

***ELECTIONS, REVOLUTION AND DEMOCRACY
IN UKRAINE:***

**REFLECTIONS ON A COUNTRY'S TURN TO DEMOCRACY,
FREE ELECTIONS AND THE MODERN WORLD**

By

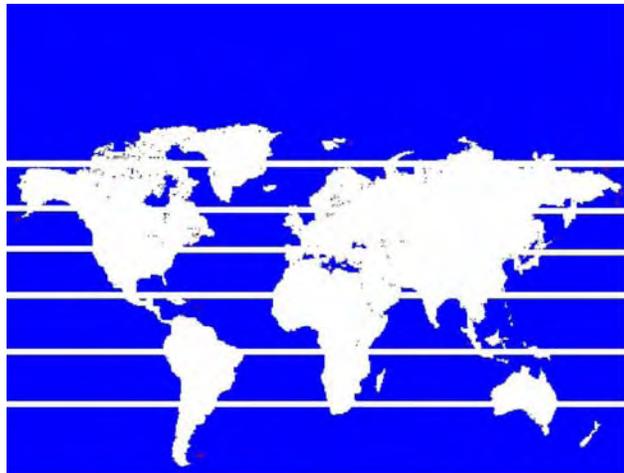
Jeffrey Clark

With

Jason Stout

October 2005

**DEVELOPMENT ASSOCIATES:
STRENGTHENING ELECTORAL ADMINISTRATION IN UKRAINE PROJECT**



**Development
Associates**

This publication was made possible through support provided by the Regional Mission for Ukraine, Belarus and Moldova, U.S. Agency for International Development, under the terms of Agreement No. 121-A-00-04-00701-00. The opinions expressed herein are those of the authors and do not necessarily reflect the views of the U.S. Agency for International Development.

PREFACE

A USAID-supported activity known as the Strengthening Electoral Administration in Ukraine Project (SEAUP), administered by Development Associates, played a decidedly important role in facilitating Ukraine's turn to democracy in 2004. The pages that follow provide evidence of that unequivocal conclusion, but just as importantly offer reflections on how the project was perceived and implemented of interest to promoters of free elections and democratization elsewhere.

SEAUP's success would have been unattainable without the unwavering support USAID gave the initiative and the trust placed in its professional staff. The Kyiv Mission granted considerable administrative flexibility that proved essential as political tensions increased and unplanned program inputs had to be devised virtually overnight to meet the challenges of a massively fraudulent vote and a court-ordered revote. The efforts of external players to foment anti-American sentiments further complicated the environment and imposed additional constraints on project implementers.

USAID sponsored other implementing agencies actively supporting democratic consolidation in Ukraine, working directly with NDI, IRI, Freedom House, InterNews, and ABA/CEELI. The work of these groups in tandem with local activists and grassroots groups helped meet the demand of millions of Ukrainians for enhanced democracy and improved governance. Numerous international institutions also deserve commendation. Those involved in efforts complementary to SEAUP were: the Organization for Security and Cooperation in Europe (OSCE), Project Coordinator Office in Ukraine, the Election Law Institute, the Razumkov Center, the Democratic Initiatives Foundation, and the Agency for Legislative Initiatives (ALI). SEAUP worked closely with the OSCE in promoting the professionalism of Ukraine's relatively inexperienced election commissioners.

Local SEAUP partners greatly expanded its implementing capability. Ukrainian NGOs and think tanks provided necessary training to election commissioners across the breadth of the country; among them: the Institute for Applied Humanitarian Research, the Znannya Society, the Committee of Voters of Ukraine, and the Freedom of Choice Coalition of Ukrainian NGOs.

A multitude of individuals also significantly contributed. International and domestic journalists gave the protestors a voice heard far and wide—at some personal risk to themselves. Photojournalists provided moving portraits of dramatic events which attracted global interest. Election observers provided reliable, firsthand accounts of barefaced fraud.

While the Ukrainian people are clearly the ultimate owners of the Orange Revolution, the U.S. Government and its implementing partners can take pride in their role in supporting the country's turn to democratic rule.

I. INTRODUCTION

Ten thousand protesters streamed down Kyiv's Khreshchatyk Street toward Independence Square. Then a hundred thousand more. Another hundred thousand in the Western city of L'viv filled the streets as did uncounted but massive crowds in cities across Ukraine. Eventually, up to a million Ukrainians poured into Kyiv during the third week of November to close ranks with the protesters and register their defiant rejection of a defiled election. The demonstrators were old and young, well-educated professionals, the unemployed, students, farmers and factory workers. They were non-violent, vigilant, animated and... determined. Determined that their country's presidential election was not going to be stolen by a gang of thugs and mysterious agents from foreign intelligence services. Determined that their country's long-stymied quest for democratic governance was not going to founder on the debris of an election so thoroughly riddled by fraud and manipulation as to be farcical. The spontaneous Orange Revolution was underway and the course of Ukrainian history was about to be altered.

By one credible estimate, 21 percent of the Ukrainian population directly participated in the Orange Revolution.ⁱ Such a number would be impressive in any society, but notably so in Ukraine where people had been lulled into a stupor of indifference to public policy and government in general during the disappointing years of adjustment to the collapse of the authoritarian Soviet system. 80,000 people gathered in the eastern city of Kharkiv to demand free and fair elections *without any prompting or organization* and their action was paralleled across virtually the entirety of the nation. In a mere six weeks, the people of the country rose to overcome entrenched and powerful forces, defy autocratic masters, defeat a corrupt political order with all of the powers of government at its disposal, and install a freely elected president. The autumn months of 2004 framed one of the most inspiring popular uprisings of modern history as the people of Ukraine collectively said *no* to the prospect of extended rule by kleptomaniacs and oligarchs and *yes* to the pull of democracy and free elections.

The Orange Revolution was less about the election campaign of Viktor Yushchenko than it was the widespread



AN INDEPENDENT UKRAINE: The Elusive Goal

Since the advent of the first Ukrainian state, Kyivan Rus in the 10th century, people of this agriculturally rich and strategically located nation have seen their yearnings for self-rule repeatedly thwarted. Indeed, throughout their long history, Ukrainians enjoyed only brief episodes of peaceful independence until the sudden breakup of the Soviet Union in 1991. Beginning in the 14th century, much of Ukraine was annexed by Poland and Lithuania. Indeed, from the 11th century, the country had been subjected to regular invasion by various neighbors—from the Khazars and the Pechenegs to the Mongol invaders who in 1240 razed medieval Kyiv to the ground and slaughtered virtually all its inhabitants. The most devastating and extensive of all these forces has been the historical oppression exerted by the neighboring behemoth—Russia. When Ukrainian noblemen and church leaders concluded a pact with the Muscovite Czar in 1654 for protection from the Poles, they enjoyed a brief period of support quickly replaced by exploitation: Ukraine's protector soon became the occupier.

In 1917 the Bolsheviks took control of Russia and its far flung empire; the ensuing chaos gave Ukraine a short span of autonomy. But once communist rule was consolidated in Moscow, Ukraine was given a non-negotiable invitation to join the USSR as the Ukrainian Soviet Socialist Republic. Ukrainians once again were *Little Russians* as they had been called by the *Great Russians* of Moscow centuries before.

Ukraine underwent a cultural renaissance in the late 1920s and many residents resisted the sterile socialization and collectivization policies imposed by Moscow. Josef Stalin responded harshly, raising Ukraine's grain production quota by a staggering 44 percent. This measure directly triggered successive waves of famine over the next several years: Soviet law explicitly decreed that workers did not eat if quotas were not met and the quotas could not be met. While people starved, the grain they harvested was stored in nearby heavily guarded silos, awaiting export. Estimates of the deaths resulting from artificial famine range from 7 to 10 million people for 1932-33 alone. When the invading Nazis reached Ukraine in 1941, German soldiers were startled to be greeted as liberators by some local residents. The joy did not last long as the reality of living under Hitler's murderous thumb became clear.

Following World War II, Ukraine experienced the same stagnation and slow economic, social and political strangulation that was the plight of all of the Soviet republics. The embers of the fire of Ukrainian independence burned barely above a flicker for long decades. The entire equation changed suddenly and irreversibly, however, in April 1986 when the Chernobyl nuclear power plant exploded. Along with the Chernobyl complex, the façade of Soviet legitimacy was destroyed and the cause of Ukrainian independence inadvertently revitalized. Forces that later manifested themselves in Independence Square were unleashed.

despair of the Ukrainian people over the continued thwarting of their aspirations for democracy, the rule of law, modern government, and a basic fair deal. The demand was for meaningful regime change and an escape from the cynical and corrupt practices of the Leonid Kuchma administration—a change many believed the Yushchenko candidacy represented. People were standing vigil in the streets because they had unexpectedly thrown off their own cynicism and indifference and decided that their country was in fact poised to join the modern world. They were not going to be manipulated by naked attempts to steal the election, cowed by an assassination attempt on Yushchenko or intimidated by the possibilities of violent repression by Kuchma’s police or military. *The people were mad as hell and they were not going to take it any more!*

There had been periods of protest before in the country, specifically in 2001, but the earlier efforts were at least outwardly unsuccessful and they never reached the magnitude of what was happening in the last months of 2004. The Orange Revolution erupted as a massive reaction by people whose patience was at an end. People had waited for the elections and the chance to change course and they were not going to be denied their only chance.

The Orange Revolution was not the starting gun for the coming of democracy to Ukraine; nor was it the ultimate ringing of celebratory bells marking final achievement of that elusive goal. It is more accurately seen as a major punctuation point in a struggle that had its contemporary origins in the Chernobyl disaster and that will mark its success when fair elections, majority rule, minority rights, transparency, accountability and the other facets of democratic governance are the expected and realized norm.

The Orange Revolution reflected the growing demand for progress and modernization—and *normalcy*—by the average Ukrainian citizen. It reflected the new-found vibrancy of civil society and the emergence of a middle class that had propelled thousands of people into a different orientation to government and the wider world around them. It afforded them the luxury of being involved in public affairs—and the ability to cover the costs of transportation, food and lodging for the demonstrators

“If you think that of the nearly 12 million officially recognized Yushchenko supporters...at least 10 million have never had a chance to see him on TV other than in an outrageous defamation campaign, clearly modeled after old Stalinist... techniques, you can easily imagine to what extent Ukrainian authorities have lost their credibility with the nation.”

Oksana Zabuzhko

CHERNOBYL TO INDEPENDENCE SQUARE

While the Kremlin stifled cries for Ukrainian independence throughout the long, gray decades following World War II, the fervor of self-determination could not be extinguished. Stalin's famines had permanently singed the hearts of many Ukrainians and evidence of Soviet misrule was mounting. When the Chernobyl disaster struck, it destroyed more than a power plant: *Chernobyl proved to be the beginning of the end not just of Russian domination of Ukraine, but of the Soviet system itself.*

At 1:23 a.m. on April 26, 1986, a routine test sparked one of the most horrible tragedies of the late 20th century at the Chernobyl nuclear power plant in the town of Pripyat, near the Ukrainian-Belarus border. Control rods melted and burning insulation blocks expelled 200 times the radiation sent into the atmosphere by the bombs of Hiroshima and Nagasaki. The explosion inflicted literally hundreds of thousands of people in Ukraine, Belarus and Russia with permanent mental and physical impairments and will eventually kill approximately 4,000 people. The full effects of the catastrophe will not be known for another two generations.

In the tradition of the Soviet justice system, some of the workers on shift during the explosion were jailed, including those who had tried to contain the damage; one man died within three weeks of receiving a 14 year prison sentence. Authorities then rushed to cover up the incident—forcing local residents, including thousands of schoolchildren, to participate in a May Day parade as if nothing had happened and young soldiers to clean-up the toxic mess without protective gear.

Chernobyl reignited the fires of Ukrainian freedom. The moral and political bankruptcy of the Soviet system could no longer be disguised, nor the rationale for union sustained. A declaration of independence was pronounced on August 24, 1991 amidst the chaos of the hardliner coup attempt in Moscow. (It would be inverted to conclude that Ukraine became independent due to the breakup of the Soviet Union; a more accurate reading is that the USSR collapsed because independence for Ukraine could no longer be denied.)

Democratic and responsible governance was neither guaranteed nor delivered with the events of 1991. A former communist leader, Leonid Kravchuk, became Ukraine's first elected president. His term was plagued with the massive corruption surrounding privatization of state-owned industries. Leonid Kuchma, an alleged reform candidate, prevailed in the 1994 elections; Kuchma's subsequent re-election in 1999 was tagged as fraudulent by Western observers and his regime became increasingly associated with the outright theft of national resources. As Kuchma's second term staggered to an infamous end (the president was accused by many of direct involvement in the savage 2000 murder of journalist Georgiy Gongadze), the people of Ukraine were increasingly convinced that a continuation of a Kuchma-inspired government under his proxy candidate would bear unacceptable consequences. The attempted theft of the Round Two elections of November 2004 sparked the next chapter in Ukraine's long struggle for independence: the Orange Revolution.

during the fateful seventeen days of revolution. As well, the Orange Revolution was a product of the cell phone and Internet ageⁱⁱ and the ability of activists to communicate widely and instantly about the realities of governance in the country and to make less-than-flattering comparisons with standards found in other nations, especially other former Soviet republics and satellites such as Lithuania, Latvia and Poland.

It is also true that the Orange Revolution was a movement strengthened and facilitated by the democracy and governance and rule of law projects supported by Western donor agencies, including those of the United States Government. The Strengthening Electoral Administration in Ukraine Project (SEAUP), funded by USAID and implemented by Development Associates, Inc. (DA), is a donor project which had particular impact and significance during this period of profound national transition. It is a project that offers valuable lessons learned for practitioners of democracy enhancement; and it stands as a source of pride for American taxpayers and the millions of Ukrainians who believe in the rule of law, transparent governance and honest elections.

Ukraine's turn to democracy in 2004 was delivered by the Ukrainian people. It is they who earn full credit for the fundamental transition brought about in their nation then and the growing prospects for democratic consolidation present now. But it is also true that the election process bolstering effort represented by SEAUP provided a significant foundation stone for that transition. SEAUP was driven by local demand, shaped by local experts, implemented by local actors. It succeeded because literally thousands of poll workers bought into its promise and because hundreds of local trainers delivered high-quality inputs designed by former members of the national Parliament and insightful officials from the various Ukrainian think tanks and NGOs affiliated with the project. SEAUP also owes its success to the unwavering commitment of USAID and the American Embassy in Kyiv to enhancement of the professionalism and integrity of the country's electoral process—regardless of who won or lost a particular election. It certainly owes its standing to the high caliber of professional staff members selected by Development Associates to design and implement every component of the undertaking.



(Flag of Ukraine)

ECONOMIC PROGRESS

During the first decade of independence, Ukraine's GDP contracted by as much as 60 percent according to some measurements. Since 2000, however, the economy has experienced an upward thrust, with growth in GDP reaching 12 percent in 2004. This growth could be attributable to a general upswing that privatization—however limited and flawed—has sparked, or to the remittances from citizens living abroad. And it may partially stem from the vast amounts of international assistance. Analysts, however, largely peg the growth to the ability of Ukraine's businesses to finally join the world economy and better reflect modern standards and practices.

2004-2005 TIMELINE

September 6: Opposition leader and presidential candidate Viktor Yushchenko is rushed to a Vienna clinic, emerging with a discolored, pockmarked face—the result of acute poisoning, its source never explained.

October 31: Yushchenko leads opponent Viktor Yanukovych in first round of elections; international observers protest some irregularities; neither candidate has the required majority; runoff vote is scheduled.

November 1-13: Russian President Vladimir Putin visits Ukraine to openly campaign for Kuchma's proxy candidate, appearing with Yanukovych in parades and on TV.

November 21-25: Exit polls from the November 21 runoff election show Yushchenko in lead; the Central Electoral Commission, however, declares Yanukovych the winner, giving him 49.46 percent of the vote, versus Yushchenko's 46.61 percent. Putin applauds Yanukovych on his "convincing" triumph while Yushchenko calls for a national strike. The OSCE maintains that the vote did not meet democratic standards and European foreign ministers warn Ukraine on consequences of accepting results. An initial 100,000 protesters fill Kyiv's Independence Square; a similar number protest in L'viv—all demanding an honest vote count. Kuchma claims Yushchenko is attempting a coup. The number of demonstrators in Kyiv tops one million several days later. The Dutch Prime Minister tells Kuchma the outcome is unacceptable and the U.S. Government labels the election results illegitimate.

November 27-29: Tens of thousands of Yanukovych supporters gather in Donetsk; threatening to seek autonomy if Yushchenko prevails. Some call for outright secession. Pro-Yanukovych politicians gather in the city of Siverodonetsk for a congress that calls for a Kuchma crackdown on pro-Yushchenko demonstrations. All of Ukraine is abuzz that a military operation to disperse demonstrators in Kyiv is called off less than an hour before troops were to begin operations.

November 30: Putin warns that foreign governments must not get involved in the crisis.

December 1-3: Parliament rejects Yanukovych's premiership with a vote of no-confidence. Kuchma flies to Moscow to confer with Putin; Yushchenko's coalition demands that Parliament mandate a new vote. The Ukrainian Supreme Court unanimously declares the second-round vote fraudulent in a stunning ruling; sets the re-vote for December 26.

December 9-11: Russia and NATO jointly call for free and fair elections in Ukraine. Vienna doctors confirm after exhaustive tests that Yushchenko was poisoned with TCDD dioxin.

December 26: Second runoff elections take place.

December 27: The Central Election Commission declares Yushchenko the clear winner with nearly 52 percent of the votes—a margin of over 2 million votes.

January 23: After several weeks of unsuccessful Supreme Court litigation by die-hard Yanukovych supporters, Viktor Yushchenko is sworn in as the third President of Ukraine.

II. STRENGTHENING ELECTION ADMINISTRATION: MAKING THE VOTES COUNT

An early USAID investment in shoring up the mechanisms of the election process in Ukraine was the Elections and Political Processes Project (EP3), which had a relatively broad mandate (election legislation strengthening; improving implementation of the election laws; building the capacity of Ukrainian NGOs to participate in elections; and voter education). That effort, also implemented by Development Associates, was succeeded by SEAUP in late 2003 with its two core objectives: improving the legislative and regulatory environment for the conduct of valid elections; and improving implementation of the elections laws by the government, political parties and candidates. The project was complementary to other initiatives in USAID's democracy and governance portfolio; Development Associates worked collaboratively (and well) with USAID implementing partners (NDI, IRI, Freedom House, InterNews, ABA/CEELI) as well as the Organization for Security and Cooperation in Europe (OSCE) and other international players.

SEAUP's implementation as a cooperative agreement gave DA considerable flexibility and latitude and encouraged more creativity in approach than was the case with the task order which governed EP3. Such flexibility proved to be invaluable as the incredibly complicated and unpredictable events of late 2004 unfolded.

On the legislative and regulatory environment, SEAUP's main emphasis in 2004 was on improving the regulatory and judicial behavior framework under which the presidential election was being conducted and providing key legislative drafting support at a critical juncture. (That work continues today with significant inputs into clarifying the legal process for the conduct of the 2006 Parliamentary elections.ⁱⁱⁱ) Through the involvement of several former members of Parliament, SEAUP has been able to work directly and effectively with the national legislature in updating and clarifying the laws and regulations governing the administration of elections. Most significantly, SEAUP helped bring about:

SEAUP IN BRIEF

- Kicked-off 12/15/2003; slated to conclude 12/31/2006.
- Original budget of \$4.4 million augmented with an additional \$1.5 million in USAID funding September 2005.
- Informed discussion on securing voting rights for Ukrainians voting abroad.
- Substantively contributed to *Special Law* that framed the December 2004 "re-vote."
- Trained 100,000 Polling Station Commissioners plus mid-level election officials in 2004.
- Engaged three Justices of the Supreme Court of Ukraine as trainers.
- Published and distributed 450,000 training materials for 33,000 polling stations in 225 Territorial Election Constituencies.
- Provided training and resources for initial election, runoff election and unanticipated 3rd rerun election in 2004.
- Providing extensive additional training for March 2006 Parliamentary and local elections.

UKRAINE IN PROFILE



Borders: Poland, Belarus, Russia, Romania, Moldova, Hungary, Slovakia, and the Black Sea

Capital: Kyiv (*Kiev* in Russian)

Independence: August 24, 1991

GDP: \$299.1 billion (2004)

Currency: Hryvnya (UAH)

Population: 47,425,336

Live Expectancy: 66.85 years

Land Area: 603,700 sq km (nearly the size of Texas)

Arable Land: 56 percent

Dominant Religion: Eastern Orthodox



- Public and elite discussion of how best to secure voting rights of Ukrainian citizens abroad that influenced the rules establishing external polling stations;
- Twenty-five election law clarification/discussion workshops and seminars involving nearly 1,100 judges during the presidential election cycle;
- Publication of a special edition of the National Security and Defense journal devoted entirely to election laws and practices; and
- The special “Law on the Peculiarities of Applying the Law on the Election of the President of Ukraine during Repeat Voting on December 26, 2004.”

In the end, it is clear that the legal reform and education aspect of SEAUP was at the very center of the peaceful resolution of the crisis that engulfed the country following the November 21 Round Two voting.

Enhancing implementation of the elections laws and administration of election procedures has also been at the core of SEAUP. In 2004 alone, the project directly trained 7,405 individuals at the territorial election commission level (election commissioners, candidate proxies/representatives or lawyers). More impressive, over 95,000 polling station commissioners were trained in September and October of that year and not less than 1,350 election judges received training on election procedures. And, significantly, the training took place in each of the country’s 27 administrative regions.

The training was not only widespread across the country, it was intense, thorough, professionally designed and expertly delivered. It was shaped by SEAUP’s senior staff (which includes three former members of Parliament, former local government officials, an acknowledged father of the Constitution of Ukraine, lawyers, and election law specialists) in concert with the project’s sub-grantee partners (the think tanks and NGOs identified in an adjoining text box). Three SEAUP training series during the critical period prior to the presidential elections were conducted by justices of the Ukrainian Supreme Court (following a pattern of tapping senior jurists for involvement in the entire operation since 2001). This involvement of Supreme Court justices proved to be of central importance later in the process.

**SEAUP’S NGO/THINK
TANK PARTNERS**

Razumkov Centre: Elite NGO and think tank; published a special issue of their flagship National Security & Defense journal devoted entirely to election and practice; conducted a series of round tables on the state of election law.

Institute for Applied Humanitarian Research: Highly respected NGO, trusted by high courts throughout Ukraine; reached nearly 1,100 judges in election law discussion events.

Znannya Society: Established in 1948—one of the oldest NGOs; largest association of professional educators in Ukraine; conducted over 500 training seminars for Polling Station Commissioners.

Committee of Voters of Ukraine: Flagship of Ukrainian election monitoring and activist NGOs; conducted hundreds of trainings; exceptionally successful instructors.

Freedom of Choice Coalition of Ukrainian NGOs: Focuses on democratic reforms and anti-corruption through NGO empowerment and information diffusion; conducted trainings in difficult southern areas of Ukraine where corruption is high.

Of the 103 training sessions for territorial election commissioners, 42 were not originally reflected in SEAUP's work plan for 2004, but were quickly organized in the face of the critical and dangerous situation which had developed. This additional training is indicative of the way the project's leaders were able to pivot on short notice during the turmoil of the period and respond to unanticipated need.

The essence of the project was and continues to be its quite genuine Ukrainian nature. No formulas or curricula were imported from outside the country. Identification of changes to the election laws and regulations were made by Ukrainian experts; training sessions were designed and taught by Ukrainian practitioners; manuals and reference materials were written by Ukrainian authorities. Not only the public face, but the heart of the project was and is indigenous. Development Associates monitors every aspect of the initiative, ensures compliance with USAID requirements, maintains responsibility for programmatic and financial reporting, and oversees all major programmatic decisions. But it does not micro-manage SEAUP from afar. DA's corporate officers granted a high degree of autonomy to the project's director from its onset; there was no retreat from Ukrainian direction of SEAUP during the election period of 2004, either. As delegations of election experts were pouring into the country from Western Europe and the United States during this time, many of their members rushing to the television cameras, SEAUP remained what it was: an election process enhancement effort reflective of local concerns and aspirations. SEAUP's managers boast that "ours is a Ukrainian project run by Ukrainians for Ukrainians."

At the same time, there was no obfuscation about USG sponsorship of the project and no hiding of the source of funding that enabled SEAUP to operate. The USAID logo was included on the training manuals and workbooks disseminated. Indeed, the then-deputy chair of the Central Elections Commission relayed to the SEAUP director that a Russian "election monitor" had commented about the 'American literature' found in polling stations. The SEAUP stance regarding its sponsorship was not subterfuge but rather caution, a stance that proved wise given the anti-American hysteria being promulgated at the time by many opponents of a free election. (Viktor



Yushchenko's wife, an American citizen of Ukrainian background, was portrayed as a covert agent of the CIA by the Yanukovich campaign; the Ukrainian and Russian media were portraying the Yushchenko campaign as a CIA operation and rumors were spread of an attempted CIA "takeover.")

SEAUP was (and is) a multifaceted, flexible program that succeeded in both expanding and improving the laws and regulations framing the conduct of elections in Ukraine and in significantly multiplying the number of election officials at all levels who had the training and orientation to recognize and insist upon adherence to clear and consistent standards in the administration of elections.

III. THE GATHERING STORM: PRESIDENTIAL CAMPAIGN OF 2004

The looming threat to the established way of conducting public affairs—and orchestrating the levers of government for personal gain—was increasingly clear in the build-up to the first round of voting on October 31. Opinion polls detected rising support for Viktor Yushchenko, the former prime minister and the perceived candidate of reform, and found that a surprisingly large number of individuals planned to vote. Yushchenko's strongest opponent was Viktor Yanukovich, the then-prime minister and the clearly preferred favorite of both outgoing president Leonid Kuchma and Russia's Vladimir Putin. Kuchma was decidedly ambivalent about leaving office and many assumed that he would retain significant influence, if not outright control, should Mr. Yanukovich replace him.

Mr. Yanukovich, who had actually been charged earlier in his career with the felonies of robbery and assault, was the candidate of shadowy figures (among them, Leonid Kuchma's son-in-law, Viktor Pinchuk, and Rinat Akhmetov, a Donetsk-based industrial magnate) who had enjoyed *special access* to state assets throughout the Kuchma reign. Yushchenko portrayed himself as the candidate of those seeking to break the stranglehold of the special interests and establish more effective rule of law in the country. Beyond the two frontrunners, some 24 other candidates were on the ballot.

“The CEC enjoys lots of cooperation with international actors—the EU, Japan, the Canadians and others—but DA is tops in volume. No other organization has such highly qualified experts. The scope and quality of the DA effort exceeds the expertise we have here at CEC.”

*Maryna Stavniychuk,
Deputy Head, Central
Election Commission
of Ukraine*

The dramatic events of the first week of September illustrate the threat that Yushchenko seemingly posed to those who had grown powerful during the Kuchma era. Complaining of acute intestinal pains, the candidate was rushed to a medical clinic in Austria. Lucky to survive at all, he emerged with a discolored and pockmarked face showing the results of what later proved to be TCDD dioxin poisoning—poison he had been administered in an assassination attempt by perpetrators who remain unidentified to this day.

The government made no attempt to conceal its support for Yanukovich. The official media presented strongly biased coverage of his candidacy—to the surprise of no one. A pre-election poll found that over 70 percent of respondents did not anticipate candidates having equal access to the media during the campaign.^{iv} The private media was no more principled or professional in its coverage. President Kuchma was an adamant supporter of Mr. Yanukovich, but it is not clear that such support was much of a boost to the latter's campaign. A poll taken during the period of the election found that 45 percent of the respondents thought that Kuchma was ending his term in disgrace and 69 percent did not support the president. And, 13 percent wanted the president put on trial once his term ended.^v

The Russian government was equally exercised during the build-up to the voting. In September, Russian prosecutors reanimated criminal charges (filed in 2000 and filed away later) against Yulia Tymoshenko, then an opposition leader and a leader of the pro-democracy, pro-Yushchenko camp. She was charged with bribing military officials while she headed a gas trading company in the 1990s. The charges, denied by Ms. Tymoshenko, were not closed when she became the Ukrainian prime minister in early 2005. (Yulia Tymoshenko was, of course, dismissed as prime minister by President Yushchenko in the dramatic September 2005 shake-up of his Orange Revolution governing coalition.)

Vladimir Putin, the Russian president, made two visits to Ukraine within one month to campaign for Mr. Yanukovich and the Russian media beamed hours of pro-Yanukovich coverage into eastern Ukraine as well as repeated stories on alleged attempts by the United States to engineer a Yushchenko victory. The Putin factor was hardly negligible. Five times more potential Ukrainian

“The Orange Revolution took place because many Ukrainians changed their view of Ukrainian politics from one of ‘A plague on all your houses’ where all politicians were viewed as corrupt. Yushchenko changed this widespread view by convincing a majority of Ukrainians that he and his political allies were different.”

Taras Kuzio, Institute for European, Russian and Eurasian Studies, George Washington University.

voters said that their inclination to vote for a candidate would go up rather than down if that candidate was endorsed by the Russian leader (though a large majority said it would have no impact at all).^{vi}

The contest narrowed to a two-man race, with no candidate beyond Yushchenko and Yanukovych registering above 8 percent in preference polls and with many candidates failing to garner any measurable support. The public was paying rapt attention to the campaign, with attendance at rallies and marches extremely high. The first vote was October 31 and Viktor Yushchenko bested Yanukovych by a small margin but, according to official results, failed to secure the 50 percent required to avoid a run-off election. International monitors reported “serious irregularities” in the administration of the first round. OSCE observers expressed concern over the conduct of the election. Some estimates are that Yushchenko’s actual margin over Yanukovych was reduced by some 50 percent due to fraudulent vote counting.^{vii}

Monitors and observers of the first round who found the balloting flawed had no idea what obstacles might be erected to having either a fair vote in Round Two, scheduled for November 21, or having the results tabulated accurately. One of the most outrageous attempted *fixes* in modern electoral history was about to be unleashed.

IV. THE BIG FRAUD, A NATIONAL CRISIS, THE ORANGE REVOLUTION

The campaign and the animosity between Yushchenko and Yanukovych intensified in the three-week build-up to the run-off election. Vladimir Putin stepped up his support for Yanukovych and the official media of both Ukraine and Russia were increasingly shrill in their attacks on Yushchenko and blatant in their coverage of the campaign. Yushchenko succeeded in garnering the endorsement of various former rivals in the initial election; the influential Socialist Party, for example, made “a tough journey” in deciding to join the Yushchenko coalition for the run-off election, given past rivalries, but did so in the end.^{viii}

The effort to secure a victory for Yanukovych, regardless of how people actually voted, was neither subtle nor



President Viktor Yushchenko

“I am here to support democracy, so that if at the next election I decide I do not like Victor Yushchenko, I can vote against him.”

Law Student Roman Pohredny



Former PM Viktor Yanukovych

sophisticated. Instead, it was brutal and crude. In an omen of what was afoot, some members of the Central Election Commission had earlier suggested to SEAUP officials that seminars on the penalties faced by those convicted of election law violations be cancelled.

In some local election commissions (precincts in the American experience), the 2002 voters' lists were replaced with outdated ones from the 1990s in an attempt to deny people the ability to vote. Citizens were not allowed to inspect the voters' registry prior to election day. Election commissioners who were thought to be non-Yanukovych supporters were threatened, many intimidated enough to resign their appointments given the promise of a burnt home or wrecked car. In numerous locations, accredited election observers were pushed into corners where they could not actually view the voting underway. At several hundred precincts observers were physically blocked entry by thugs or ejected, with the omnipresent police looking the other way or disappearing at the most inopportune moments.

In others, voters holding completed ballots were videotaped or photographed to verify that a Yanukovych vote had been cast. In a spirits factory, a team of ruffians physically beat a group of Yushchenko supporters.

In various polling stations, voter lists were artificially increased by up to 300 names; the added names typically corresponded to deceased voters who were being organized to vote regardless of their ability to do so.

One of the more outrageous aspects of election day was a parade of buses making the rounds of polling stations in over a dozen regions with roving voters onboard. Sometimes enjoying police escorts, the buses transported their dutiful passengers from precinct to precinct, where they voted multiple times using fraudulent absentee voting certificates. In some locations, the riders on the buses barged into polling stations where they voted regardless of registration, aided by a small cadre of poll station commissioners charged with "assisting" them; credible, non-Yushchenko sources report that many of the bus riders cast as many as 30 ballots each on election day.

"The people who cast the votes decide nothing. The people who count the votes decide everything."

Josef Stalin



In other locations, Yanukovich supporters served the election commissioners vodka and other drinks, then convinced them to sign blank tabulation sheets. Ballot stuffing was also observed, especially in eastern regions, while spoiling of ballot boxes or ballots cast, whether by fire, acid or otherwise, occurred in central parts of Ukraine and larger cities.

The Round Two vote was a comprehensive fiasco—in its build up, its conduct, its aftermath. The vote’s lack of credibility did not deter the Yanukovich camp, however. Before the Central Election Commission (CEC) announced its results, from Moscow Putin congratulated his candidate on his “convincing victory.” And the results of exit polls showing Yushchenko with a comfortable lead were discounted by the Commission as the official vote tally veered to a Yanukovich victory.

On the day after the election, November 22, OSCE observers proclaimed that the vote had fallen short of democratic standards, a number of European foreign ministers warned the Kuchma government of the consequences of recognizing the vote, and Yushchenko was protesting irregularities before the CEC. By the next day, the first 100,000 protesters were in Independence Square, Yushchenko swore an oath of loyalty to the Ukrainian people and a nationwide student strike was underway. On the 24th, Viktor Yanukovich was declared the official winner.

By November 25, the United States, Canada and the European Union had officially announced that they could not recognize the official results of the Round Two vote and the Supreme Court had forbidden their publication. Demonstrators were occupying the House of Trade Unions, Ukraine House and Kyiv’s City Hall.

Notable among the countless individuals who bravely resisted the thuggish measures being perpetuated on the country was Natalia Dmytruk, a sign-language interpreter for the state-run UT-1 news station. During the first tumultuous days of the revolution, Natalia absorbed the sentiments of people at nightly street protests while feeling ever more ashamed of the pro-Yanukovich propaganda she

Domestic election observers were a key element in bringing a fair vote. They were, and were trusted as, being effective—that is why they were targets of intimidation and attempted removal.

International observers had a different role; they were not allowed to intervene. They were in Ukraine to legitimize the validity of the election process and affect public opinion.

translated by day. On November 25, as official results proclaiming that Viktor Yanukovich had won were released, Natalia revealed an orange ribbon on her wrist as she signed: “I am addressing everybody who is deaf in Ukraine. Everything you’ve heard so far in the news was a total lie. I am ashamed to translate these lies. Do not trust the results of the Central Election Commission. Yushchenko is president. Good-bye. You will probably never see me again.”^{ix}

The situation deteriorated quickly. By the 26th of November, two eastern regions of Ukraine announced that they were considering secession, rumors were spreading that Russian military forces had crossed the border and that NATO forces were mobilizing. On the 27th, Parliament declared the results of the election invalid and passed a vote of no confidence in the Central Elections Commission; on the 28th of November a congress of pro-Yanukovich politicians from the east and south of Ukraine convened in the heart of Yanukovich territory to demand that Kuchma put an end to the pro-Yushchenko demonstrations and threatened national dismemberment as an alternative. On the 29th of November an apparent move to disperse protestors using police troops, including live ammunition, was narrowly headed off through urgent behind-the-scenes diplomacy aided by elements of the Ukrainian security services. On the 1st of December, Parliament declared no confidence in the Yanukovich government itself. The Cabinet of Ministers and the Presidential Administration buildings in Kyiv were blockaded. President Kuchma, reported by some to be in an alcoholic stupor, refused to accept a series of urgent phone calls from U.S. Secretary of State Colin Powell.

The excitement and emotion surrounding the pending election had moments of humor and cleverness. After candidate Yanukovich’s wife claimed that “the Americans” were both poisoning students by injecting oranges with drugs and buying them boots to secure their votes, a series of film parodies of the ridiculous charge appeared and many students had posters showing oranges being injected with oversized needles.

There was not much humor on display on November 30, when crowds attempted to storm Parliament. The next day



Kuchma flew to Russia for a conference with Vladimir Putin.

On December 3, 2004, the Supreme Court of Ukraine declared the Round Two vote to be invalid and ordered a re-vote. Within a few days, the re-vote was scheduled for December 26, Parliament had approved constitutional changes and election law reforms, and the CEC was restructured. Yushchenko declared a popular victory and the Orange Revolution had reached a successful and non-violent conclusion.

Less than three weeks later, after the December 26 re-vote, Viktor Yushchenko was elected president of Ukraine, the immediate crisis had passed, and the popular uprising had ended. Ukraine was on the path to democracy and the modern world. Yushchenko assumed office on January 23, 2005.

V. THE VOTE AND THE RE-VOTE

During the tumultuous last months of 2004, the solid grounding and clarity of purpose of the SEAUP initiative became ever more clear. As events cascaded toward chaos and potential violence on the streets, the project's managers never lost sight of the goal: *bolstering the administration of the election process to ensure a free and valid election in which every voter would have an opportunity to have his or her choice duly registered.* While the movement for fair elections, at least in the minds of many people, became the antithesis of the Yanukovich campaign, SEAUP remained non-partisan and retained its credibility with a wide spectrum of political interests.

During the build-up to the October 31 vote, SEAUP was instrumental in securing voting rights for many Ukrainians residing abroad. The training of election commissioners was in high gear, with over a hundred thousand individuals participating in various training events in September and October. 2,000 copies of a training video for election commissioners were disseminated. SEAUP significantly expanded its effort by awarding grants to various Ukrainian NGOs and think tanks such as the Institute for Applied Humanitarian Studies, which implemented a series of discussion events with judges throughout Ukraine who were slated to hear election-related cases. The special

“The ties between Parliament and SEAUP are informal as well as formal. SEAUP is respected by the community of people involved in the effort to upgrade our electoral process. This is not outside interference; this is genuine strengthening of the process and deepening of the legal culture surrounding elections. Through this effort, democracy is advanced.”

*Yurii Kliuchkovskiy,
Member of Parliament*

edition of the National Security and Defense journal dedicated to proper election practices was widely distributed. On October 3, a SEAUP web-based tool was launched to provide information on the finer points of the presidential election law.

It was during this period that three justices of the Ukrainian Supreme Court served as SEAUP trainers—a facet of the training component that proved to be extremely fortuitous: *when the scope of the fraud perpetrated around the November 21 run-off election became clear, the judges who had served as trainers felt personally assaulted.* Their outrage energized them to assume leadership roles on the Court and rally colleagues in the unanimous decision on December 3 to set aside the results of the fraudulent run-off and order the re-vote of December 26.

With the December 3 ruling, and the need to prepare for another election, SEAUP’s managers quickly pivoted and organized previously unplanned inputs to secure a more valid process for the next round. A 64 page manual on adhering to the legal provisions of the re-vote was produced and some 70,000 copies were distributed to territorial election commissions and local polling stations. 32 training seminars were organized and delivered by a team of SEAUP experts who traveled around the country on a round-the-clock basis to reach as many election officials as possible. A multi-color revision of the election procedures diagram was designed, printed, and distributed; among its end-users were 1,000 international election monitors.

SEAUP also organized four day-long orientation sessions for over 600 international observers. Location-specific consultations with election commissioners were provided by staff via cell phones. Articles explaining the particulars of the re-vote process penned by SEAUP officials were printed in newspapers across the country. Informational inputs were provided to international and local observers and participants (*e.g.*, OSCE, Freedom House, IRI, NDI, InterNews, ABA/CEELI, Democratic Initiatives Foundation and the Committee of Voters in Ukraine).

While the Central Elections Commission benefited from these SEAUP interventions and generally cooperated in their implementation, the CEC itself was notably short of a



pro-active response to the requirements of the re-vote. The passive Commission simply was not prepared to rise to the demands of the situation. The dozens of NGOs and other groups and organizations working with SEAUP and parallel entities had the mobility on the ground and the expertise in election processes to make a fair vote become a reality.

One participant noted that SEAUP served as a “buffer between democracy and dictatorship” during this period. The comment reflects a sentiment voiced by many of the participants and activists in Ukraine’s bold break from the shackles of its past and into the ranks of democratic countries. Just as the now-famous tent city demonstrators in Kyiv and the ensuing revolution had catapulted Ukraine toward its first genuine election since it gained independence more than a decade earlier, SEAUP had trained election workers and observers in the importance of free and fair access to the ballot box and the means to secure an honest and transparent counting of the vote.

Local actors in this unprecedented uprising were unequivocally the true movers and shakers of the Orange Revolution. SEAUP’s role in the national transition was more subtle, indirect, discreet, its success due to the close ties it enjoyed with the US Embassy in Kyiv and USAID, as well as with Ukrainian MPs, multiple party representatives, the OSCE, international and domestic election monitors and other Western government officials. These relationships, and the training sessions undertaken and the publications disseminated, were especially vital when pervasive rumors began to fly and a vacuum of information developed. The trust established by SEAUP’s senior staff and its invaluable partnering organizations enabled its promise to be realized.

VI. BEYOND THE ORANGE REVOLUTION

Post-revolutionary Ukraine, in the eyes of some activists from the heady days of 2004, has lost some of its orange glow. Ukrainians who stunned the world by standing up to dictators and criminals are now grumbling over the pace of economic reform and lingering hints of corruption overly reminiscent of past eras. This sentiment at least in part

“We need a better balance of individuals serving on the local election commissions and they need to be better educated. We probably need 30-50 percent of them to be properly trained to prevent abuse. There are no traditions for fair elections to depend on here. There is no sense of civic duty.”

*Alexander Vorobyov,
SEAUP staff member
and former Member of
Parliament*

reflects the wildly unrealistic expectations that accompanied the change of government in early 2005. Under the best of circumstances, any country as large and complex as Ukraine, burdened with entrenched corruption and the clotting legacy of Soviet authoritarianism, would be unlikely to quickly realize the expectations that surrounded Viktor Yushchenko's inauguration. But it also clear that his administration has stumbled in some key areas. (As this paper is being written a major political crisis has forced the president to dismiss virtually his entire Cabinet, thus splintering the coalition that spearheaded the Orange Revolution.)

Just as the early months of Yushchenko's presidency have fallen short of the hopes of those crowded into Independence Square, there is also a general realization that democracy has yet to be definitively anchored in the country. A major bridge was crossed in Ukraine's Orange Revolution, but that event was insufficient to transpose the loud demand for reform, participatory democracy, a legitimate election process, and respect for human rights into a solid, sustainable, and stable system of government. There is widespread sentiment that another round of elections conducted with transparency and consistent adherence to the laws and regulations is needed before the fear of widespread fraud and theft at the polling stations can be set aside.

The Parliamentary elections scheduled for March of 2006 provide such a test and the prospect for fraud must be eliminated through a continuation of the reform and education efforts undertaken in 2004. Consequently, an extensive series of SEAUP training events is slated for the next several months. One critical goal will be to expose a large number of election officials to the reality that under Ukrainian law there are consequences—*i.e.*, fines and imprisonment—for stuffing the ballot box, altering the vote count, denying eligible voters access to the polling stations, registering the dead to vote and so on. Another will be to simply expand the number of election officials sufficiently informed on the intricacies of election law to reduce simple administrative errors that invalidate legitimate ballots. A central goal of SEAUP is to expand the number of educated and trained election commissioners so that they can be the ongoing guarantors of valid election processes.

“The most important lesson of the 2004 elections is that this country cannot retain the old Soviet system that Kuchma maintained. His rule was based on an assumption of extra-Constitutional powers much like the Communist Party enjoyed in the Soviet era. I hope we have finally moved away from that approach, but we have not changed the structure enough to guarantee the permanence of democracy.”

Oleksiy Lysenko, a leader of the Liberal Party of Ukraine.

One vital element of the challenge which SEAUP is addressing is initial work on establishing a national voters' registry. During the 2004 elections, different factions took advantage of the fact that no national registry was in place—only local ones that lent themselves easily to multiple voting—to perpetuate the grand fraud. With a recent USAID grant of \$1.5 million, SEAUP will be able to help support the first steps in establishing such a registry. By the end of 2005, SEAUP will have conducted a series of regional seminars for party officials and election lawyers; a series of cooperative events with the revamped Central Election Commission; multiple sessions with Parliament's members and relevant committees on election law development; and massive training of election commissioners.



Vigilance is required at this crucial juncture if the strides made during the Orange Revolution are to be maintained and democracy in Ukraine consolidated.

ⁱ The estimate is provided by the Director of the Ukrainian Centre for Economic and Political Studies (the Razumkov Centre), a respected public policy think tank with advanced polling capabilities.

ⁱⁱ According to the Kyiv International Institute for Sociology, the “Ukrainian Internet audience” was growing by some 39.6 percent between October of 2004 and the autumn of 2005.

ⁱⁱⁱ The Law on the Election of People’s Deputies of Ukraine for the March 2006 Parliamentary elections was adopted July 7, 2005; it reflected substantive inputs by SEAUP experts.

^{iv} The poll was conducted by the Democratic Initiatives Foundation and SOCIS (Center for Social and Political Investigation).

^v These findings were reported in polls conducted in 2004 by the Ukrainian Centre for Economic and Political Studies (the Razumkov Centre).

^{vi} *Ibid.*

^{vii} This estimate was provided to the author by an international journalist who covered the 2004 elections in a Kyiv interview conducted in June of 2005.

^{viii} Comments made to the author by Halyna Harmash, a Socialist Member of Parliament and party whip, in June of 2005.

^{ix} Yaro Bihun. *The Ukrainian Weekly*. Sunday, May 8, 2005.

*Jeffrey Clark is an Executive Associate at Development Associates and serves as the company's home office coordinator for the SEAUP initiative in Ukraine. He is a widely published author (Foreign Affairs, Freedom House's Countries at the Crossroads) who has examined various aspects of securing democracy around the world. **Jason Stout** is studying Political Science at Weber State University in Ogden, Utah and is currently affiliated with Development Associates.*

For further information on SEAUP:

Mr. Jeffrey Clark, Executive Associate
Development Associates, Inc.
2300 Wilson Boulevard, Suite #300
Arlington, Virginia 22201
703.276.0677
JClark@devassoc.com
www.devassoc.com

Mr. Yarema Bachynsky, Chief of Party
SEAUP
Antonovycha Street 23, Suite 2
Kyiv, Ukraine 01004
380.44.248.7385 /248.7494
Yarema@devassoc1.kiev.ua
www.vybory.com

