Order. Parliamentary opposition now came from both the left and the right of the political spectrum, so that although these four factions initially had a bare majority of 227 deputies, co-operation between them would be problematic.

In the centre, for the first time pro-presidential factions survived across convocations, with SDPU(o), NDP and *Trudova Ukraina* being reformed. This indicated the growing institutionalization of this part of the political spectrum. However, the major new development in the centre was the re-emergence of regionally based factions from Eastern Ukraine – Regions of Ukraine and European Choice (Donetsk), People's Choice (Luhansk) and Democratic Initiatives (Kharkhiv). As such the terms of political debate in Ukraine shifted from 'oligarch' to 'clan' based politics. The (re-)entry of the 'Donetsk clan' to the national political stage, with the promotion of key figures to the government, was widely seen as part of the president's 'divide and rule' tactic to counterbalance the influence of other 'oligarchic clans' based in Kyiv (SDPU(o)) and Dnipropetrovsk (*Trudova Ukraina*) and as reflecting his gratitude for the important contribution of Donetsk oblast to delivering pro-presidential votes in the election.[1] The constellation of factions formed in parliament reflected and influenced these trends occurring in the executive branch. Together, pro-presidential factions initially comprised 206 deputies, just 20 short of a bare majority. As in 1998, the roughly balanced weights of pro-presidential and opposition forces set the stage for deadlock as parliament sought to allocate leadership posts.

Although United Ukraine won 119 seats in the election (see Chapter 2), by the first Rada session, the faction registered with 175 deputies, with the additional members mainly being drawn from deputies elected in single mandate constituencies. Tymoshenko alleged that $100–200,000 was paid to deputies to join (*Ukrains'ka Pravda*, 11 May 2002). The main aim of this 'recruitment campaign' was to guarantee the election of the president's preferred candidate for speaker, the United Ukraine leader and former head of the Presidential Administration, Volodymyr Lytvyn. As in 1998, the forthcoming presidential election was the key exogenous factor shaping actors' behaviour, but this time the stakes were even higher for all concerned. President Kuchma was constitutionally bound to step down in 2004 and needed to secure a trusted ally in the speaker's chair to help to control the president's conditions of exit, for instance by ensuring the blockage of opposition initiatives such as impeachment. The arithmetic of the Rada's composition suggested that the four opposition factions with 227 votes would have a better chance of seating their choice of speakers than the pro-presidential two with 206, but even the prize of speakers' chairs could not overcome the mutual distrust of Our Ukraine and the Communists so the opposition leadership packages foundered. It was also

extremely difficult for the pro-presidential forces to find the additional 20 votes for Lytvyn, despite sometimes blatant bribery (e.g. Pohorelova 2002). Eventually, the minimum required 226 votes were received for a package of Lytvyn with Donetsk deputy Hennady Vasylev and SDPU(o)'s Oleksandr Zinchenko as deputy speakers. Although the vote was secret, additional votes were probably provided by Communist and Our Ukraine deputies. The latter faction expelled seven deputies as a result of this vote. The election of the parliamentary leadership provided an early indication of the political dynamic of the new Rada: the limited ability of the opposition factions to sustain joint actions because apart from their opposition to Kuchma little united them, and the ability of the pro-presidential forces to exploit these divisions to their own advantage.

The loss of the parliamentary leadership forced the opposition to change tactics and during summer 2002 they focused upon the need for political reform in Ukraine, specifically the limitation of the president's powers and a corresponding broadening of the Rada's authority to increase political accountability and ensure Ukraine's future democratic development. This was referred to as the transformation to a 'parliamentary–presidential' republic, as opposed to the current president–parliamentary one. Three opposition factions, the Communists, Socialists and Yulia Tymoshenko Bloc initiated plans for mass protests in support of such changes beginning on the second anniversary of Gongadze's death, 16 September. The position of Our Ukraine *vis-à-vis* the opposition was ambivalent. Certain sections of the faction supported joining the opposition (e.g. Kostenko's People's Party), while others (including Yushchenko) were convinced that as the 'winners' of the March elections the faction should form the basis of a new democratic parliamentary majority. Therefore, Yushchenko continued to participate in the negotiations for majority formation until October.

At the same time, executive pressure on individual opposition deputies to join the majority continued (see below). The president saw the formation of a supportive majority as crucial to his exit strategy and all efforts were directed to this end. Lytvyn's replacement as head of the Presidential Administration was Viktor Medvedchuk, the leader of the SDPU(o), former first deputy speaker of the Rada (2000–1) and credited with substantial levers of influence inside parliament. Under his tutelage, the Presidential Administration became especially active in media control, allegedly issuing *temniki* – instructions to national broadcasters on what news 'themes' to cover. Unsurprisingly, the opposition protest plans were to be ignored (*Ukrains'ka Pravda*, 4 September 2002). During the last couple of years, the executive had been successful in limiting opposition access to the media, so the innovation of *temniki* indicated its increasing defensiveness.

By using his Independence Day speech on 24 August 2002 to tackle his two immediate problems – majority formation and regaining the political initiative from the opposition – the president also laid the groundwork for a resolution to his main problem – his exit for power. By declaring his support for a

parliamentary–presidential republic where the government would be formed by the Rada, Kuchma stole the opposition's initiative. Although the autumn protests would be the biggest since independence, by November the opposition switched its attention to parliament. At the same time, Kuchma's announcement offered additional inducements for majority formation: the idea of the government being formed by a parliamentary majority could be 'tested' immediately, without waiting for the corresponding changes in legislation. This complemented the negative inducements of blackmail and bribery that had failed to gather sufficient deputies. As such, the new majority was formed using similar methods to its earlier incarnation in 2000, but this time the price the president had to pay was higher because the new Rada had a larger proportion of opposition deputies and Kuchma's position was weaker due to his impending term expiry.

A majority of nine pro-presidential factions was announced on 30 August, although it took until 27 September to organize formally. In November, the formation of a coalition government by the majority headed by Regions of Ukraine nominee, Donetsk governor Viktor Yanukovych, seemed to cement its existence. By December, the majority felt confident enough to try to replace the head of the National Bank with its candidate (*Trudova Ukraina*'s Serhiy Tyhipko) and to dismiss the 19 opposition committee chairs and allocate these posts to majority representatives, as had occurred in 2000. However, in contrast with its predecessor, this majority failed its first test of strength. As the opposition blocked the voting, the majority resorted to illegal voting procedures to pass the decisions. In concert, all four opposition factions demanded these votes be annulled and as a consequence, the majority was forced to accept defeat over the reallocation of committee heads. In this instance, the opposition demonstrated its capacity to act and won a significant victory. They were aided by the mediating role played by Lytvyn, who as speaker had refused to head the majority and he used the opportunity to broaden his dangerously narrow support base in the Rada. The December debacle exposed the weakness of the majority, which like its predecessor was composed of rival lobbies and lacked a well-elaborated, unified programme. However, this majority was significantly weaker due to the lame duck status of the president and the impending presidential election campaign in 2004, which meant factions worked together with one eye on the forthcoming competition. Although there was much talk of a single candidate from the pro-presidential camp, the leading factions (*Trudova Ukraina*, Regions of Ukraine and SDPU(o)) each hoped that it would be their candidate. This considerably weakened longer-term prospects for majority survival.

The 2004 elections seemed to be the major reason behind the president's political reform initiative announced on 24 August 2002. As potential reliable successors such as Lytvyn or Medvedchuk were unelectable, Kuchma was forced to seek alternative scenarios for his exit, and constitutional change offered them. Although the president's 2002 Independence Day speech had framed the reform close to that envisaged by the opposition (above all, Socialists and Communists), his draft law of spring 2003 resurrected the changes he had sought via the 2000

referendum, such as a smaller, bicameral parliament with wide presidential powers to dissolve it. There was also a crucial innovation – that president and parliamentary elections be held simultaneously. This was widely regarded as a means to prolong Kuchma's term until 2006, when the next parliamentary elections were due. While formally granting additional powers to the Rada, Kuchma's vision of a parliamentary-presidential republic could significantly bolster the position of the president and the incumbent personally.

While the president perfected his draft, a parliamentary commission elaborated its own version of a parliamentary–presidential republic, which would increase parliament's authority in appointments while giving the president broader but clearly defined powers of parliamentary dissolution. Unsurprisingly, the president employed traditional tactics to inhibit the bill's progress (*Zerkalo Nedeli*, 24 May 2003). The majority was instructed to obstruct further progress of parliament's bill, but the Rada voted in July 2003 to send both bills to the Constitutional Court for examination, a move that kept both bills 'alive'. Consequently, by early September, the president withdrew his bill and gave tentative support to a version of a parliamentary republic where the president would be elected by parliament. Clearly, Kuchma thought it would be easier to control the Rada than the electorate.

The ongoing debate over constitutional reform was above all shaped by Kuchma's search for the means to guarantee his future. It also articulated the deep uncertainty in Ukrainian politics and the unsatisfactory nature of the 1996 compromise. The debate also underscored the fact that following the 2002 parliamentary elections, political actors in Ukraine were above all concerned to position themselves advantageously for the next presidential election, a factor that had a significant impact on faction organization and coherence.

Uneven development I: factions

Factions will be examined as in the previous chapters, by assessing their organization and institutional coherence. In the fourth convocation, there were many similarities with the preceding ones, but organizationally factions utilized their growing experience and better resources to ensure that both their deputies and electorates were better informed. In terms of coherence, factions exhibited greater voting discipline, although the influence that the president was able to exercise over their composition and activity became more evident.

Organization

In terms of organizational development, strong elements of continuity with the previous convocation were evident, and not just among the successor factions from the previous convocation, of which there were seven (of 13) – the highest number and proportion ever. As longevity is a key prerequisite for, as well as an indicator of, institutionalization, this trend is a positive one. The successor factions organized in broadly similar modes as before, and new ones adopted

analogous practices in the structure of their secretariat, holding of meetings, etc. Significantly, Our Ukraine was organized along the lines of an umbrella faction, with the four predecessor factions (see above) operating much as before, plus a new 'deputy group' of entrepreneurs (*Razom*), with their own secretariats and meetings and the faction's coordinating council acted as an intermediary. This cumbersome structure accommodated the identities (and leader's egos) of the bloc's constituent parts, but also gave credence to the authorities' whispering campaign about its disorganization.

At the same time, the Rada increased the number of staff provided to factions depending on their size (for instance, the Socialists had three staff in the third convocation and six in the fourth). In part, this was in recognition of the growing role of factions in the legislative process, to enable them to analyse bills more effectively before making their voting decisions. Some deputies and staff attributed this to the personal role of the speaker (Interviews 2003). Lytvyn's ability to persuade the executive to release resources to the Rada was to be expected given his proximity to the president, and this was pointed out to deputies as his prime advantage by Viktor Medvedchuk during the speaker's election (Session stenogram, 15 May 2002).

Another notable change in the fourth convocation was the increased transparency of some factions' activity. Primarily this involved Our Ukraine and the Communists, as well as the Socialists who pioneered this approach to work as early as 1996. These factions analyzed and made public via the publication of booklets the activity of the faction and individual deputies, for example comparing their attendance, the number of bills and deputies' *zapyt'* (interpellations). One member of faction staff commented how these comparisons helped to stimulate deputies to action (Serov, interview 2003) as well as keeping voters informed. However, this activity was a double-edged sword, generating an enormous amount of legislation for the Rada to process (see below). Regions of Ukraine adopted a different approach, creating the first faction website, but beyond this were unwilling to provide any further information about the faction's activity. However, generally factions evinced greater willingness to grant outsiders access to information and this demonstrated a growing understanding of their accountability to the people they were elected to represent.

In sum, faction organization continued to evince some positive trends, as they became better able to provide information and analysis to deputies and to coordinate their activity. In general, this can be seen as a consequence of accumulated experience (longevity) coupled with better resources, which remained in the gift of the executive.

Coherence

In terms of factions' institutional coherence, there was considerable continuity with the previous convocation, with the proliferation of factions in the pro-presidential centre, ongoing membership fluidity and growing faction discipline.

The interplay of the Rada's formal rules and presidential influence remained main factors shaping this pattern of behaviour.

While the four opposition factions and SDPU(o) managed to survive in the form that the voters elected, the United Ukraine bloc very rapidly split into nine separate factions. As the fragmentation occurred broadly along party/regional lobby lines, the role of inter-group competition was clear, especially as the forthcoming presidential elections created incentives for individual factions to raise their profile. At the same time, the incentive structure created by formal rules in the Rada did not encourage or give advantages to large factions. The Rada's leadership body, the Conciliation Council of Factions comprised faction leaders and committee heads and although decision-making there was formally weighted by faction size, factions perceived there was more to be gained by having more leaders present. Furthermore, after majority formation, its leadership body (*Ko-ordinatsyina Rada Bil'shosty* or KRB), operated on a one-faction one-vote basis, creating clear incentives for factions to divide. Regions of Ukraine responded to this by creating the European Choice deputy group:

> 'Under the Party of Regions it was decided to form another group. There were positive elements – we could gather [in European Choice] non-party single mandate deputies. Secondly, we gained an additional vote in the Coordination Council of the Majority [KRB], the Conciliation Council of Factions and got extra speaking rights in plenary sessions. We are a satellite of a big faction.'
>
> (Stoliar, interview 2003)

As the minimum faction size was still 14 deputies, it remained relatively easy to put together a faction. Three factions had 16 deputies or less (Agrarians of Ukraine, NDP and People's Choice). As such, the small minimum faction size gave cause for any ambitious and resourceful deputy to aspire to their own faction. However, commentators suggested that to form a faction also required the president's personal imprimatur (*Zerkalo Nedeli*, 22 February 2003). Although this is difficult to substantiate, circumstantial evidence does support this assertion. For example, oligarch Oleksandr Volkov seemed very keen to form his own faction in the new Rada, and then inexplicably joined SDPU(o) in October 2002. If deputies require the president's permission to form a faction, then presidential influence permeates very deeply into factions and the Rada more widely, into factions' structure as well as composition and voting (see below). This has important implications for a parliament's institutional autonomy. However, this is not the case for the whole parliament as around 200 deputies belonged to opposition factions, where the president had little or no effect on their organization, although he could and did influence their membership.

Table 7.2 illustrates the main patterns of faction growth and shrinkage by giving their sizes at the start of the convocation and then at the end of each parliamentary session. It shows that the opposition factions all suffered from

Table 7.2 Changes in faction size during the fourth convocation

Faction	21 May 2002	15 July 2002	17 Jan 2003	11 July 2003
Our Ukraine (*Nasha Ukraina*)	119	111	102	102
Communists	63	63	60	60
Socialist Party	22	21	20	20
Bloc of Yulia Tymoshenko (BYuT)	23	23	18	18
Social Democratic Party (United) SDPU(o)	31	34	39	37
United Ukraine	175	11	–	–
Party of Entrepreneurs/*Trudova Ukraina*	–	38	41	43
Regions of Ukraine	–	36	42	47
European Choice	–	18	18	20
Democratic Initiatives	–	17	22	23
People's Power	–	17	19	19
Agrarians of Ukraine	–	15	17	16
People's Democratic Party (NDP)	–	17	16	15
People's Choice	–	15	15	14
Non-affiliated deputies	16	11	20	16

Source: www.rada.gov.ua.

defections, losing a total of 27 deputies to the pro-presidential factions during the months of the speakers' election and majority formation, but during the third session (February–July 2003), the opposition remained stable in size and most switches occurred between majority factions.

Indeed analysis of the number of switches reveals a stabilization of memberships during the third session, as there were only 11 switches in total of which nine took place between majority factions and two in Our Ukraine. This is compared to 201 switches in the first session (May–July 2002) (of which 166 were connected to the break up of United Ukraine) and 45 switches in the second session (September 2002–January 2003) (figures from www.f4.org.ua and www.rada.gov.ua).[2] The period where most switches occurred coincided with the attempts to form a majority, a factor that also prompted much 'political tourism' in the previous convocation. Indeed, the reasons for deputies moving factions appeared broadly similar to those of the previous convocation, as formal rules remained unchanged and did not constrain deputies' movement, while incidents of 'pressure' during majority formation was no longer described in hushed voices during anonymous interviews, but proclaimed loudly in the press by deputies of all political stripes. Two of the most widely reported cases were those of Our Ukraine deputies Volodymyr Shandra and Yevhen Chervonenko who both received

instructions to join the majority in summer 2002. Shandra's factory then had a visit from armed officers who seized documents and computers, paralysing its operations and then faced a criminal investigation. Chervonenko said that his support for Our Ukraine cost his transport firm $1million after the tax police froze his bank accounts and seized trucks (*Washington Post*, 17 December 2002). In both cases, the deputies refused to leave Our Ukraine, but there were 17 others who left, some of whom claimed pressure tactics were being used, then withdrew the accusations after leaving and some who were entrepreneurs who had little in common with Our Ukraine's programme and were widely expected to leave (e.g. the seven deputies who voted for Lytvyn as speaker) (*Kyiv Post*, 19 December 2002). Similar patterns were in evidence in the other opposition factions, but there were also widespread allegations that cash bribery was used to attract majority deputies to switch factions (e.g. to Regions of Ukraine) (*Zerkalo Nedeli*, 24 May 2002).

Therefore, the ability of the executive to manipulate the size and composition of factions continued into the new convocation and posed a formidable challenge to further faction and wider parliamentary institutionalization. At the same time, such pressure tactics clearly had limits to their effectiveness, as the prolonged period needed both to elect Lytvyn and form a majority demonstrated. Deputies with business interests across the political spectrum were more likely to be susceptible to these methods, but in the Rada there also exists a core of at least 200 deputies who were not willing to move faction. The paradox was that in order to run a high profile election campaign to pass the 4 per cent threshold, funds were required and this tempted parties to sign up untested entrepreneurs whose loyalty to the party was suspect. This tendency was a product of the weakness of political parties in Ukraine, and it reinforced factions' institutional incoherence.

Turning to consider faction discipline, the longitudinal analysis of all roll-call votes conducted by Laboratory F4 during 2002–3 (see *Verkhovna Rada – Tyzhden'*, www.f4.org.ua/upweek) shows patterns very similar to the previous convocation, but with higher levels of voting discipline exhibited by all factions (Shevchenko, interview 2003). Their analysis also indicates that even prior to majority formation, the future majority factions were voting in close concert, while the opposition was more disparate, as would be expected given the deep ideological differences between them. In general, factions were becoming more coherent over time.

However, although voting discipline provides a good indicator of faction coherence provided faction membership fluidity is taken into account, because in Ukraine there were questions about majority factions' independence in voting decisions, this means that discipline is not necessarily a valid indicator of factions' institutional autonomy. There was evidence that on key votes, the president (or his chief of staff) instructed Lytvyn and majority factions to deliver a certain result. For example, the vote on the proportional electoral law on 3 April 2003 was postponed because SDPU(o) and NDP (who were both in favour of the law) refused to support it after receiving an instruction from the president

(*Zerkalo Nedeli*, 5 April 2003). During the stormy debate on sending a chemical weapons battalion to Kuwait during the 2003 Iraq war, majority ambivalence was overcome as Lytyvn engaged in various shenanigans, manipulations of procedure and swearing before the 'correct' vote was obtained (Author's observations, VRU plenary session, 20 March 2003). As such, one analyst said 'They say Lytvyn tells them how to vote – like carbon copies' (Lapin, interview 2003). Therefore, presidential influence on majority voting is evident, but is this distinct from the majority discipline exhibited in Western parliaments? It is different because of the nature of the system and of the methods of lobbying. First, although this majority formed the government, there existed no constitutional provisions or legal mechanisms of majority accountability. It took place at the president's whim. Second, deputies who voted against the president's wishes could potentially face serious problems with their businesses or even more personal forms of intimidation. In this respect, executive influence is qualitatively different from the lobbying in Congress or Westminster. At the same time, this is not to suggest that the majority merely rubber-stamped all presidential initiatives, as the case of the constitutional change bills above clearly indicated. It remains difficult to ascertain the extent of this type of presidential influence, but it is probable that as the presidential elections draw nearer, such influence is likely to diminish. However, the early experience of the fourth convocation raises serious questions about the autonomy of factions and therefore of the Verkhovna Rada more generally from the executive, a trend that has important implications not only for parliamentary development, but also for wider democratization in Ukraine.

Faction institutionalization at the start of the fourth convocation continued in the established uneven pattern of development. Factions exhibited growing longevity, organizational capacity and voting discipline, but appeared as susceptible as before to manipulation by the executive and its parliamentary allies in terms of membership, voting and possibly even their structure. However, due to the larger opposition contingent in the Rada, this trend was not uniform across all factions.

Uneven development II: committees

In the committee system, changes during the fourth convocation tended to reinforce the existing modus operandi and its inherent inefficiencies. Rather than surveying all aspects of committee operation as in Chapter 6, here the most important developments will be examined, and primarily these concerned the issue of committee leadership, the ongoing questions of workload inequalities and overlapping jurisdictions. In allocating the number and leadership of committees, the continuing prevalence of factions' political interests over efficiency considerations was evident. These perpetuated variance in committees' legislative workload, which inhibited busier committees' ability to perform other functions such as oversight. At the same time, the convocation did witness an increase in the resources available to committees.

Jurisdiction

As argued in Chapter 6, inefficiencies in the Rada's committee system were rooted in the overlapping jurisdictions of committees that generated inter-committee competition, duplication and uneven workloads. The failure to streamline committee's competences was caused by countervailing faction interests in securing committee chairs as a key resource, which created incentives to expand their number and thus increase the overlapping jurisdictions.

In the fourth convocation, factions' interests to raise the number of committees were manifest immediately as the pro-presidential factions proposed to create 28. Their plan evinced a hunger for posts and disregard for effectiveness in the legislative process, envisaging the formation of a number of new committees that would duplicate or at least overlap the prerogatives of the existing ones.[3] This scenario was averted as the opposition factions co-operated effectively to retain the existing 23 committees. However, 'corridor negotiations' over leadership posts produced one new committee, on European Integration (*Molod' Ukrainy*, 11 June 2003).

The new committee illustrated how committee formation was driven by political rather than efficiency considerations. The opinion was widespread that the committee was created to accommodate former foreign minister Borys Tarasiuk's desire to head committee in his specialist area, but the jurisdiction of this committee infringed that of the foreign affairs committee. One deputy from the latter committee explained:

> 'This was one of the biggest problems in the formation of committees. Tarasiuk [wanted the committee] to recognize his authority . . . . If he had had the jurisdiction he wanted, it would have been necessary to liquidate the foreign affairs committee.'
>
> (Alekseev, interview 2003)

Although the prerogatives of the European integration committee remained formally undefined (Plachkov, interview 2003), its draft statute outlined its main tasks as ensuring the harmonization of Ukrainian legislation with that of the EU, communicating with international bodies such as the WTO, NATO and OSCE and other areas in the compass of the foreign affairs committee (European Integration Committee 2002). As such the potential for inter-committee competition was large, and exacerbated by ideological cleavages between the communists who dominated the foreign affairs committee and the Our Ukraine deputies who prevailed in the European integration committee (Plachkov, interview 2003). As this example illustrates, factions' interests in expanding the number of committees and inability to ensure proportional representation of factions in committee composition continued to have deleterious consequences for committee operation by generating avoidable conflicts over competances and ideology.

Workload inequalities

The persistence of unclear and overlapping committee jurisdictions suggests that workload variations between committees also perpetuated. Figures were available for the first two sessions (June 2002–January 2003) and thus are not directly comparable to the figures for whole convocations used in Chapter 6. Furthermore, the Rada's Chief Organizational Department altered the way it compiled figures on committee's activity, now collating the number of laws submitted for plenary examination rather than the number of laws passed. However, these data (shown in Table 7.3) illustrate that although committees were meeting with similar frequency, there remained significant differences in the workload of the 'big' committees like economic policy, finance and legal policy and the less busy committees such as youth policy.

Moreover, it is important to remember that legislative work is just one of several areas of committees' activity and the large variations in the legislative workload not only affected the quality of legislative work, but also ability of committees to undertake other activities. The former head of the banking and finance committee explained:

> 'Some committees have more opportunities for better legislative preparation, to do oversight work, to hold hearings. Those with lots of bills have to concentrate on the preparation of bills for plenary [examination]. ... It is linked to the problem of the internal organizational structure of the Verkhovna Rada. How many standing committees should exist?'
>
> (Aloshyn, interview 2003)

Although the workload inequalities persisted, evidence gathered from interviews with committee staff and deputies in 2003 suggested that there had been an increase in the number of staff and material resources of committees (e.g. each deputy now was provided with their own, networked computer), which was generally attributed to Lytvyn's efforts (e.g. Diatlov, interview 2003). However, these improvements and especially the increased staff allocation did not appear to take into account the workload differentials. For example, both economic policy and finance and banking gained two additional staff, while the *Reglament* committee was given another five.[4] In this way, an opportunity to even out workload disparities on individual staff and deputies and thus alleviate some of the resultant negative effects was missed.

Therefore, workload inequalities and the attendant inefficient distribution of human resources were enduring characteristics of committees' activity. The barriers to evening out workloads between committees continued to lie in factions' unwillingness to engage in wholesale restructuring of the committee system, which could cost them precious committee chairs, which were seen as an increasingly valuable resource in the Rada.

Table 7.3 Variation in committee workloads, June 2002–January 2003

Committee	No. of meetings held	No. of questions examined	No. of laws prepared for examination by VRU
Legal policy	16	134	39
State-building and local councils	22	112	49
Social policy and labour	14	134	76
Health, motherhood and childhood	16	74	16
Youth, sport and tourism	19	56	10
Science and education	23	111	18
Culture and spirituality	19	81	14
Economic policy	16	162	72
Budget	47	166	25
Finance and banking	29	111	80
Industrial policy and enterprise	20	145	23
Fuel-energy complex, nuclear policy and safety	24	88	12
Building, transport and communication	23	101	19
Agricultural policy and land relations	21	93	39
Ecological policy and Chornobyl'	21	119	23
Law-enforcement	21	175	61
Organized crime and corruption	18	92	10
Defence and national security	13	82	60
Reglament, deputies' ethics and organization of Verkhovna Rada	26	144	21
Freedom of speech and mass media	19	84	41
Human rights	25	121	3
Pensioners, veterans and invalids	21	73	29
Foreign policy	17	148	36
European Integration	20	98	11

Source: Holovne orhanizatsiyne upravlinnia (2003).

Committee leadership

As in previous convocations, the election of committee chairs was characterized by prolonged inter-faction bargaining and battles. The leadership of the most prestigious committees was for some as significant as a deputy speakers' post (Suslov in *Den'*, 1 June 2002). In addition to privileges, status and influence on key policy areas mentioned in Chapter 6, by the fourth convocation a committee chair had additional opportunities to shape legislation via committee decisions

because 'in this convocation there are significantly more deputies who never come [to the Rada]. They do not want to and will not sit in the chamber [or] . . . committees' (Chubarov, interview 2003). Absenteeism in committee meetings was an ongoing problem that was sanctioned by a rule change from 2000 that permitted deputies not to attend and to vote by letter. This gave a chair the opportunity to persuade individual absentee (and thus potentially uninformed) deputies to support their decisions. In this way, a chair could wield enormous discretion over the content or progress of individual bills.

Although the allocation procedure was according to the proportional representation of factions in the Rada, in 2002 this arrangement failed to achieve inter-faction accord. The loss of the speakers' chairs led the opposition to insist on compensation in the form of committee chairs. With 227 votes, they were able to block pro-presidential proposals, but struggled to agree on their own variant and competition between Our Ukraine and the Tymoshenko bloc over the chair of the budget committee was particularly intense. Eventually, a compromise was brokered whereby first deputy chairs were included in the election and the opposition would receive 19 chairs, while United Ukraine gained just four, plus 14 first deputy chairs. However, the voting revealed widespread dissatisfaction with the agreement, as both the Socialists and Tymoshenko bloc abstained and United Ukraine and Our Ukraine both split (roll-call vote, 7 June 2002). However, six months later, the newly formed majority's attempt to reclaim the opposition chairs met with unanimous resistance from the opposition factions, who were able to preserve the *status quo* (see above). This was significant because it meant that the opposition could continue to exert considerable influence on the legislative process even after the majority had formed the government (see below). Furthermore, the struggle for leadership posts also led to the creation of additional deputy chair posts, with some committees having three. Committee staff considered this a negative but typical development (e.g. Snihach, interview 2003). Once again, political ambitions prevailed over considerations of the most optimal arrangements for committee development and this remained a serious obstacle to further committee institutionalization.

In sum, the new convocation did not bring significant changes to committees' structure or organization, although there was some improvement in their technical resource base that could facilitate improvements in their legislative and oversight activities. In addition, the opposition's ability to retain control a majority of committee chairs ensured that they would have greater influence over the legislative process than during 2000–2.

Surveying Rada activity: law-making and oversight

Given the broad continuity in the operation and development of the Rada's internal institutions, the legislative process and conduct of parliamentary oversight would also be expected to be characterized by the persistence of established patterns of operation. As only part of a convocation is examined, the

available figures on legislative activity were not comparable with those examined for preceding convocations, so the following is largely based on qualitative analysis of interviews, documents and press reports during 2002–3. The period was marked by increased attention to hearings and a growing volume of draft legislation to process. Relations with the executive remained complex especially with regard to oversight, while the new majority's marginal nature and lack of internal coherence meant that the adoption of laws often relied on the support of one or more opposition factions.

The new majority lacked the size and internal coherence of its 2000 predecessor and consequently was unable to make the same impact on the Rada's legislative activity. It's leadership body, the Co-ordination Council of the Majority, was thus unable to make the same contribution to agenda-setting as in 2000, so that opposition deputies commented that they scarcely noticed its existence (e.g. Chubarov; Alekseev, interviews 2003). Nevertheless, a majority with interests distinct from the opposition did exist and was able to pass legislation, but absenteeism often meant that that support of one or more opposition factions was required. Thus, as opposition factions held chairs in a majority of committees, they were able to influence the content and passage of legislation and sometimes helped the majority to pass bills (*Holos Ukrainy*, 28 December 2002). The run-up to the presidential elections also engendered the passage of some populist laws, such as raising the minimum wage regardless of how this upset the newly passed budget (e.g. *Holos Ukrainy*, 23 January 2003). In some aspects, the new majority was as artificial as its 2000 predecessor, but in the context of uncertainty and competition for the forthcoming presidential elections, external stimulus to hold it together was less effective. As the elections drew nearer, the prospects for majority integrity were likely to diminish, so that the Rada would be increasingly reliant on situational majorities to pass laws.

From the limited figures available (see figure 7.3), it seems that committees were all examining more questions than in the previous convocation, but at this point it is not possible to tell if this resulted in a greater quantity of laws or the effect on their quality. However, speaker Lytvyn stated in February 2003 that the number one problem for the parliament was legislative quality (Lytvyn 2003). The trade-off between quantity and quality was discussed in Chapter 6, but during the fourth convocation the issue remained pertinent. There was an increase in the volume of bills for the Rada to deal with as factions eager to demonstrate their activeness to potential voters flooded the Rada with thousands of draft laws – 1928 new bills were initiated in the third session (February–July 2003) alone. The head of the finance and banking committee secretariat complained:

'[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 the 339 bills [currently in the committee] half of them are on tax. These are all directed towards populist aims … [and] we have to examine them.'

(Diatlov, interview 2003)

Consequently, the busier committees' resources were diluted by having to cope with such an enormous quantity of bills, leaving them less time for other activities like oversight or hearings.

Hearings continued to be held with growing frequency, with increasing emphasis on topics with a wide social resonance (E; Aloshyn, interviews 2003), but certain topics aggravated relations with the executive. For instance, in the advanced stages of preparation by the freedom of speech committee for their hearing 'Society, Mass Media, Power: Freedom of Speech and Censorship in Ukraine', the deputy speaker suddenly formed a separate organizing commission, which Our Ukraine saw as an attempt by the SDPU(o) (whose leader was head of the Presidential Administration) to control the conduct and outcome of the hearing (Our Ukraine 2002). In addition, one source alleged that the committee received an instruction from the Presidential Administration to cancel the hearing (Anonymous, interview 2003). It remains difficult to discern whether this was an isolated incident or whether it represents wider interference in committees' activity by the Presidential Administration. However, even as an isolated event, it represents a serious infringement of the Verkhovna Rada's rights to gather and publicize information.

Most contact with the Presidential Administration was more benign, especially consultation on specific bills. The attendance of Presidential Administration representatives at committee meetings became common (e.g. Finance and Banking Committee 2002: 5) and, for example, the economic policy committee formed conciliation groups between the committee, the government and the Presidential Administration (Nochvai, interview 2003). As such contacts became routine, they could potentially help to facilitate greater inter-branch accord on specific legislation. However, legislative 'ping-pong' continued during the convocation. For example, the law 'on executing decisions of the European Commission on Human Rights' was passed three times between 2001–3, and all the president's comments had been taken into account, but he still refused to sign it (*Holos Ukrainy*, 17 February 2003). Thus, executive–legislative confrontation continued in the sphere of law-making even beyond the 'traditional' area of laws regulating the branches of power and this further illustrated the failure of the majority and its coalition government to smooth inter-branch tensions over the legislative process, as had occurred during 2000.

At the level of individual committees, relations with the new coalition government were generally seen as constructive, with regular contacts (e.g. Semeniuk; Bandurka; Kalinchuk, interviews 2003). Nevertheless, deputies saw these contacts as impeded by the high turnover of ministers (Hryhorovych, interview 2003) and the dependence on personal relations due to the lack of a regulatory framework such as a law 'on the Cabinet of Ministers' (Matvienkov, interview 2003). There was also a tendency for ministries to send low-ranking officials to committee meetings (Tsukanov; Shkil, interviews 2003), which did not inspire the committee's confidence. Staff and deputies also continued to complain about low quality bills emanating from the government (e.g. Plachkov; Diatlov, interviews 2003) and it remained common for the Rada to pass the

committee's 'alternative' bill rather than the governments draft. In short, contacts between the Rada and the government became increasingly routinized, but problems also continued across convocations that were likely to impact on the consistency and coherence of the legislative base.

As in the previous convocation, deputies and staff continued to stress the importance of oversight activity, but figures indicate a slight decline in the attention committees paid to this activity. If an average of 15 per cent of questions were concerned with oversight in the previous convocation, during June 2002–January 2003, this was only 12 per cent, although the variations between committees remained pronounced (Holovne orhanizatsiine upravlinnia, 2003). Significantly, there was continuity in the most and least active committees. Among the least active were the finance and banking, economic policy and legal policy committees, which were so overloaded with legislation that there was little time for other activities. If committees were largely unable to oversee the implementation of laws regulating most of the economy and legal system, this represents a crucial failure by the Rada to execute its functions. Although committees were not the only bodies engaged in oversight, this was one of their main functions as parliamentary specialist organs. In this respect, moves to restructure the committee system, or more modestly, altering the staff and resource allocation to reflect the workload differentials would be an important step towards enabling all committees to exercise their prerogatives.

Where committees did exercise these functions, deputies and staff continued to report problems with obtaining information from the relevant executive bodies. One deputy encapsulated this:

> '[The quality of responses] varies. With some questions we ask one thing and they answer another. But some ministries are very scrupulous and fulfil [our] requests. But we get tens of responses on specific questions that I would be ashamed to show my voters.'
>
> (Matvienkov, interview 2003)

Another frequent complaint was the lack of mechanisms to ensure the implementation of committee recommendations (Tsukanov; Yavorivsky; Semeniuk, interviews 2003), so that 'the means of committee oversight is like waving a finger and saying "Don't do that"' (Shkil, interview 2003). This indicates a continuation of the problems experienced in previous convocations.

Executive non-compliance and overloaded committees were not the only impediments to the development of committees' oversight capacity. In the case of the special control commission on privatization, several deputies who were members of this commission experienced intimidation and even violence (F, interview 2003). Again, it is impossible to ascertain whether such tactics were widespread. Nevertheless, the unclear circumstances surrounding the deaths of at least six deputies including Miaskovsky and Drahomaretsky (d.1996) and the attack on Yelashkevych (2000), who were involved in investigating executive conduct, leads to the conclusion that such cases were not isolated. Although

there have been no prosecutions for these or similar incidents, in light of the 'Kuchmagate' tapes many deputies and commentators believe that they were ordered by holder of senior executive posts, possibly the highest. Intimidation in its various forms appeared to be another means for executive suppression of the independence of individual deputies and thus the Rada's execution of its prerogatives in general. As such, it posed one of the most serious threats to institutional autonomy, one of the cornerstones of an institutionalized democratic parliament.

The Rada's legislative activity in the new convocation was characterized by broad continuity with the previous convocation. This included growing contact with the Presidential Administration over the legislative process, but the new majority proved unable to ensure smooth relations with the executive and passed decisions with opposition support that sometimes ran counter to the president's wishes (e.g. on amending the constitution; on mobile telephone charges). In this respect, the Verkhovna Rada exhibited a degree of independence from the executive and by 2003 was far from a 'rubber stamp' parliament. However, there was also growing evidence of the Presidential Administration's interference in committees' activity, coupled with ongoing executive non-compliance with their requests. Moreover, the use of intimidation (including to persuade deputies to join the majority) raised serious questions about the institutional autonomy of the Verkhovna Rada.

Conclusion

In the fourth convocation, the Verkhovna Rada did exhibit areas of growing or stabilizing organizational complexity, coherence and autonomy with respect to its internal institutions. Committees and factions were better resourced and consequently able to ensure that engaged deputies were better prepared for their duties. Factions were increasingly organized and transparent and the new composition with a larger opposition contingent meant that although the *Reglament* and executive interference promoted membership fluidity, this was circumscribed in extent and by 2003 had fallen dramatically. Factions also evinced stronger voting discipline and thus can be considered more institutionally coherent than previously. The Rada also remained able to resist presidential initiatives in certain circumstances. Bills were passed and issues investigated against his wishes. Thus, the parliament retained aspects of institutional autonomy, although this was not thoroughgoing, and was capable of rearguard action.

At the same time, factions' interests continued to be a barrier for improving the effectiveness of committees, particularly with regard to reforms to even out workload disparities and overlapping jurisdictions. This indicated the persistence of short-term thinking – the trading of a short-term advantage for the longer term institutional strength of the parliament, to which a strong, effective committee system could contribute substantially. As an institution, the Verkhovna Rada had ongoing collective action problems that were promoted by and made it vulnerable to external manipulation.

By 2003, the president was unequivocally the main source of external influence on the Verkhovna Rada. His desire to control the parliament was one of his most consistent characteristics. As before, this control was sought formally (via constitutional changes) and by informal means. The president was able to influence the composition, structure and voting of factions, although this was limited with regard to the opposition. Furthermore, the president again demonstrated his ability to influence the Rada's choice of speaker and majority formation by utilizing 'carrot and stick' tactics. He remained able to affect the legislative process (including refusing to sign laws where his veto had been overridden), opposition activity (by controlling media access) and interfered in committees' activities. In all these areas, the president's tactics posed a significant threat to parliament's independence and further institutional development.

Therefore, by 2003 the Verkhovna Rada was not a fully fledged autonomous institution, but despite the vast array of presidential levers of influence and the internal impediments to institutional development, it retained residual independence and a limited capacity to resist executive pressure. In part, this was facilitated by its divided composition, with the majority's dependence on the opposition. Partially, it was a result of the growing institutional identity and capacity of its internal institutions, particularly factions. As the presidential elections approached, this tendency would be expected to increase. However, the generally low level of institutional development and the attendant political culture (with problematic levels of absenteeism, venality, 'short-termism' and executive dependence) means that the epithet 'last bastion of democracy' is too romantic. Reality is much more complicated, but as the most open state institution, with some autonomous capacity, the term has some resonance and the Verkhovna Rada remained the central site for public political contestation and decision-making.

8 Conclusion

This study has explored the process of parliamentary institutionalization in the context of wider institutional and political change by focusing upon the development of two core internal institutions: factions and committees. It has demonstrated that institutionalization occurred in the years following the first (semi-)free elections, but that it was patchy, uneven and multi-directional. The underlying causes of these processes are explained in terms of actors' preferences mediated by (exogenous and endogenous) institutional constraints, structural factors such as the nature of the party system and the strategic action of President Kuchma. As internal institutions developed, their impact upon parliament's operation altered and this was demonstrated by an analysis of the legislative process. The growing strength of factions *vis-à-vis* committees resulted in greater legislative capacity, but this occurred at the expense of the quality of legislation. Ultimately, the example of the legislative process illustrates how the uneven institutionalization of internal institutions influenced the Verkhovna Rada's capacity to exercise its constitutionally designated prerogatives. In Chapter 1, the key research questions were defined to focus upon the following themes: the relationship between institutions and behaviour; institutional change (institutionalization); the role of internal institutions in parliament; and how these institutions' institutionalization and interrelationship affected parliament's role in Ukrainian politics. These core themes will now be drawn together before considering the role of the Verkhovna Rada in state-building and democratization in Ukraine.

Institutions and behaviour

The study has sought to explicate empirically how institutions shape actors' behaviour and how actors shape institutions. In a period of regime and institutional transformation, where political institutions were being constructed, adapted and reformed by actors, who then altered their behaviour in the new institutional contexts, the mutually constitutive conception of the relationship between institutions and actors has been realistic and analytically enlightening to explain institutional evolution and the changing roles of sub-institutions in the Verkhovna Rada. Actors' preferences were affected by their experiences of the

existing institutions nested in the wider political context. Their preferences shaped the choices made about new rules that, after adoption, altered the strategic context and created incentives for changed patterns of behaviour. The gradual extension of privileges and resources to factions and the expansion of factions' interests in committee formation are but two of many possible examples of this process unfolding. In this way, it has been asserted that 'institutions matter', but *how* they matter has also been a central focus of the research. While demonstrating how certain rules shaped behaviour (as well as institutional choices), a parallel theme has run through the research findings: that the Verkhovna Rada had a specific 'rules culture' where many formal rules were routinely violated or ignored in day-to-day parliamentary operations. This has certain implications for the assessment of institutionalization and for the appropriateness of new institutionalist approaches to similar topics.

The implementation and institutionalization of the *Reglament* remained patchy. In addition to the imperfections of the normative act, customs of behaviour outside the regulatory framework that had developed prior to its 1994 adoption persisted. The brevity of the Temporary *Reglament* (1990–4) meant that many procedures developed in an *ad hoc* manner, while at the same time the balance of forces in the convocation necessitated new methods for 'getting things done' or, indeed, preventing things from being done. Many of the tactics pioneered by the opposition People's Council in 1990–1, as it sought to make its voice heard in the Communist-dominated parliament, continued to be practised. The nature of common practices and the extent of rules violations by deputies across the political spectrum were summarised in 1994 by *Reglament* and Deputy Ethics standing commission head, Petro Sheiko (1994), but it is an equally appropriate description for the whole period, 1990–2003: '... verbal abuse of their colleagues during plenary sessions ... use of physical force, blocking the podium and microphones and creating obstructions during voting'. Factions would also walk out to prevent a session being held, and frequently brawls broke out over an issue on the agenda. At the same time, deputies continued to vote on one another's behalf in violation of the constitution. Imprecision in the *Reglament* also permitted its systematic manipulation by the speaker, who would skip stages of the legislative adoption process and reshuffle the agreed agenda according to his inclination. Although the *Reglament* did contain some sanctions for violation of the rules, these were rarely used and attempts to apply them became bitterly politicized and were often abandoned. In sum, the *Reglament* lacked authority. Indeed, it was stipulated in the 1996 Constitution that the new standing orders bringing the parliament's operations into conformity with the Constitution were required to be a law, rather than an internal document. Deputies included this provision in the hope that this would give the rules greater force (D, interview 2000). However, the new law failed to be passed due to a lack of consensus on its provisions, as deputies preferred the flexibility of the existing *Reglament*. A member of staff explained that '[t]he *Reglament* are difficult to use and to interpret and therefore they can be used just as one pleases' (Anonymous, interview 2000).

In an uncertain environment, where the balance of power both between the legislature and executive and between the forces within parliament was shifting kaleidoscopically in the unfolding political context, such a preference for flexibility is wholly rational to enable an actor to 'keep his/her options open'. Actors had insufficient incentives to bind themselves to the mast of rule adherence when there was more to be gained from interpersonal and informal methods. Deputies regularly complained about the speaker's abuse of the *Reglament*, but these actions must be seen within the context of partisan battles. At one time or another, all deputies violated the *Reglament* and it became a norm of parliamentary operation, while pointing the finger at someone else's misdemeanours was a common method to try to undermine the legitimacy of a decision taken not to one's liking. In some respects, the Rada's rules were an example of a classic prisoner's dilemma. At the heart of the matter is the issue of mistrust. No group is prepared to risk surrendering the advantages gained by rule flexibility or violation without a guarantee that everyone else will also subscribe. Therefore, no one commits, to the collective detriment. In deeply unpredictable circumstances and in the absence of a Leviathan, many aspects of parliamentary operation remained in a Hobbesian state of nature.

Clearly, this has important implications for scholars seeking to assess parliamentary institutionalization in similar contexts. As institutionalization has been defined as the process of acquiring generally adhered-to rules and procedures that make an institution's perspectives and behaviour independent of other political or social groupings, the persistence of the Verkhovna Rada's 'rules culture' implies that, in many respects, parliamentary institutionalization in Ukraine is in its infancy. Therefore, the research appears to point to apparently paradoxical conclusions: the internal institutions became more institutionalized, but taking parliament as a whole, this development was extremely limited. The operation of such a 'rules culture' also points to the value of empirically grounded qualitative research methods to understanding how post-Soviet parliaments actually work and their internal institutional dynamics.

The relationship between actors and institutions is not clear-cut, so that as Neilson *et al.* (1995: 32) rightly argue, new institutionalist assumptions about institutions *constraining* actors' behaviour may be, at best, inappropriate. Many rules in the Verkhovna Rada were not accepted in practice as constraints on the pursuit of self-interest, so parliamentary operation was unpredictable, based on *ad hoc* arrangements. Furthermore, various individuals and groups within the Rada responded differently to the (shifting) institutional context. A minority exhibited an interest in building the Verkhovna Rada institutions to make it stronger, more stable, transparent and democratic, with clearer rules backed by sanctions to ensure adherence (for example, those supporting bills such as the new *Reglament*, new law 'On standing committees', etc.). Other actors including oligarchic groups and the speakers sabotaged such efforts, perceiving fluid rules and a flexible, unbounded institutional environment as advantageous to their political aims. Thus, actors can behave differently within the same institutional context, because the dense matrix of nested institutions structures incentives

unevenly across different groups, conferring advantages to some and not others and because actors have different preferences and are not simply rational utility maximizers.

This uneven structure of power produced by institutions has been a central concern of historical institutionalism and highlights its distinctive conception of the relationship between institutions and behaviour. This distinguishes the approach from its new institutionalist counterparts: sociological institutionalism and rational choice institutionalism and makes it possible to avoid the pitfalls of latent structuralism. Hay and Wincott (1998: 952) contend that both sociological and (more controversially) rational choice institutionalism are prone to producing explanations which are deeply structuralist. In sociological institutionalism, individuals are so embedded in webs of institutions, norms and culture, that space for autonomous political action is minimal. For rational choice institutionalism, which ostensibly produces agency-centred explanations, although the individual is the focus of analytical concern, its unrealistic assumptions effectively describe what any utility-maximizer would do in a given situation, so that actors behave the same way in the same context and the 'prevailing institutions (rules of the game) *determine* the behaviour of actors' (Tsebelis, cited in Hay and Wincott: 1998: 952). The 'rules culture' of the Verkhovna Rada highlights the limitations of both these strands of new institutionalism by demonstrating that the institutional 'rules of the game' do not necessarily shape behaviour in a predictable, straightforward manner.

Rules can be subverted or ignored in certain contexts. Moreover, actors can respond differently within a given situation, because of different incentive structures produced by the same rules, due to their 'nested' nature and interaction with other endogenous and exogenous factors (e.g. the distinction in the efforts of party-based and non-party based factions in building the organizational complexity of factions). On both counts, the contribution of historical institutionalism is valuable, first because as an approach it has been concerned with explaining variations in behaviour within an institution. Second, its more open understanding of institutions, with emphasis on inefficient and unintended outcomes, has meant that it treats the functionality or dysfunctionality of an institution as an empirical question (Hay and Wincott: 1998: 954). This type of open approach is ultimately more appropriate and realistic for understanding 'dysfunctional' institutions like the Verkhovna Rada, because it accepts that the 'rules of the game' may not be adhered to by actors.

Institutionalization and institutional change

The idea of institutional change is central to the study and the empirical investigation focuses upon an analysis of internal parliamentary institutionalization. Institutionalization is a specific concept within the broader idea of institutional change. The processes of institutionalization and institutional change are intimately linked together and the study has identified 'wider

changes' occurring in parliament as essential to understanding how these influenced institutionalization. If institutionalization is defined as the process of acquiring generally adhered-to rules, coherence and autonomy from other institutions, then it is something which occurs at a lower level of abstraction *after* the 'wider changes', as institutions adjust and 'settle down' in the new circumstances. In the case of the Verkhovna Rada, it is difficult to separate these processes temporally, because the 1990–2003 period was one of continuing flux and the changes occurring at different (analytical) 'levels' were simultaneous. The empirical case study illustrates that institutionalization was 'pushed along' by endogenous responses to 'wider' institutional changes that were caused by a combination of external and internal factors.

Institutionalization, in the cases of both factions and committees, was effected largely by endogenous institutional engineering as a (not necessarily efficient) response to changing parliamentary circumstances. Rule changes altered the structure of actors' preferences and created incentives to, for example, expand factions' organizational complexity. Such (endogenous) rule changes tended to be prompted by the changing preferences of actors (deputies) shaped by altered exogenous circumstances. For example, the rule changes implemented by the majority in 2000 that enabled increased legislative activity and greater faction control of committees only became possible because presidential action stimulated the creation of a majority. The internal tinkering with the committee system to elaborate procedures was prompted by increased demands on the parliament as a whole as a result of state independence. 'External' rule changes also had a significant impact on the path of parliamentary institutionalization. One such example is the 1997 mixed proportional–majoritarian electoral law, which increased the proportion of party members elected to parliament in 1998 and created a constituency of deputies in favour of greater institutional support to factions, resulting in significant rule changes aimed to promote better structured and organized factions.

Institutionalization occurred as behaviour changed in response to the incentives created by internal rules, but these were framed and mediated by wider parliamentary changes occurring as a result of the interaction between 'external' and 'internal' change. However, throughout the study, it has been argued that institutionalization was patchy and uneven for both committees and factions. This implies that the rules did not create universal incentives for all deputies. All factions did become more institutionalized in terms of greater organizational complexity and voting discipline. Rules and procedures were developed to regulate areas of committees' activity and progress was made at implementing them. However, there remained a marked difference in the institutionalization of centrist and party-based factions. For committees, huge variations in size, influence and workload persisted and procedures were well-elaborated in some areas, while great inefficiencies perpetuated in others. Why did institutionalization occur at different rates among and within similar institutions?

Although internal rules did engender greater institutionalization overall, the wider parliamentary context shaped by exogenous rules (e.g. the constitution,

electoral law), structural factors (the party system) and actors (especially President Kuchma) structured these incentives unevenly *within* parliament. Centrist factions based on 'party of power' deputies and/or oligarchs with weak or no party bases and close links to the president were less likely to invest in strong faction organization, because of their access to other resources. In turn, this dependence made them extremely susceptible to the president's 'divide and rule' tactics and the 'buying and selling' by oligarchs, which significantly undermined faction institutionalization. For committees, the main influence on their institutionalization was endogenous: the growing interests of factions as key parliamentary organizing entities meant they increasingly saw committees as a power resource. Therefore, 'institution building' of the committee system was able to proceed only in areas where it did not challenge emerging power structures. Thus, it is clear that institutional change was caused by the complex interaction of exogenous and endogenous factors, with priority to one or the other being afforded the role of key explanatory variable depending upon the issue in question. These empirical findings support the theoretical propositions of Thelen and Steinmo and Weinbaum outlined in Chapter 1 regarding the entwining of these factors, but while they shed light on the dynamics of the individual case, the need for more theory building based upon cross-national research remains. The empirical findings presented here can provide material for incorporating the case of Ukraine into such a future study.

Nevertheless, identifying the uneven nature of institutionalization and identifying its main causes facilitates an understanding of this process in the early stages in post-communist parliamentary development. The findings suggest that institutionalization in the Verkhovna Rada was path dependent, that continuity and change were contemporaneous and that outcomes could be unintended. The development of both factions and committees was path dependent: actors' preferences that informed choices about the 'design' of these institutions were influenced by inherited organizational structures. The clearest example of this is the committee system, where inefficient outcomes (disparities in size, workload and influence) persisted because of the perceived high costs of reform. The existing system proved resistant to large-scale reforms during the post-Soviet period because it conferred advantages to certain groups in parliament (i.e. factions) who were unwilling to initiate change because of uncertainties about the outcomes of such reform. Factions jealously guarded their committee appointments (especially chair posts) and were unwilling to risk losing out to another faction if the jurisdictions (or number) of committees were restructured. Competition for committee chairs was particularly intense because, as the Rada did not form the government, no governmental positions were guaranteed to factions and therefore, committee chairs were one of the few 'prizes' available. Thus, the committee system continued to be an adapted version of the one inherited from the Soviet period and reforms were piecemeal, based on compromises hammered out between factions. This illustrates how existing institutions create barriers to change

because they engender vested interests in the *status quo*. Therefore, even weakly developed institutions can be resistant to reform and intentional change is difficult.

Moreover, the results of (even piecemeal) reform can be unintended and/or unanticipated and this, in turn, affects the trajectory of institutionalization. In the case of the Verkhovna Rada, outcomes of institutional design choices were often unforeseen by the actors making these choices because of the fragmented composition of parliament. Throughout the period 1990–2003, the Verkhovna Rada was composed of a diverse range of political forces, partially reflecting wider societal cleavages, where no single orientation was strong enough to take decisions. This meant that all key institutional choices (as well as other legislation) had to be negotiated through a complex matrix of (sometimes diametrically opposed) group and deputy interests. In these circumstances, the ability to take any decision necessarily entailed extensive compromises at all stages of the drafting and adoption process between competing factions. Such a process effectively precluded the adoption of clearly articulated, internally harmonious legislative acts (or 'rules'). This was evident in the adoption of key institution building legislation that would frame the internal operation, prerogatives and formation of the Verkhovna Rada: the 1995 law 'on standing committees', the 1996 Constitution and the 1997 electoral law. Other key laws were never adopted due to the failure to reach an agreed variant (for example, the post-constitutional laws on the *Reglament* and standing committees). In the case of the constitution, for instance, the extended, intensified inter-branch conflict born out of the president–parliamentary system with overlapping powers was certainly not envisaged by the drafters (Wolczuk 2001: 256). Furthermore, because of the dense matrix of rules operating in a nested state institution like parliament, latent rules could become salient in unintended ways in an altered context. The Verkhovna Rada's 1998 decision to reduce the number of deputies required to form a faction at the same time as introducing the party-only rule for factions is a case in point. When, six months later, the Constitutional Court upheld the former amendment while abolishing the latter, an initiative designed to strengthen factions became counterproductive as it permitted factions to split and form with relative ease.

Nevertheless, while factions were splitting and (re-)forming and membership stability remained low, in other respects factions became more coherent (increased voting discipline) and organizationally complex. They exhibited characteristics of ongoing institutionalization at the same time as de-institutionalization. Furthermore, the period was marked by rapid changes in factions' composition and their role in parliamentary organization. Similar patterns of development were evident in the committee system: committees acquired more expertise and experience, organizational structures and procedures and began to implement them, yet their overall structure remained inefficient and sub-optimal. In sum, continuity and change co-existed in space and time.

Institutional change was also promoted from outside, with the Western 'export' of institutional engineering proposals in the form of 'assistance aid'. The impact of these Western-funded projects promoting parliamentary reform and development in Ukraine was not clear-cut. There were around 30 projects involved in providing technical assistance to the Verkhovna Rada in 2000, of which five specifically targeted parliamentary institution building. Their activities included the provision of analytical information regarding world parliamentary practice, the organization of roundtables, parliamentary hearings, the provision of study-trips abroad and expert commentary on draft laws. Although specific impacts on legislation are difficult to discern, survey evidence (albeit conducted by one of these projects) suggests that such initiatives were generally well-received by deputies (60 per cent of respondents) (Parliamentary Development Project 1999: 45). Nevertheless, tensions were sometimes evident as some staff and deputies expressed resentment towards the prescriptive advice given on specific laws as inappropriate to Ukrainian circumstances and perceived such projects as essentially parasitic on the Verkhovna Rada, benefiting the Western experts more than the recipients of assistance (Anonymous interviews, 2000 and 2003). Such perceptions have often been a facet of post-Soviet experiences of Western 'advice aid' (Bruno 1998: 180).

The role of factions and committees in parliament

Identifying the role of factions and committees in the Verkhovna Rada facilitates an assessment not only of their institutionalization, but also of their importance to parliamentary functioning. The findings suggested a significant growth in these internal institutions' importance during 1990–2003, but along different trajectories. Committees' recommendations gradually became more authoritative as their composition began to reflect the political composition of parliament more closely and due to expertise acquisition. The period witnessed a shift in the main legislative debate from plenary sessions to committees and their capacity to process legislation and oversee its implementation grew steadily. Therefore, although the role of committees in parliamentary leadership and organization became more consultative than decisional, their role and capacity to exercise their prerogatives increased over time. Nevertheless, important gaps remained unremedied due to the prevalence of political (faction) interests over professional efficiency. Overall, progress was patchy and this pattern was consistent with the broader path of parliamentary institutionalization in Ukraine. As a result, by 2003, the Verkhovna Rada remained an institution in transition. Its roles in Ukrainian politics as the supreme legislating body and in overseeing the executive were still not precisely defined in the president–parliamentary system established by the 1996 Constitution, nor by subsequent enabling legislation. Equally crucial was the underdeveloped capacity to exercise such functions, in which the role of committees was central. The ability of committees to perform the functions ascribed to them in large measure shapes the capacity of parliament as a whole.

In 1990, factions had no discernable role to play in the Verkhovna Rada, but by 2003 they had developed into the most important internal parliamentary institution. They assumed prime position in structuring and organizing the Verkhovna Rada via the leadership organs, were the dominant force inside parliament influencing deputies' voting decisions and articulated alternative policy proposals. However, it was difficult to ascertain the role of factions in aggregating interests and facilitating communication between the centre and localities because of the weak linkage to political party organizations, particularly in the centre of the political spectrum, or the extent to which factions comprised recognizable group identities, which could inform the electorate's voting decisions. Although generally weak linkage was evident, the scope of the research did not extend to the wider party system, an area that had already received academic attention. However, to answer questions authoritatively about linkage and the role of parties *per se* in parliament (and society more generally), there is a need for further research upon party system development in Ukraine and its relation to parliament.

As factions grew stronger, they were able to assume a supreme position in the operation of the Verkhovna Rada. However, they remained fluid and mutable units, unable to co-operate beyond *ad hoc* agreements. The role they were able to play in the Verkhovna Rada was limited by the absence of incentives for cohesion and institutionalization and their internal weakness meant that they remained susceptible to the influence of the Presidential Administration. As a consequence, the Verkhovna Rada as a whole remained unable to genuinely 'check and balance' the executive. The fragmented composition of the parliament and the ongoing weakness of factions made impasse and uncertainty likely outcomes of the parliamentary process and impeded the ability to fulfil its constitutionally designated functions such as legislative scrutiny and oversight, as well as providing a mechanism of popular accountability for the government. Therefore, weakly institutionalized factions contributed to a poorly institutionalized parliament, which had limited institutional coherence and autonomy from the executive.

Considering the roles of internal institutions is the first stage in identifying their impact upon the Verkhovna Rada's role in Ukrainian politics. To take the analysis further, the relationship between factions and committees will be related to the contemporary theories of 'institutional design' considered in Chapter 1.

'Institutional design' and the Verkhovna Rada

While many theorists and empirical case studies point out that party caucuses (factions) and committees are the major *loci* of a parliament's work and suggest the relationship between them is linked to institutional capacity, the nature and impact of this relationship has received less attention. Ostrow's recent work offers a major contribution to legislative studies by providing an explicit, well-elaborated comparative framework for assessing parliamentary

capacity to manage conflict based upon institutional design, i.e. whether parliament has a single channel, dual-channel linked or unlinked design (Ostrow 2000). As elaborated in Chapter 1, the linkage between the channels is seen as the independent variable affecting conflict management capacity and tends to be based around the leadership organs providing mechanisms to stimulate co-ordination and co-operation between the partisan (faction) and professional (committee) channels. This study has charted the evolution of the Verkhovna Rada's institutional design from single channel, committee dominated (1990–5), to dual-channel unlinked (or weakly linked) (1995–9) to dual-channel linked (2000) to dual-channel weakly linked design (2002–3). In 2000, the incorporation of links between the channels (i.e. committees and factions), whereby the majority controlled the parliamentary leadership bodies, allocated all the committee chairs between its constituent factions and ensured majority representation in each committee, as Ostrow predicts, led to greater parliamentary capacity to resolve conflict in the legislative process. As Chapter 5 demonstrates, after majority formation, the legislative process became more consensual and predictable within parliament and between the executive and legislature, indicating that such linkage does affect parliamentary capacity to manage conflict and thus exercise its legislative function more effectively.

However, Ostrow's theory also predicts that linkage will increase stability and reduce conflict over what he terms 'extra-legislative issues' such as the balance of power between the branches of government and over political and economic crises common to post-communist states (2000: 13–14). In this area, after majority formation and the move to dual-channel linked design, conflict management capacity was not improved and the relationship between parliament and the president continued to be fraught with potentially explosive tensions. These perpetuated because of the almost universal (for parliament and the president) dissatisfaction with the president–parliamentary system with over-lapping powers established by the 1996 Constitution, which created incentives for each to try to wrest power from the other. Moreover, the constitutional framework in the context of a highly fragmented party system meant that the formation and maintenance of a majority necessary for a dual-channel linked design was only possible through presidential pressure on parliament. Although factions grew stronger and more institutionalized, incentives for their coherence were weak in the president-parliamentary system, where parliament played almost no role in appointing and overseeing the government. In these circumstances, there were few incentives for factions to compromise and form a coalition majority or for the discipline to maintain such a majority. This meant that the Verkhovna Rada's improvement in conflict management of even the legislative process would be short-lived.

Furthermore, the separate origin and survival of the president and parliament, combined with the weakness (and polarization) of the party system has meant that the president lacked a defined constituency of support in parliament and had to build one 'by other means', relying on informal methods of 'persuasion' such

as bribery and pressures on deputies' businesses. The president–parliamentary system did not provide 'natural channels' for presidential support in the Verkhovna Rada, and this created incentives for the president to try to increase his power independent of parliament. In this way, inter-branch conflict was 'built-in' to the political system.

Therefore, the Ukrainian case suggests that 'constitutional design' is a critical variable in shaping parliamentary capacity to manage conflict and generate compromises in and beyond the legislative process. These findings contest Ostrow's assertion that 'the presidential–parliamentary debate is not the relevant issue for legislative performance' (2000: 226). They suggest that internal institutional design *is* important for shaping parliamentary capacity, but that Ostrow's defence for ignoring constitutional design is misguided if we are to achieve his stated aim of producing a generally applicable comparative framework for legislative studies. The constitutional framework needs to be incorporated as a key variable in future theory-building on parliamentary design and capacity. Moreover, the Ukrainian case also adds empirical evidence to the debate on whether some 'constitutional designs' are more conducive to democratization than others. As pointed out in Chapter 1, Sartori has argued that semi-presidentialism can ameliorate the disadvantages of presidentialism. However, the Ukrainian case supports Linz's position that semi-presidentialism has similar pitfalls to presidentialism and additional problems. As this study has shown, the 'winner takes all' logic of presidentialism is very much evident in Ukraine, while 'dual-democratic legitimacy' has engendered extended inter-branch conflict. Consequently, President Kuchma has utilized all the methods listed by Mainwaring and Linz (see Chapter 1) such as bypassing parliament and buying the support of opposition deputies. In addition, Ukraine's president–parliamentary system meant that political responsibility was extremely diffuse, with president, parliament and the government all able to blame each other for failings. Moreover, the lack of clarity and overlapping competences of the constitutional distribution of powers and their lack of acceptance by key actors channelled political conflict towards seeking systemic change (i.e. constitutional revisions), a factor that increased political uncertainty. As such, the president–parliamentary system has not proven conducive to democratization in Ukraine.

For Ukraine, this seems to imply that constitutional reform will be necessary to develop a parliament capable of negotiating and resolving the inevitable conflicts in the legislative process and 'extra-legislative issues', and to overcome the debilitating inter-branch power struggle that has hampered the legislative process, causing factions to remain incoherent and vulnerable to presidential inclination. At the same time, given the complexity of the relationship between rules and behaviour, outcomes of such reform would be difficult to predict. Constitutional reform has been a mainstay of the political agenda since independence, but while both the president and many political forces in the Rada argued for change, conceptions of its form and direction were diverse and prospects for change difficult to predict. Hence, the Verkhovna

Rada's institution building is likely to continue in the established, uneven fashion.

The Verkhovna Rada, state-building and democratization

The role parliaments could play in the interlinked process of state-building and democratization was considered in Chapter 1. The empirical study focused upon internal parliamentary development, an important task of both state-building and democratization in Ukraine, but has also implicitly considered the Rada's contribution to these wider processes. The Verkhovna Rada played an important role in both state-building and democratization, although this was circumscribed by its own institutional weakness.

Two main aspects of state-building – the formal creation of the state and capacity building – were identified in Chapter 1. The study of parliamentary development, especially prior to and in the first few years of independence, illustrated the central role of the Verkhovna Rada in the formal creation of the Ukrainian state. It was the Rada that asserted and defended Ukraine's sovereignty 1990–1 and finally declared independence in August 1991. Parliament took a key role in the negotiation and ratification of international treaties that would gain international recognition for the new state and its borders. It passed legislation establishing the parameters of citizenship on a civic basis and defended minority rights, thus ensuring the territorial integrity of the new state. The parliament also created a national army and other key state institutions. It played a key role in the drafting and finally adopted the 1996 Constitution that formally 'constituted' Ukraine as a democratic state. Thus, the role of the Verkhovna Rada in the formal creation of the Ukrainian state was central.

However, in building state capacity, the success of the Rada has been less clear-cut, as illustrated by parliament's experience of building its own institutional capacity to perform key state functions. This study has identified important progress in parliamentary capacity to process, scrutinize and adopt legislation and to oversee its implementation. Almost from scratch procedures were developed in these areas. However, problems of rule adherence and the patchy institutionalization of these procedures limited parliamentary capacity. Also a party caucus system developed from scratch, although institutional and external impediments to their institutionalization remained, and the interests of factions themselves sometimes impeded reforms that could increase parliamentary capacity in the legislative and oversight processes. Consequently, although the Rada participated in the construction of a new legal base for Ukraine (along with the president and Cabinet of Ministers), the resultant legal system was a patchwork of overlapping and sometimes contradictory provisions and gaps, which made the establishment of the rule of law particularly tricky. The Rada began to develop the capacity to oversee both the implementation of this legal base and also the activity of other organs of state power, which could provide crucial 'checks and balances' in the system, but as Chapters 6 and 7

demonstrated, the effectiveness of parliamentary oversight remained limited. Its role in the legal definition of the division of powers in the 1996 Constitution provides perhaps the best example of the problems faced by the Rada in state-building. The compromise nature of the Basic Law ensured a peaceful resolution of inter-branch conflict over its adoption (in contrast to Russia in 1993), but at the same time this meant that inter-branch accord would be temporary. Therefore, although there has been notable progress in building its own institutional capacity, key impediments remain and these circumscribed the Rada's contribution to state capacity building more generally.

Therefore, how far can the Verkhovna Rada be considered a 'central site' in the wider process of democratization? If Leibert's criteria are utilized (see Chapter 1), for Ukraine's parliament the record appears mixed. As argued above, the Rada's role in the late Soviet period was critical – not only in laying the formal foundations for independence, but also as a focus and generator of popular support for regime change and independence. After 1991, the Rada provided and remained the main arena for political contestation by a broad range of competing political forces and thus performed a key role in the integration of existing and new political actors into the new regime. From 1990, parliament acted as the 'central site' for party formation and development by providing parties with a *raison d'être* and, once elected, with resources for the development of party caucuses, although parliamentary internal rules were not unambiguously supportive of party structuring and consolidation. However, as we have seen, in terms of conflict regulation by structuring itself and implementing the *Reglament*, the Rada proved less successful. During 1991–2003, it was also unable to become a popular and valued institution, in part due to the president's ongoing campaign to discredit parliament to strengthen the argument about the need for bolstering the powers of the president, but also due to the Verkhovna Rada's own inability to abide by its rules and manage internal conflict. Despite, these caveats, the Verkhovna Rada was still a 'central site' of democratization in Ukraine, especially since the late 1990s due to the executive's assault on media freedom and the president's unwillingness to promote democratization beyond paying lip service to the idea. By the early twenty-first century, as an institution the Verkhovna Rada demonstrated a growing appreciation of the importance of openness and transparency in the political process and, uniquely, acted as a nationwide platform and arena for the activity of competing political forces on a more or less equal basis. As such, it remained a 'central site' of democratization.

Appendix: List of standing committees in the Verkhovna Rada, 1990–2002

The number of deputies who were members of each committee at the end of each convocation is given in brackets after the full name of each committee. The name and jurisdiction changes of committees that took place each convocation precluded the creation of a comparative table across time.

Twelfth convocation (1990–4)

1 Commission on the development of basic industries of the national economy (27)
2 Commission on questions of law enforcement and the fight against crime (14)
3 Commission on questions of planning, the budget, finance and prices (25)
4 Commission on questions of construction, architecture, housing and communal services (20)
5 Commission on questions of the activity of councils of people's deputies and the development of local self-government (18)
6 Commission on questions of ecology and rational use of natural resources (16)
7 Commission on questions of economic reforms and management of the national economy (26)
8 Commission on questions of culture and spirituality (16)
9 Mandate commission and questions of deputies' ethics (12)
10 Commission on youth affairs (11)
11 Commission on questions of defence and national security (27)
12 Commission on questions of national education and science (15)
13 Commission on human rights (7)
14 Commission on questions of the Chornobyl' catastrophe (15)
15 Commission on questions of social policy and labour (16)
16 Commission on questions of state sovereignty, inter-republic and inter-ethic relations (23)
17 Commission on the affairs of veterans, pensioners, invalids, repressed [peoples], the impoverished and military-internationalists (14)
18 Commission on questions of rural renewal and social development (25)
19 Commission on the affairs of women and protection of the family, motherhood and childhood (13)

20 Commission on questions of law enforcement and legality (18)
21 Commission on foreign affairs (22)
22 Commission on questions of health (13)
23 Commission on questions of *hlasnosti* [*'glasnost'*] and the mass media (11)
24 Commission on questions of the agro-industrial complex (27)

Thirteenth convocation (1994–8)

 1 Committee on questions of the Chornobyl' catastrophe (8)
 2 Committee on the development of basic industries and regional socio-economic development (22)
 3 Committee on questions of state building, the activity of councils and local self-government (13)
 4 Committee on questions of ecological policy (6)
 5 Committee on questions of economic policy and management of the national economy (27)
 6 Committee on questions of the fight against organised crime (25)
 7 Committee on questions of the agro-industrial complex, land resources and rural development (37)
 8 Committee on questions of the budget (30)
 9 Committee on questions of law enforcement and the rule of law (15)
10 Committee on questions of *Reglament*, deputies' ethics and supporting the activity of deputies (9)
11 Committee on questions of culture and spirituality (13)
12 Committee on questions of the fuel-energy complex, transport and communications (25)
13 Committee on questions of defence and national security (27)
14 Committee on questions of national education and science (18)
15 Committee on questions of human rights, national minorities and inter-ethic relations (16)
16 Committee on questions of legal policy and legal–judicial reform (16)
17 Committee on questions of youth, sport and tourism (8)
18 Committee on questions of health protection, motherhood and childhood (9)
19 Committee on questions of social policy and labour (15)
20 Committee on questions of finance and banking activity (28)
21 Committee on questions of nuclear policy and security (9)
22 Committee on legislative support of freedom of speech and the mass media (10)
23 Committee on foreign affairs and links with the CIS (20)
    Control commission on questions of privatization

Fourteenth/third convocation (1998–2002)

 1 Committee on questions of legal policy and legal-judicial reform (22)
 2 Committee on questions of state building, local self-government and the activity of councils (21)

3 Committee on questions of ecological policy, use of natural resources and the liquidation of the consequences of the Chornobyl' catastrophe (12)
4 Committee on questions of social policy and labour (13)
5 Committee on questions of health protection, motherhood and childhood (11)
6 Committee on questions of economic policy, management of the national economy, ownership and investment (23)
7 Committee on questions of the fight against organized crime and corruption (17)
8 Committee on questions of agrarian policy and land relations (24)
9 Committee on questions of the budget (26)
10 Committee on questions of legislative guarantees of law enforcement activity (17)
11 Committee on questions of *Reglament*, deputies' ethics and organisational work of the Verkhovna Rada (17)
12 Committee on questions of culture and spirituality (11)
13 Committee on questions of the fuel-energy complex, nuclear policy and safety (27)
14 Committee on questions of defence and national security (21)
15 Committee on questions of education and science (16)
16 Committee on questions of human rights, national minorities and inter-ethic relations (16)
17 Committee on questions of youth policy, physical exercise, sport and tourism (17)
18 Committee on questions of finance and banking activity (29)
19 Committee on questions of construction, transport and communications (17)
20 Committee on legislative protection of freedom of speech and information (21)
21 Committee on foreign affairs (27)
22 Committee on questions of industrial policy and entrepreneurship (17)
23 Committee on the affairs of pensioners, veterans and invalids (13)
   Control commission on questions of privatization

Notes

1 Ukraine's parliament in theoretical perspective

1 The name of Ukraine's parliament remains unaltered from the Soviet period. 'Verkhovna Rada' is Ukrainian for 'Supreme Soviet/Council'.
2 I use the terms 'parliament' and 'legislature' interchangeably throughout, following Copeland and Patterson (1994: ix).
3 For example, the Russian State Duma, where factions control the leadership body on a one-faction, one-vote basis and committee chairs are excluded from the body, while faction leaders are excluded from committee affiliation.
4 Studies of parliamentary parties *per se* have tended to come out of the literature on the post-communist parliaments such as Russian State Duma or Lithuanian Seimas, because the main focus of parties' activity and organization has tended to originate in the parliament (e.g. Clark *et al*. (1999)) Hough (1996), Ostrow (2000) and Remington and Smith (2000)).
5 There are three articles on factions in the Verkhovna Rada: Herron (2002), Lapin and Tolpygo (1993) and Tsybenko (1997).
6 For an alternative view, see Loewenberg and Patterson (1979: 19–27) who stress that institutionalization leads to continuity, inertia and rigidity over time due to human habit and increased organizational complexity.
7 Disequilibrium can be created by: changes in the governing ideology; changes in the party system; greater system demands; changes in institutional membership or other external demands.
8 The influence of historical institutionalism is evident in, for example, Linz and Stepan (1996); Nielson *et al*. (1995); Remington (1994).
9 Examples of this kind of approach would include Simon (1996) and White (1982).
10 A convocation is the name given to each new parliament elected, for the duration of its existence. Following Soviet practice, in Ukraine they were numbered sequentially and each (four year) convocation was sub-divided into two sessions per year.

2 Between parties and the president

1 *Podmena* was the tendency of Party organs and officials to usurp the functions of the state. The *nomenklatura* system was the control of personnel by a list of positions that could only be filled by Party members and a list of Party members 'qualified' for each position. The term *nomenklatura* tends to be used more frequently to signify the personnel than the actual lists.
2 The term 'Soviet parliamentarism' is somewhat artificial and potentially misleading. Rather than conveying a sense that it was related to Western conceptions of

parliamentarism, the term is used to describe the ideas that underpinned the system of soviets.

3 The Verkhovna Rada/Supreme Soviet was created in Kyiv in 1937 by 1937 Constitution of the UkrSSR. Hitherto, a Congress of Soviets of the UkrSSR had met periodically in Kharkhiv.

4 Literally, in Ukrainian, the parliamentary speaker was called the 'chairman' until 1994, when it was changed to 'Head' (*holova*). By 2000, the post more closely resembled a Western speaker. For the sake of clarity and comparability, the non-gender specific term 'speaker' is used throughout.

5 The convocations were numbered sequentially from the first in 1938. Thus, the convocation elected in 1990 was the twelfth, from 1994–8 the thirteenth and from 1998–2002 the fourteenth. In February 2000, the 'pro-presidential' majority renamed them retrospectively. Therefore, the twelfth convocation, being that which declared independence, became the first. To minimise confusion and to convey the spirit of the times, the convocations will be named as they were when sitting i.e. twelfth, thirteenth, fourteenth. From February 2000, the convocation will be referred to as the third convocation. The convocation elected in 2002 is the fourth.

6 As Wilson (1997a: 106) points out, Kravchuk lacked a constituency in the Party's Central Committee and Politburo, so was forced to concentrate on consolidating his position in the Verkhovna Rada.

7 Wilson (2000: 166) is convinced that Kravchuk was prepared to back the coup if necessary.

8 The president had no right to dissolve the Verkhovna Rada, and while technically the parliament had the right to impeach the president, this process had to be initiated by the Constitutional Court, which was not formed. In terms of vetoes, a presidential veto could be overridden by the parliament with only a simple majority of votes.

9 A law on the Constitutional Court was passed in 1992 and a head was appointed. However, indicative of the times, the election of judges proved so controversial that the court's formation had to be abandoned. Therefore, in practice, the Verkhovna Rada abrogated its prerogatives for itself.

10 For differing accounts of Kravchuk's presidency, see Motyl (1995) and Roeder (1994).

11 For more details on regional diversity in Ukraine and its impact upon political attitudes, see Holdar (1995) and Kubicek (2000b).

12 The threshold meant that the election of a candidate required the turnout of 50 per cent of the electorate and the attainment of 50 per cent +1 of the votes cast. If a candidate failed to get the required absolute majority, a second round was held, where once more he or she needed to attract 50 per cent +1 of the votes cast.

13 For a comprehensive analysis of the constitutional process, see Wolczuk (2001).

14 According to the typography by Shugart and Carey, the defining features of a president–parliamentary system are: 1) the direct election of the president; 2) the president appoints and dismisses cabinet ministers, 3) cabinet ministers are subject to parliamentary confidence; and 4) the president has the power to dissolve parliament or legislative powers, or both (see Shugart and Carey 1992: 24)

15 The only situation in which the president can dissolve the Verkhovna Rada is if it fails to convene for thirty days (art.106.8).

16 Centre and right-wing deputies had resented the left's dominance of the organ after 1994 and the left had also accrued grievances against its status while the CPU was banned.

17 Other contested articles included the requirement that all deputies take a loyalty oath to Ukraine, which 60 communists and 20 other deputies refused to take and the granting to deputies of immunity from arrest or prosecution without the permission of the Verkhovna Rada.

18 The figure quoted represents the situation on 1 December 1998, after repeat elections and initial structuring had taken place. It is higher than the figure quoted in the table, which is from the March election.

19 The largest occupation group was deputies: 150 deputies were re-elected to the fourteenth Verkhovna Rada.

20 According to the Constitution, referenda can be initiated by the president, the Verkhovna Rada or by 'the people' via the signatures of 3 million eligible voters in no less than 2/3 of oblasts and not less than 100,000 signatures in each oblast (art.72).

21 The Constitutional Court struck two of the original six questions from the referendum ballot paper, but supported its general legality and, after a clear pointer from the president (see *Svoboda*, 11 July 2000), endorsed the president's bill to implement the changes while effectively killing the 'alternative' deputies' bill.

22 For example, see *Kyiv Post*, 27 January 2000, *Sils'ki Visti*, 4 April 2000.

23 For example, the Communist Party of Ukraine (registered 1993) now had to compete not only with the Party of Communists (Bolsheviks) of Ukraine (registered 1994), but with two new spoiler parties: the Communist Party (Workers) (registered 1999) and the Communist Party of Ukraine (United) (registered 2000).

24 The coalition comprised NDP, *Trudova Ukraina*, Regions of Ukraine, the Agrarian Party and the Party of Industrialists and Entrepreneurs.

3 Factions emergent, 1990–4

1 Just one scholarly article was written on the subject: Lapin, and Tolpygo (1993).

2 This is almost certainly due to the ephemeral nature of many factions and lack of available records (which may never have existed).

3 Deputies sat in the chamber on a regional basis in alphabetical order.

4 Indeed, the main platform of the People's Council and *Rukh* (which largely coincided) was incorporated into the Declaration of Sovereignty in June 1990 and later, during the Presidential election campaign of 1991, future president Leonid Kravchuk adopted 90 per cent of *Rukh*'s programme.

5 Electing a new speaker became necessary after the sudden resignation of Ivashko to become Gorbachev's CPSU deputy.

6 After independence, many of these deputies joined either the Socialist or the Peasant parties, and after 1993, the revived Communist Party of Ukraine.

7 For example, in the RSFSR Congress of People's Deputies (1990–3), deputies could join up to five factions.

8 Allocation of staff, office space, use of cars, typists, etc. was in the gift of the speaker and such decisions were made at the start of each convocation. In 1990, the speaker was also the First Secretary of the Communist Party (Volodymyr Ivashko) and was unlikely to provide resources for the construction of potential alternative power bases in the Verkhovna Rada. Furthermore, as factions were formally parallel to the territorial–production groups, it is probable that they were simply allocated the same resources, i.e. only the right to circulate materials via the parliamentary secretariat.

9 Party-based factions were 'For Social Justice' (Communist Party of Ukraine), faction of *Rukh*, faction of Congress of National Democratic Forces (CNDF, DPU and URP) and Democratic Rebirth of Ukraine (PDRU).

4 Factions ascendant, 1994–8

1 The Communists were 99 per cent party members and 56 per cent of Socialists belonged to the Socialist Party, with a further six CPU deputies borrowed from the Communists. The Peasants were 53 per cent party members, the rest non-affiliated (*Ukrayinska Perspektyva* 1995: 32–8).

2 Centre, for instance, argued for tighter restrictions on the proposed presidential power to dissolve parliament (Centre 1995).

3 The Committee on State-Building had seven Communist deputies (including the Chair) out of 13 members. There was only one representative of a right-wing faction on the committee.

4 However, the right factions were not uniform in the conception of the division of powers. For example, Statehood promoted a strongly presidential model, while *Rukh* and Reforms envisaged a president-parliamentary system of governance.

5 For example, that Ukrainians should be recognized as the titular nationality and Ukrainian should be the sole state language.

6 They supported Russian as a state language, the abolition of the presidency and the entry of Ukraine into a union of 'fraternal nations' on the territory of the former USSR.

7 For example, Independents (1996) stressed the need to increase the executive functions of the government and that the Verkhovna Rada should be unicameral.

8 S*umisnyky* (who had president-appointed jobs) were predictably the most pro-presidential deputies, but also likely to be among the least involved in the process, given their other jobs. Furthermore, Social-Market Choice produced no documents on the issue, while Independents discussed the issue only once at a faction meeting, on 18 April (Independents 1996).

9 Such as the inclusion of positive social and economic rights and name of parliament was retained as the Soviet-era Verkhovna Rada.

10 Although the reunited faction took the left's 'Agrarians of Ukraine' name, in effect the faction was actually Agrarians for Reforms.

11 These were Constitutional Centre and Development and Rebirth of the Agro-industrial Complex factions.

12 The exceptions were *Rukh* and Reforms who met daily (*Holos Ukrainy*, 20 July 1994).

13 Author's calculations based on the protocols of the Communist, Independent, Centre, Constitutional Centre, Social-Market Choice and Development and Rebirth of the Agro-industrial Complex factions, VRU archive. Among centrist factions, Centre had the lowest average attendance – 38 per cent – and Social-Market Choice the highest – 54 per cent. Unfortunately, the records of other factions were not deposited in the VRU archive. The sample is large enough to give a general indication, but, given the absence of right-wing factions, remains incomplete.

14 Art. 4.2.4. of the *Reglament* briefly mentions the Conciliation Council of Factions, but the Council of Committee Chairs was never incorporated and remained an informal organ set by Moroz's initiative, although protocols and stenographic reports of all meetings were produced.

15 Such a distinction is made in the Russian State Duma, whereby factions are formed by parties crossing the 5 per cent electoral threshold (i.e. 14 deputies) and deputy groups by a minimum of 35 deputies. See Smith and Remington (2001: 40).

16 The results of a survey conducted in early 1998 indicated that 19.6 per cent of deputies participating asserted that faction recommendation was the most important factor in a voting decision (30.8 per cent said it was committee recommendation), while 29.2 per cent declared faction recommendation to be the second most important factor (Parliamentary Development Project, 1999).

17 These included the law on the Cabinet of Ministers, the 1997 budget, the Civil Code and the law on election of people's deputies.

18 The justification for vetoing bills that were passed with violations of the *Reglament* rested upon Kuchma's presidential role as 'guarantor of the Constitution' (art.102). However, after the creation of the Constitutional Court in 1997, it was no longer the president's role to decide on the constitutionality of a bill, but to file an appeal with the Court.

19 Senior faction staff (from different parts of the political spectrum) brought this up in interviews, 2000. Also see *Zerkalo Nedeli*, 16 November 1996 for an example of the speaker's agenda shuffling.

20 For instance, the right factions succeeded in removing from the agenda the issue of altering the electoral law immediately prior to elections in Crimea (*Holos Ukrainy*, 24 June 1995).

21 E.g. *Holos Ukrainy*, 2 March 1997, *Zerkalo Nedeli*, 4 October 1997.

22 For example, even on the day of the law's adoption, deputy group representative Petrenko reported that in Rebirth and Development of the Agro-Industrial Complex 11 deputies were firmly pro-majoritarian, 9 were in favour of a mixed system, 4 supported pure proportional representation and 2 did not know (Stenographic reports of the Verkhovna Rada session, 24 September 1997, electronic version).

5 Factions dominant, 1998–2002?

1 An earlier version of this chapter appeared as 'Faction Institutionalisation and Parliamentary Development' in the *Journal of Communist Studies and Transition Politics,* December 2003. The author would like to thank the journal's editor, Stephen White, for permission to reproduce parts of the article here.

2 The proportion of party members was Communists 93 per cent, Left-Centre 76 per cent and Progressive Socialists 71 per cent.

3 Forty-six per cent of Communists, 71 per cent of Left-Centre were deputies of the previous convocation.

4 For example, Viktor Medvedchuk and Hryhory Surkis' SDPU(o), Oleksandr Volkov's Revival of the Regions, Viktor Pinchuk and Andriy Derkach's *Trudova Ukraina*, Yulia Tymoshenko's Fatherland, Petro Poroshenko's Solidarity and Mykhailo Brodsky's *Yabluko*.

5 The Greens had 79 per cent party members, SDPU(o) and the People's Democrats had 48 and 42 per cent respectively.

6 The faction joined the majority on 7 March 2000, but didn't oblige its 'ex-leftists' to join (*Holos Ukrainy*, 7 March 2000).

7 In *Rukh*, 89 per cent were party members and over half were re-elected deputies.

8 Although around 85 per cent of deputies belonged to a political party, this membership was spread across three or four parties.

9 Non-party members appeared on many party lists (except the Communist Party) including no.2 on the SDPU(o) list, former Prime Minister Marchuk.

10 *Den'* reported $30–50,000 was the usual fee for a deputy to change faction, plus $3–5,000 maintenance thereafter. This was confirmed by deputies Yelashkevich (*Den'*, 10 February 2000) and Kravchuk (*Den'*, 21 September 2000). This phenomenon was regularly mentioned by parliamentary staff and deputies in interviews with the author (2000). They spoke nervously about it and without exception did not wish to be identified.

11 In particular, SDPU(o) and Revival of the Regions demanded the removal of Deputy Prime Minister Yulia Tymoshenko who was in charge of reforming the energy sector, where these factions had substantial interests. Tymoshenko, however, was the leader of the Fatherland faction, who threatened to leave the majority if she was sacked (see *Holos Ukrainy*, 11 April 2000 and *Den'*, 24 June 2000).

12 The legality of the referendum itself and of the methods of vote counting were contested by right and left parties, and the whole procedure was severely criticised by the Council of Europe, which threatened to suspend Ukraine.

13 By late 2001, the majority scarcely bothered to maintain the façade of existence, and its main organ, the Co-ordnation Council of the Majority had virtually ceased functioning.

14 Deputies leaving a faction was calculated, rather than the total number of membership switches, to avoid counting the same deputy movement twice. Deputies leaving a faction because they were appointed to the parliamentary leadership, or their mandate was terminated due to another appointment or death were discounted. Furthermore, deputies leaving non-affiliated status to join a faction were discounted (as they

weren't leaving a faction), plus the temporary loan by the Communists of 7 deputies to prop up the Peasant faction, as these deputies returned to the Communists after a month. *Hromada* is also excluded as the faction did not fit into the left, centre or right of the political spectrum.

15 Author's calculations based on lists of deputy movement between factions provided by Laboratory F4. These results concur with the statistical analysis of faction fluidity between May 1998 and January 2001 conducted by Herron (2002), who concluded that the significance of the correlation between mandate type and likelihood of defection was weak.

16 Wilson (2000: 199) asserts that Kuchma's money (whether directly or indirectly is unclear) was used to split *Hromada*. The view that pressure from the Presidential Administration split the faction is supported by Haran and Maiboroda (2000: 150).

17 For example, Viktor Medvedchuk and Hryhory Surkis' SDPU(o), Oleksandr Volkov's Revival of the Regions, Viktor Pinchuk and Andriy Derkach's *Trudova Ukraina*, Yulia Tymoshenko's Fatherland, Petro Poroshenko's Solidarity and Mykhaylo Brodsky's *Yabluko*.

18 For example, Revival of the Regions was closely connected to the head of the state tax inspectorate, Mykola Azarov (and in 2001 he became the leader of the Party of the Regions), while *Trudova Ukraina* maintained similar links to the state security service (SBU) and the interior ministry.

19 This subject repeatedly emerged during the course of interviews with secretariat staff and deputies, but they were uniformly vague about who was responsible for applying pressure to their factions. Given the evident discomfort that subject evoked, all related references are anonymous.

20 For a general discussion of such 'pressure' tactics in Ukraine, see Darden (2001).

21 *Den',* 21 September 2000.

22 Petro Kyriakovych Serov, deputy head of the faction secretariat explained, '[Since the majority formation] all efforts were hurled at all sides of the party. Deputies were offered *big* money to change factions, but there wasn't significant movement. [Eight left]' (Interview, Kyiv, May 2000).

23 For example, during the second session, the Socialists attended 97 per cent of sessions, Communists 93 per cent, compared with 76 per cent for SDPU(o) and 77 per cent for NDP (Haran and Maiboroda 2000: 141).

24 NB. The Socialists did not vote for most of the session, in protest at the unconstitutional means used to form the majority and change the parliamentary leadership. The nine Progressive Socialist deputies spent the session in the observation gallery for similar reasons.

25 The factions *Hromada*, the Peasant Party and the Progressive Socialist Party are not included in this section as they were dissolved prior to the fieldwork and sufficient information about their internal organization was not available.

26 The exceptions to this were the Socialist and *Rukh* (Udovenko) factions, who made internal documents available to the author.

27 The following factions passed their documents to the VRU archive: Communists, Socialists, NDP, SDPU(o), Revival of the Regions/Democratic Union, *Yabluko*, *Rukh* (Kostenko), Greens and Solidarity.

28 For example, deputy Zoriaslava Romovska (interview 2000) reported that the draft law on standing committees had been voted on 'six or seven times', but was always put last on the agenda and not passed.

29 For example, on the amendment to the Law 'On electro-energy' (concerning the regulation of buying, selling and accounting of electro-energy), 22 June 2000 (Author's observation of plenary sessions).

30 For instance, both SDPU(o) and Revival of the Regions made demands of cadre changes, before finally voting for the government's programme 'Reforms for Prosperity' on 6 April 2000.

31 For example, the Communists facilitated the passage of the amendment to the law 'On electro-energy' when NDP, Greens, SDPU(o) and most of Revival of the Regions would not support it. (Roll-call vote, 22 June 2000). It seems that Energy minister Tymoshenko had struck a deal with the Communists (*Den'*, 27 June 2000), but Communist deputies were unwilling to explain why they supported the bill (Mishura; Kocherha, interviews 2000).

32 In the third session (Feb–July 1999), 87 government bills were passed, in the fourth, 39 and in the fifth session (with the majority), it was 68. Figures from the Verkhovna Rada Secretariat provided by Laboratory F-4. See Chapter 6 for further details.

33 This was confirmed by Leonid Kravchuk, *Den'*, 21 September 2000.

6 Committee institutionalization, 1990–2002

1 The term 'committees' will be used in the generic sense as well as specifically to refer to the institutions after 1996. The term 'commissions' is used to refer specifically to the institutions prior to 1996.

2 Most of the details presented here about the legal prerogatives of commissions, their structure and size are taken from Shemshuchenko (1999). Information about Soviet-era republican parliamentary committees was limited to the formal, descriptive kind.

3 These themes reoccurred regularly in interviews with deputies and parliamentary staff.

4 This, for example, contrasts with the French system, where the government fulfils most of these roles and committees do not examine bills before the floor debate.

5 For example, the commission on organized crime and corruption was created in June 1993.

6 For example, the *Reglament* committee was made responsible for the organization of the Verkhovna Rada's work.

7 On the Russian experience, see Haspel (1998: 188–205).

8 For details of European procedures, see Mattson and Strøm (1995: 275–6).

9 205 deputies were re-elected in March 2002.

10 Several specific examples of such occurrences were mentioned by (non-Communist) deputies in interviews with the author, 2000. They did not wish to be cited by name on this matter.

11 These included experts on the Rusyns and deported peoples (Butkevych and Lata 1998: 6).

12 In the US, which has an exceptionally powerful committee system, in the 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 1996: 15–17).

13 The average deviation is a measure of variation that shows how far numbers vary from the mean and is calculated by the formula $\frac{\sum(x - \mu)}{n}$.

14 These themes emerged in many interviews, including deputies Mishura (Communist), Kozhyn (*Rukh*-Kostenko), Chubarov (Reforms-Congress) and Pysarenko (Solidarity), Kyiv, June–July 2000. Also see statement of the Communist faction in *Holos Ukrainy*, 15 April 2000.

15 Data only covers the period until July 1996 because the constitution removed committee's right of legislative initiative. Thereafter, committee's bills were introduced by deputies.

16 This phrase was often used by deputies and commentators, especially in the thirteenth convocation. For example, see the comments of Oleksandr Moroz, *Holos Ukrainy*, 28 June 1995.

17 This was the general opinion elicited from deputies in interviews in 2000. The increased appreciation of hearings by deputies was reflected in two surveys showing that in the thirteenth convocation 92.5 per cent deputies thought hearings should be

held for some or most draft laws, in the fourteenth convocation, this was 97.6 per cent. (Parliamentary Development Project 1998: 22).

18 For example, in Russia during the Yeltsin era, approximately half of bills were initiated by the executive, although the proportion grew following Putin's election (Chaisty and Schleiter 2002: 715). However, as Mezey cautions, it is not just the number, but also the importance of a bill which should be considered. Not all deputies' bills (including in Ukraine) are intended to become laws; some are initiated for propaganda purposes or to appease local interests (See Mezey 1979: 61).

19 In a 1998 survey (thirteenth convocation), only 19.3 per cent deputy-respondents said communication between the committee and the ministry was 'little'. By the fourteenth convocation (1999), this had dropped to 8.6 per cent (Parliamentary Development Project 1999: 34 and 52).

7 The 'last bastion' of democracy in Ukraine?

1 A majority of the votes for the pro-presidential bloc 'For a United Ukraine' were gathered in the Donetsk oblast, where the party won 37 per cent of the vote. In other oblasts, the average vote for this bloc was 8–9 per cent.

2 Instances where deputies left a faction because they were appointed to the Rada leadership or to take posts in the executive were discounted.

3 For example, new committees on tax and customs policy and on anti-monopoly activity and deregulation of enterprise activity would overlap with the jurisdictions of the finance and banking and economic policy committees. For the full list of proposed committees, see *Ukrains'ka Pravda*, 4 June 2002.

4 Interviews with Yevhen Diatlov, Luidmila Nochvai and Andriy Snihach, heads of the committee secretariats of the finance, economic policy and *Reglament* committee respectively, Kyiv, Feb–March 2003. For example, the finance committee requested five extra senior consultants at the start of the convocation.

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Aloshyn, Valery Borysovych, People's Deputy, Our Ukraine faction, Deputy Head of the Committee on Pensioners', Veterans' and Invalids' Affairs and Head of the Committee on Finance and Banking Activity (1998–2002), (March 2003)

B, People's Deputy, Revival of the Regions deputy group (July 2000)

Bandurka, Oleksandr Markovych, People's Deputy (1990-present), Democratic Initiatives deputy group, Deputy Head of the Law-Enforcement Committee (March 2003)

C, Head of a Committee Secretariat (July 2000)

Chubarov, Refat Abdurakhmanovych, People's Deputy, Reforms-Congress and Our Ukraine factions, (July 2000 and March 2003)

Chupakhin, Oleksandr Mykhaylovych, Head, Secretariat of the Socialist Party 'Left Centre' faction, People's Deputy of thirteenth convocation (May 2000 and February 2003)

Cormier, Tom, Parliamentary Program Officer, National Democratic Institute (April 2000)

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Dovbysh, Vasyl Olekseyovych, Head, Secretariat of Revival of the Regions (1999–2002) and of People's Power (2002–) deputy groups (June 2000 and February 2003)

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F, People's Deputy, Special Control Commission on Privatization (March 2003)

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Haran, Oleksiy, Professor, Department of Political Science and Director of the School for Policy Analysis, University of Kyiv-Mohyla Academy (March 2003)

Hryhorovych, Lilia Stepanivna, People's Deputy, Our Ukraine faction (March 2003)

Interns of the secretariat of Standing Committees and the First Deputy Speaker (a programme funded by the US Association of Former Congressmen) participated in a focus group, Kyiv-Mohyla Academy (April 2000)

Kachur, Anatoly Mykhaylovych, Head, Secretariat of *Trudova Ukraina* (1999–2002) and Party of Industrialists and Entrepreneurs and *Trudova Ukraina* (2002-), (June 2000 and February 2003)

Kalinchuk, Vasyl Antonovych, People's Deputy, Agrarian Party faction, Deputy Head of the Agrarian Committee (March 2003)

Katsouris, Andreas, Resident Director, National Democratic Institute (March 2003)

Khmara, Stepan Ilkovych, People's Deputy, Yulia Tymoshenko Bloc faction (March 2003)

Kliuchkovsky, Yury Bohdanovych, People's Deputy, deputy head of *Narodnyi Rukh Ukrainy* faction (July 2000)

Kocherha, Viktor Gerasymovych People's Deputy, Communist Party faction, secretary (and former deputy chair) of the committee on crime and corruption (July 2000)

Kohyt, Ihor, Consultant to Reformy-Congress faction, head of Laboratory of Legislative Initiatives (June 2000)

Kononov, Vitaly Mykhaylovych, People's Deputy, leader of Green Party faction and party (July 2000)

Kostenko, Yevhen Heorhiyovych, Head, Secretariat of Solidarity deputy group (June 2000)

Kosinsky, Viktor Volodymyrovych, Head, Secretariat of the Committee on Legal Policy (July 2000 and February 2003)

Kozhyn, Borys Borysovych, People's Deputy, *Ukrainskyi Narodnyi Rukh* (*Rukh-Kostenko*) faction (July 2000)

Kugel, Jenny, Political Party Program Officer, National Democratic Institute (March 2003)

Lapin, Yevhen, Director, Laboratory F-4 (August 2001 and March 2003)

Levchenko, Liudmyla, Executive Director in Ukraine, Canada–Ukraine Legislative Co-operation Project (April 2000)

Loman, Dr Manfred, Director of Kyiv representation, Konrad Adenauer Fund (March 2003)

Marchenko, Oleksiy Andriyovych, Head, Secretariat of the Agrarian Party faction (February 2002)

Matvienkov, Serhiy Anatoliyovych, People's Deputy, European Choice faction (March 2003)

Mefford, Brian, Program Officer, International Republican Institute (April 2000)

Mishura, Valery Dmytrovych, People's Deputy, Communist Party faction; Head of the Temporary Special Commission of the Verkhovna Rada on the draft law 'On the Election of People's Deputies of Ukraine' 1996–7, (two interviews, June 2000)

Myronov, Volodymyr Mykhaylovych, Deputy Head of Documentation Department, former Head of the temporary secretariat of the Co-ordination Council of the Majority (May 2000)

Nochvai, Liudmyla Ivanivna, Head, Secretariat of the Committee on Economic Policy (July 2000 and February 2003)

Pigenko, Volodymyr, US Project Manager, Parliamentary Development Project for Ukraine (March 2003)

Plachkov, Svitlana Hryhorievna, Head, Secretariat, Committee on European Integration (February 2003)

Pysarenko, Anatoly Arkadiyovych, People's Deputy, Solidarity deputy group (July 2000)

Romovska, Zoriaslava Vasylivna, People's Deputy, Fatherland faction and author of the 1999 draft laws 'on Reglament VRU' and 'on standing committees' (June 2000)

Rudy, Volodymyr Myroslavovych, Head, Secretariat of the Committee on Health, Motherhood and Childhood (Interview conducted on author's behalf by T. Ilnytska, October 2000)

Semeniuk, Valentyna Petrivna, People's Deputy, Socialist Party faction, Head of the Special Control Commission on Privatization (March 2003)

Semerak, Ostap, Head, Secretariat of Reformy-Congress faction (May 2000)

Serov, Petro Kyrianovych, Deputy Head, Secretariat of Communist Party faction (May 2000 and February 2003)

Shevchenko, Kostiantyn, Executive Director, Laboratory F-4 (August 2000, August 2001 and March 2003)

Shkil, Andriy Vasilievych, People's Deputy, Bloc of Yulia Tymoshenko faction (March 2003)

Simon, Volodymyr Petrovych, Head, Secretariat of SDPU(o) faction (May 2000 and March 2003)

Sinko, Vasyl Danilovych, People's Deputy, Left-Centre (Socialist Party) faction (July 2000)

Skalyha, Yury Arsentiyovych, Head, Secretariat of the Committee on *Reglament*, Deputy Ethics and Organisational Work of the Verkhovna Rada (July 2000)

Snigach, Andriy Prokopovych, Head, Secretariat of the Committee on *Reglament*, Deputies' Ethics and Organizational Work of the Verkhovna Rada (February 2003)

Snisarenko, Oleg, Director, Laboratory F4 (August 2001 and March 2003)

Sobolev, Tetiana, Parliamentary Programme Assistant, National Democratic Institute (April 2000)

Stoliar, Oleksandr Arkhypovych, Head, Secretariat of European Choice faction (March 2003)

Sylvestrov, Yury, Scientific Assistant, Konrad Adenauer Stiftung (April 2000)

Tretiakov, Dmytro Yuriyovych, Head, Secretariat of the Green Party faction (June 2000)

Tsukanov, Mykola Ivanovych, Head, Secretariat of the Committee on Youth Policy, Physical Culture, Sport and Tourism (February 2003)

Tymochko, Stepan Teodoziyovych, Head, Secretariat of NDP faction (June 2000)

Yasinsky, Serhey, Head, Secretariat of *Ukrainskyi Narodnyi Rukh* (*Rukh*-Kostenko) faction (May 2000)

Yavorivsky, Volodymyr Oleksandrovych, Our Ukraine faction and Head of the Committee on Chornobyl (1990–4) (March 2003)

Valentine, Eleanor, Field Director, Parliamentary Development Project (May 2000)

Zadorozhna, Tetiana Andriyivna, People's Deputy, *Trudova Ukraina* faction (July 2000)

Zaiets, Anatoly, First Deputy Director, Scientific-Expert Board of the Verkhovna Rada and Expert on Constitutional Law, Ukrainian–European Consultative Centre for Legislation (TACIS), (April 2000)

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