

Decentralisation in Ukraine: Pros, Cons, and Prospects

Written by David R. Marples

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DAVID R. MARPLES, JUN 13 2017

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The reform process in Ukraine introduced after the Euromaidan protests has a number of facets. One of the most critical falls under the headline 'decentralisation'. This article explores what is meant by this term in the context of contemporary Ukraine. It also examines the prospects for the success of the reform, its benefits and drawbacks and whether or not it can be applied realistically to the areas of Donbas currently occupied by the rebel regimes of the Donetsk and Luhansk 'People's Republics' (the DNR and LNR). The need for such reform predates the events of 2013-15. The last major reforms of Ukraine's administrative structure occurred in the 1930s and caused numerous problems by empowering new oblast administrations that, at least initially, had little contact with the districts ('raions') over which they governed. The present changes respond to the inequities of the old Soviet administrative system that was hierarchical in nature, with enormous powers resting in the central bodies in Kyiv. They virtually dictated policies at the oblast level, which in turn did the same to the raion organisations. In this way a 'diktat' from the republican centre (which itself emanated from Moscow prior to 1991) might have little relevance to the real situation in the regions to which it was applied. It also meant that the regions had few financial resources and limited possibilities of decision-making.

The Stipulations of the Minsk-2 Agreement

Ukraine's particular case is complicated by a civil conflict that has involved the intervention of a foreign power – the Russian Federation – and the participation and the encouragement of the European Union and the United States on the side of the new government led by President Petro Poroshenko and Prime Minister Arsenii Yatseniuk.

Two 'armistices' were held in Minsk, Belarus (September 2014 and February 2015) under the auspices of the OSCE, which tried to provide a solution to the conflict in Donetsk and Luhansk oblasts, with the participation of the representatives of the two 'governments' of those regions, along with the OSCE, Germany, France, Ukraine, and Russia, with the mediation of the Belarusian president, Aliaksandr Lukashenka. The resulting agreement, it can now be said with some certainty, placed certain obligations on Ukraine that will be difficult to fulfil.

The Minsk Agreements stipulated that decentralisation would mean special status for the two eastern regions and for three years they would receive some form of autonomy.[1] These new powers, however, would only come into force with an end to the fighting, the withdrawal of all foreign (Russian) troops and the Ukrainian 'Anti-Terrorist' forces from the scene, along with heavy weapons, and Ukrainian control over the border area by the end of 2015. That has not happened, though the serious fighting has abated and both sides have desisted from major campaigns.

The granting of autonomous status must also be preceded by local elections, which did take place in the rest of Ukraine, but are expected in Donbas' occupied and some unoccupied areas only by the spring of this year and according to the Agreement, they must be held under the supervision of Ukraine rather than the rebel authorities.

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Already, Aleksandr Zakharchenko, the Prime Minister of the DNR, has declared that the Ukrainian authorities ignored both the breakaway governments in drawing up the new laws, thus violating the accords signed in Minsk.[2] The position of the DNR and LNR forms an important background to the discussion of decentralisation and is now the principal question on the agenda.

The Main Ideas of Decentralisation

Decentralisation signifies local powers over certain areas of decision-making, but the Ukrainian leaders stress that it does not mean federalisation. One of the sentiments behind the new laws is that federalisation may give birth to separatism, and hence the influence of the local authorities must have some limits.[3] Whereas federalism would create new power bases in the regions, decentralisation would allow local bodies more initiative and financing to carry out governance in areas such as health care, education, basic (as opposed to specialised) health care, cultural institutions, public works – such as roads and street cleaning, and others. The transfer of resources to the regions has to be embedded in the revised Constitution of Ukraine. The Ukrainian authorities emphasise that there will be ‘constructive dialogue’ on issues such as use of the local language.

In place of the former system of ‘oblasts’ and ‘raions’, the new law will apply a three-tier system: oblasts, raions, and communities (hromady). Regional governors, who held vast powers under the former system, are to be replaced by ‘prefects’ in the oblasts and raions who monitor the decisions of local assemblies and hold executive powers in the localities. They are to be state employees but apolitical and not members of the local political elite.[4]

The local self-governments are now responsible for budgets and attracting investment, and will answer to their own local voters. But the important fact is the devolution of authority to the communities, rather than the oblasts or raions. And since Ukraine comprises many small villages and hamlets (over 12,000), these are asked to unite voluntarily into larger bodies to form grassroots organisations with enough power to make their own decisions on local affairs without having to answer to former bosses at the oblast level.

The authorities in Kyiv maintain that the reform will provide incentives for economic development and business, removing much of the present bureaucracy and central control. The central authorities essentially will be sharing power with the regions, and the main goal is to return ‘a sense of dignity to the people’, one of the tenets of Euromaidan. In addition, since the regions of Ukraine are so diverse, the reform will take place with a sensitive and careful approach to the particular characteristics of the local region. The newly merged communities in this way will be rendered ‘sustainable’.

The ostensible model for the reform is Europe, and specifically Poland, where a similar local-government reform was carried out after the removal of the Communist authorities, despite major economic difficulties at the time, along with a high inflation rate. The Poles were persistent and, in the long term, decentralisation proved successful. It should be added that Poland does not share Ukraine’s ethnic diversity.

Assessments of the Reform

When the first reading of the law on decentralisation was passed by the Ukrainian Parliament on 31 August 2015, it was accompanied by violent protests, involving supporters of the far-right Svoboda party and some members of the Radical Party, and resulted in the deaths of five policemen and injuries to hundreds of people gathered outside the assembly after several grenades were thrown into the crowd.[5]

The opponents of the law declared that the law was a ‘sell out’ to the separatists, and a betrayal of the principles for which Euromaidan had fought. They did not, however, represent a substantial segment of public opinion.

Elsewhere some activists protested more peacefully, arguing that the reform’s creation of the figure of the ‘Prefect’ (see below) would in reality augment rather than reduce state power in the regions. Still, the reform process went ahead, and as noted by the Carnegie Endowment’s ‘Ukraine Reform Monitor’, the number of communities is anticipated to drop from 11,000 to 1500 larger bodies.[6] The report did comment, on the other hand, that

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'perceptions of poor communication and coordination' among the various parties conducting the reform was 'suffering from a lack of strategic direction'.

A critic of the Ukrainian government, Halyna Mokrushyna of the University of Ottawa, has outlined some other defects of the reform. First of all, as far as Donetsk and Luhansk are concerned, the 'special order' for these regions is to last only three years, and thus Ukraine has avoided the issue of granting permanent autonomy to Donbas. These regions also are subject to a separate law, implying that this latter document will not be part of the Constitution of Ukraine. The idea of special status, she also notes, is opposed strongly by two factions of the Parliament, namely the Radical Party led by Oleh Lyashko and Samopomich, headed by Oleh Berezyuk, as well as former Socialist Party leader Oleksandr Moroz.[7]

From a different perspective Halyna Coynash has questioned whether the authorities in the occupied parts of Donetsk and Luhansk will even permit Ukrainian parties to take part in the elections (Zakharchenko confirmed this on 24 January in a DNR news report). She notes also the conciliatory position (in this respect at least) of Russia, which has suggested possible replacements of the current leaders (Zakharchenko and Igor Plotnitskiy) in order for more open contests.[8]

On the other hand, in mid-January, Boris Gryzlov, Russian Representative to the Contact Group for Ukraine, visited Kyiv, and also stressed the need to coordinate the amendments to the Constitution, including those for decentralisation, with the representatives of Donbas. Without them, he stressed, the Minsk Accords cannot be fulfilled.[9]

Mokrushyna also rails against the activity in Kyiv of American functionaries such as Assistant Secretary of State Victoria Nuland and former US Ambassador Geoffrey Pyatt, and believes that the decentralisation laws were rushed through the assembly in their first draft to satisfy the West.[10] Whether or not they were hasty, they certainly lack clarity. And the fact that they were introduced at the top of the hierarchy for application at the local level appears to undermine one of the ideas behind them, namely grassroots or local initiatives for change. Regarding US involvement, it has occurred with other reforms such as the formation and training of the new police force.

Another critic of the Decentralisation Laws is Oleksandr Slobozhan, representative of the Association of Ukrainian Cities, who maintains that the proposed state subventions to the regions do not meet the minimal needs for education and health care and the new laws serve to raise the financial burden in the regions as areas formerly covered by the centre now must be paid through the local budget. He also noted that the state still collected local taxes and he feels generally that there is still too much government control over local affairs.[11] The critique is perhaps hasty in that one could not anticipate completion of decentralisation overnight.

Concerning the role of the Prefect, Berezyuk, leader of the Samopomich faction, maintains that it constitutes a form of dual power at the local level, alongside oblast or city councils. Others, especially in the Opposition, complain about the lack of discussion of the bill beforehand with the leaders of Donetsk and Luhansk.[12]

Interestingly the authority of the Prefect is to be applied to oblasts (this old Soviet term is to be abolished in favour of *rehiony*) and raions, but not to the hromady. The real powers of the latter are not clearly delineated. In essence, the law seems to reduce considerably the former authorities of the raion, but the oblast appears to retain some important functions, such as regional economic programmes.

Unsurprisingly there is even harsher criticism from the separatist representatives, particularly on prefects. Thus, the blog of Pavel Gubarev, the former Governor of Donetsk Region, states that they are government appointees and are only responsible to the President and that if a Prefect comes into conflict with local self-administration, the President may impose temporary direct rule until the conflict is forwarded to the Constitutional Court for resolution. He perceives the prefects as 'some sort of feudal lords' with enhanced powers.[13]

The bill for decentralisation, and to give the breakaway eastern regions special status, passed its first reading, though not with a very substantial majority (265 votes in favour), but its subsequent passage faces difficulties since it

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needs a minimum of 300 votes to be accepted ('a constitutional majority'). First it will go to the Constitutional Court for approval before returning for an anticipated decisive vote in Parliament in February 2016.

Still, changes are already taking place. On 17 January, the first elections were held in the territorial hromady with the election of 30 starosty (village elders).[14] At this same time, 159 communities were already elaborating their own budgets. Chair of Parliament Volodymyr Hroisman stated that the biggest challenges would be training new personnel and for the communities to understand that they, rather than the centre, are now responsible for decision-making.[15]

Prospects

Various opinion polls, including one sponsored by the government of Canada,[16] in recent months provide a clear picture of sentiment in Ukraine toward the leadership, the current batch of reforms, and priorities of the public. Without doubt, there have been changes in outlook in Ukraine, the residents of which are now better disposed toward democracy, joining the NATO alliance, and toward the European Union.

Conversely, Ukrainians are much more wary than hitherto about Russia and its designs, and a majority in all regions supports the retention of Donetsk and Luhansk regions in a unified Ukraine. At the same time, there is strong opposition to the current leaders, especially toward Yatseniuk, whose popular standing is now lower than that of Viktor Yushchenko in the 2010 presidential elections, but also toward Poroshenko.

All polls show weariness and disillusionment with the fight against corruption, and the most popular political figures are outsiders parachuted into positions in Ukraine, like Odesa governor and the former President of Georgia Mikael Saakashvili. Poroshenko, in particular, has remained very cautious in taking on some of the more controversial figures in his administration, not least Prosecutor Viktor Shokin, who has shown a marked reluctance to bring any cases of corruption to court and Interior Minister Arsen Avakov, whose televised confrontation with Saakashvili dominated social networks for a period late last year.[17]

Underlying the anti-government sentiment are a number of factors, not least the apparent unwillingness of the coalition to deal decisively with corruption, which is a fact of life for residents of Ukraine and the continuing economic difficulties. And in the background is the lack of resolution of the status of the occupied parts of Donetsk and Luhansk regions. The government cannot offer a definitive resolution; hence it has assigned a temporary status to these areas, but even that concession has provoked much anger among its critics. Some argue that this is not the time to introduce decentralisation, and that there needs to be time for the economy to recover from its lengthy crisis first. The opinion polls cited above all demonstrate that the conflict remains a leading concern for most residents of Ukraine, but it is not something that offers any easy solutions.

The Poroshenko government implicitly accepted the existence of separatist governments when it signed the Minsk Agreements with them. The Agreements now hang over Ukraine like the Sword of Damocles. Not only Vladimir Putin's Russia but also the EU is anxious to see them implemented. Reports suggest that former president Leonid Kuchma, who represented Ukraine in Minsk, finds the Accords so unpalatable that he has requested his role be taken over by his predecessor, Leonid Kravchuk.[18] Decentralisation and the Minsk Accords appear inseparable, and Kuchma does not wish to be the one signing away—apparently—the unified Ukrainian state within the borders it possessed at independence in 1991.

Conclusion

The Decentralisation Bill is today opposed not only by the opposition, which is gaining in support, but also by current and former members of the ruling coalition, as well as by the Batkivshchyna faction in the parliament led by the former Prime Minister Yulia Tymoshenko. Yatseniuk's solution to the prospects of an embarrassing coalition defeat in Parliament for a second reading of the bill is a nationwide referendum on the proposed constitutional changes.[19] But such delaying tactics are highly unpalatable to Ukraine's friends abroad. Russia faces equal problems: first decentralisation eliminates its own preferred solution of a federal structure for Ukraine; and second, it forces Putin's

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hand in either abandoning his Donbas allies, or forcing them to comply with the Minsk Accords.

The main solace for Ukraine is that if the Accords were actually fulfilled, there would be no border issues and Ukrainian control over its eastern boundaries, by definition, means that the DNR and LNR would become part of Ukraine, albeit with some special status. The elections in these territories in the coming months in that regard may provide clarification whether the local self-appointed leaders are prepared to accept Ukrainian control in return for autonomous status and even whether they can survive at all (especially if deserted by Russia, which seems to have withdrawn from any wholehearted commitment to the two 'republics'). Such status should also be made more permanent as it would meet the desires of most of the local population, which supports autonomy but not separation.

One hopes the current coalition can remain in power long enough and have the will to complete this complex process. To do so it will need to be bold and uncompromising, qualities it has not always exhibited hitherto.

Notes

[1] See <http://ria.ru/world/20150212/1047311428.html>

[2] <http://novorossia.today/kyiv-regime-s-decentralization-reform-is-a-joke-zakharchenko/>

[3] <http://decentralization.gov.ua/en>

[4] <http://decentralization.gov.ua/infographics/item/id/28>

[5] <http://euromaidanpress.com/2015/09/01/ukraines-decentralisation-and-donbas-special-status-what-you-need-to-know/>

[6] <http://carnegieendowment.org/2015/10/05/ukraine-reform-monitor-october-2015/iik7>

[7] <http://www.counterpunch.org/2015/08/28/decentralisation-reform-in-ukraine/>

[8] <http://khpg.org/en/index.php?id=1453675878>

[9] http://rbth.com/international/2016/01/18/gryzlov-significant-progress-possible-in-fulfillment-of-minsk-agreements_560107

[10] <http://www.counterpunch.org/2015/08/28/decentralisation-reform-in-ukraine/>

[11] <http://www.epravda.com.ua/rus/columns/2015/12/16/572561/>

[12] <http://www.counterpunch.org/2015/08/28/decentralisation-reform-in-ukraine/>

[13] <http://novorossia.today/pavel-gubarev-o-popravkah-v-konstitutsiyu-ukrainy-zhestkaya-tsentralizatsiya/>

[14] <http://www.pravda.com.ua/news/2016/01/17/7095681/>

[15] <http://rada.gov.ua/news/Top-novyna/122891.html>

[16] <http://www.pravda.com.ua/news/2016/01/13/7095267/>

[17] <https://www.youtube.com/watch?v=GXk6GLqQdIU>

[18] <http://www.day.kiev.ua/en/article/topic-day/minsk-ii-how-trap-works>

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[19] <https://www.kyivpost.com/article/opinion/op-ed/timothy-ash-ukraines-constitutional-reform-conundrum-406630.html>

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