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THE RISE AND HISTORICAL DEVELOPMENT OF LOCAL SELF-GOVERNMENT NATIONAL MODEL IN UKRAINE

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SUMMARY

This paper aims at a comprehensive political analysis of the rise and development of a national model of local self-government both in a historical perspective and through the prism of contemporaneity. The major stages of the historical development in local self-government are identified. The theoretical and practical visions of the issue have been studied through a comprehensive approach. The conclusion states that a national model of local self-government in Ukraine is still in the process of development, and this process is unfolding in the context of domestic and foreign threats to Ukrainian statehood.

Key words: local self-government, communities, development, power, reforms.

СТАНОВЛЕНИЕ И РАЗВИТИЕ НАЦИОНАЛЬНОЙ МОДЕЛИ МЕСТНОГО САМОУПРАВЛЕНИЯ В УКРАИНЕ

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АННОТАЦИЯ

Исследование посвящено вопросу становления национальной модели местного самоуправления в Украине сквозь призму истории и современности. Выявлены основные этапы развития и формирования украинской модели местного самоуправления. Сделан обзор научно-практического опыта исследования местного самоуправления в Украине. Сделан вывод, что национальная модель местного самоуправления в Украине еще находится в состоянии своего формирования и этот процесс происходит под влиянием внешних и внутренних угроз украинской государственности.

Ключевые слова: местное самоуправление, общины, развитие, власть, реформы.

REZUMAT

Studiul este dedicat dezvoltării modelului național de autogovernare locală în Ucraina prin prisma istoriei și modernității. Se dezvăluie principalele etape ale dezvoltării și formării modelului ucrainean de autogovernare locală. Este făcută revizuirea experienței științifice și practice a cercetării autogovernării locale în Ucraina. Se concluzionează că modelul național de autogovernare locală din Ucraina este încă într-o stare de formare și acest proces este influențat de amenințările externe și interne ale statalității ucrainene.

Cuvinte cheie: autogovernare locală, comunități, dezvoltare, putere, reforme.

Introduction. One of the most fundamental dilemmas in contemporary Ukrainian political science is the analysis of local self-government and its institutions as a political phenomena. Its kernel is that, on one hand, being part of the state's political system this civil institution governs territorial processes in the sphere of politics, economics, social, fiscal and legal issues that are the competences of the state; while on the other hand, trends in modern democracy urge central bodies of state power to operationalize decentralization and civil society into the process of state governance. Thus, local self-government becomes a multi-layered social, political and legislative institution, with its legal status enshrined

in constitutional law and formally ensured by civil participation. It is in this systemic-aspect that institutionalization, development, and the rise of self-government takes place and thus requires a systemic approach in the studies [1, p. 4]. Ostensibly, when speaking of systemic principles in the formation of self-government, one means its institutional formation into a certain type of a national model that has developed within a certain time span and has adapted to the specific political system of the country [1, p. 7]. Currently, there are very few holistically comprehensive studies on the specifics of a national model of local self-government in Ukraine. Thus, this study offers to research the problem comprehensively.

The aim of the article. This study aims to comprehensively analyze the political processes of self-government from a historical context that led to the establishment of a national model of local self-government in Ukraine. There are a number of issues that have to be reconciled in the course of this research:

1) to study the rise and evolution of local self-government national model in Ukraine through the prism of our country's political history;

2) to interpret the notion of the "national model" of self-government in Ukrainian context;

3) to identify key aspects of Ukrainian self-government national model and study their peculiarities.



Core material presentation. The evolution of local self-government in Ukraine went through six major historical stages:

1. The pre-colonial model of self-government (the Kievan Rus' times).
2. The colonial model of self-government when the national model of local self-government was inscribed in the "central-margins" structural connections with the metropole countries of which modern Ukraine used to be part i.e. the Austrian-Hungarian Empire, the Polish-Lithuanian Commonwealth, and the Russian Empire.
3. The national reactionary model of the first Ukrainian state as the result of interactions between the Hetmanate and the Directory (1917–1918).
4. The Soviet model (1920–1991) vertical hierarchy with local government entities – the Radas (councils).
5. Perestroika and the early Ukrainian nationalist model (1985–1991).
6. The contemporary Ukrainian model of self-government (from 1991 – present) [11, p. 77–78].

Before studying each model in detail, one should offer an explanation to what is actually meant by the national model of local self-government. In this respect, Ukrainian scholar V. Kampo claims that the local self-government model to be not a category, but rather a situational phenomenon enabling the explanation of self-governing processes in a certain chronological framework [6, p. 567]. Another domestic scholar Y. Delia states that local self-government is an organizational basis for local governance that takes into account national specifics such as history and the peculiarities of socio-cultural and economic ties between the regions i.e. it focuses on the driving forces that led to the functioning of a certain type of local self-government in Ukraine [5; 6, p. 568–569]. Thus, the self-government model is a comprehensive analysis of the self-governing processes within its structural framework that lead to the national specifics of local governance functioning at a certain historical period. These theoretical grounds underpin this study of the national mode of local self-government in Ukraine [2].

Historically, the first national model of self-government in Ukraine was known as Kievan Rus. O. Khusnutdinov believes that in our country the Kievan Rus' model

founded the so-called vertical hierarchy of interrelations between central power represented by the Knyaz and Boyars (Viche) on the one side and the local councils (Verv') on the other [15, p. 32–33]. The competences represented by Boyars (Viche) were mainly administrative, the protection of territories and tax redistribution. The Verv' were collegiate bodies of local authorities that together with citizens dealt with local issues of a quite narrow spectrum. Viche and Verv' could call for the assembly of "the Grand Viche", empowered to decide on the majority of strategic issues such as tax rates, redistribution of human and land resources etc. [15, p. 33–34]. Thus, the Kievan Rus' model established the basis for the rigid vertical hierarchy of decision-making when the central power, represented by the knyaz, had a vast spectrum of competences and authority including judicial power, managing financial resources etc. while local authorities had to execute ready-made decisions and to interpret them for local communities. Although some Ukrainian cities were granted Magdeburg rights, they never got to be fully autonomous, and thus the pre-colonial model founded the grounds of power interrelations between the central power and the cities.

The second, the Colonial model dates back to the Cossack Hetmanate of the 17th & 18th centuries when local communities tried intensely to break away from centralized rule. At that time, two types of governance were in the process of development. On one hand, there existed regional communities of free citizens while on the other – military institutions of administrative power. Although the civil rights promotion was declared nominally, the last say in decision-making was up to the military hierarchy whose primary agenda was the defence of Ukrainian state borders rather than the development of a functional local self-government system. Practically, any collegiate decision of free citizens on tax collection or land holding could be blocked by the military hierarchy [14, p. 22–27]. No wonder this model was claimed ineffective since it was far from meeting the needs and demands of local communities and ignored their civil rights for the sake of the state's border defences. The central power's loss of authority is the reason that Ukrainian lands were occupied and became parts

of the Russian, Austrian-Hungarian and the Commonwealth of Polish Empires. As a result, there was a disruption in the cultural, mental, economic, and legal development of the Ukrainian national model, and local self-government was exercised within the frameworks of the above-mentioned empires (with different metropolis) accordingly. Those were the three models of local self-government in Ukrainian territories: A classical unitary state one – the Commonwealth of Poland, a European federal one – Austrian-Hungarian Empire and a centralized one with the vertical hierarchy of power – the Russian Empire. We are not going to dwell upon those in detail since they do not represent the national Ukrainian model. However, a certain number of Ukrainian cities (Kyiv, Lviv etc.) were granted Magdeburg Rights and enjoyed a high degree of autonomy in terms of self-government.

The third, the National Reactionary Model (1917–1918) appeared as a reaction to the revolutionary movements within the Russian Empire and the weakening of Tsarist power. This historical period is quite interesting since it led to the development of a new national model of local self-government that had to become the basis for the new Ukrainian state. However, a number of positions on self-government were practically never implemented due to the internal controversies between the political elites [11, p. 68–69]. For example, the Ukrainian People's Republic's (UPR) Constitution declared the principles of decentralization that allowed people to elect collegiate bodies of power with competences not only in local financial, political, and economic issues, but also in the use of certain the UPR's natural resources. Nevertheless, local self-government became hostage of the internal political elites' struggle for power and resources and failed to perform its basic functions which consequently led to the failure in defence of state borders, the collapse of the Ukrainian state in 1920, and further integration of Ukrainian territories into the Soviet Union [14, p. 22–27]. Thus, despite the fact that the Ukrainian government's advanced ideas of local self-government and its implementation, the strengthening of Ukrainian state never happened since no coherent perspectives and targets of state development had been set in the first



place. The National reactionary model fell apart before it even had a chance to be implemented since there were not enough resources to bring it to life.

The fourth, the Soviet Model of local self-government in Ukraine was quite a complicated phenomenon and harboured a number of controversies in its implementation and functionality. The Bolsheviks succeeded in bringing the declared Soviet political-agenda-principle of direct democracy to local communities: the local Soviets (Councils) of Workmen's and Soldier's Deputies that formed the grassroots for direct democracy were established. However, these councils mainly dealt with land and ownership of property and their redistribution in favour of the new communist regime. As a result, there existed an interesting paradox; on one hand, the bolsheviks declared full and direct democracy with local communities totally in power of managing local issues while, on the other, property, land, and other economic assets were state owned and their use had to be coordinated via central government. Thus, direct democracy existed just nominally since financial and economic resources and assets were centralized. Gradually, the bolsheviks stopped any attempts at even imitating direct democracy, and by a number of legislative and regulatory acts the councils were dismantled while land and property were nationalized. Later on, the Soviet model of self-government transformed into a complex vertical system of councils that had to execute general state politics locally [14, p. 22–27]. Practically, the state took responsibility for managing local issues and allocated the state's budget for these purposes. This system mostly excluded local communities from decision-making processes and turned self-government into the ineffective and exhausting bureaucratic drill that in no way reflected the needs and demands of local people. This historic period lasted from 1920 to 1985 when local self-government was rather an administrative branch of centralized government, excluding local communities from decision-making and as a representative authority.

This problem was supposed to be solved by Gorbachev's Perestroika. While the general tendency for a strong centralized state with its specific command-administrative order system

was to be preserved, the local councils of people's deputies functioning as the representative bodies of local self-government were to get more competences managing local infrastructure of certain cities and regions [14, p. 22–27]. This meant that the last say on local issues still was the state's, though the state allowed local communities to partially partake in decision-making in terms of their local needs [16, p. 66].

Practically, the actual revival of local self-government in Ukraine began when the general election of the MPs to the Supreme Council of the Ukrainian SSR and to local councils took place in March 1990. It were those pseudo-democratic elections that brought to power new people who never knew and never were part of the command-administrative communist party system of government in Ukraine, and of local self-government in particular. Some of the people elected had spent their entire lives fighting against the communist regime and suffered great deal from it as a result, others, though never deported to Mordovian prison camps, believed in democratic rule at all levels of government and longed for the demolition of a single party system.

Although after the elections of 1990 many local councils were still communist – many deputies were still members of the Communist Party of Ukraine – in many cities and some regions of Ukraine; they either ceased to be communist, or consisted mainly of new people representing new democratic power. The newly elected local councils wanted to get rid of state and communist party patronage in the matters governing the demands and needs of local populations, even the councils with a communist majority and chairmen wanted autonomy.

Since there was no adequate legal basis regulating the functioning of local authorities and no experience in management, among the newly elected public servants, who longed for change and being entrapped in their romantic visions and ambitions, they sometimes made decisions that were beyond the sphere of their natural competences; or their decisions would contradict the interests of government bodies at other levels – Raion and Oblast councils – or even state interests.

Immediately after the beginning of the Second Autumn session in 1990, the

12th convocation of the Supreme Council of the Ukrainian SSR began working on the draft of the law “On Local Councils of the Ukrainian SSR People's Deputies and Local Self-government” [17]. This was a necessary reaction on the part of the Council to the challenges in governing the community, Raion and Oblast councils' while the Soviet vertical command-administrative system was in a state of collapse.

The law on self-government was the first among all the Soviet Republics and was adopted on December 7, 1990 providing a legal basis to further dynamic development for local self-government in Ukraine.

Today, one would probably wonder how the Supreme Council could have adopted such an advanced law providing the majority of the MPs were representatives of the Communist party. The reason was the Communist party was obviously losing its grip. After the lines on the “governing and guiding role of the Communist Party” were removed first from the general Soviet Union Constitution, and then from the Ukrainian Soviet Republic Constitution, it became clear that local communist party committees – Obkom, Raikom, Miskkom etc. were gradually losing their power. Meanwhile, it was also apparent that the power of the constitutional local authorities – local councils of people's deputies – would be rising since little villages and huge megapolises still needed to be governed even under a multiparty system. Quite a lot of chairmen on the local communist party committees tried to get re-elected as chairmen of local councils accordingly, though many of them failed since they either lost elections or were denied the appointment by the new council's deputies.

The preamble to the law says: “<...> *the Law defines the basis of the local self-government as the foundation of democratic rule in the Republic, legal status of the local Councils of the people's deputies, local bodies of self-government, and the forms of direct democracy <...>. Local self-government in the Ukrainian SSR is the territorial self-organization of citizens for direct or represented (through the state and civil institutions) managing of all local issues arising from the demands of people. This management should be based on the laws of the Ukrainian SSR*



and local financial-economic resources". No matter how advanced this model was in 1990, we can see all its drawbacks today.

Here we can see the intention to combine two not quite compatible ideas: on one hand, the notion of "self-government" is introduced; on the other, it is seen as part of "state institutions": "*The system of local self-government includes village, urban-type, raion (district), city, city raion, and oblast (region) Councils of people's deputies and departments that are the state institutions of local self-government (Article 2)*". This legal nonsense could be explained by the Constitution of 1978 that stated: "*People exercise state power through the Councils of people's deputies that are the political foundation of the Ukrainian SSR. Any other institutions and bodies are subject to control by the Councils of people's deputies (Article 2). The organization and functioning of the Soviet State is established according to the democratic centralism principle <...> the decisions of higher level bodies of state power are compulsory for the lower level ones (Article 3)*".

Despite the fact that the Law introduced the above-mentioned legal incongruities that would be unacceptable for general democratic norms in the rest of the world – since self-government in democratic countries is defined as a non-state and free-from-state-interference type of civil institution appearing as the result of people's self-organization. The day the law "On Legal Councils of the Ukrainian SSR People's Deputies and Local Self-government", December 7, 1990 could be identified as the day of local self-government revival in Ukraine. It was this law that, both, brought back to use of the very term "local self-government" and defined the principles on which it should function; "*within the framework of their competences, autonomy and independence of the Councils of people's deputies in managing local issues; financial and economic autonomy of territories; self-financing, and self-maintenance; optimal decentralization*".

At this point, it becomes clear that certain legal positions introduced in the Law of 1990 were considered better and offered a more systemic approach to the structure of self-government than some of those introduced later by the

Constitution of Ukraine (June 28, 1996), and the current Law of Ukraine "On Local Self-Government" (May 21, 1997, № 280/97-BP).

In the Law the city district (Raion) was not identified as the territorial basis for self-government since city districts were considered part of city competences, while regional district (Raion) and Oblast became that basis. At present, twenty years after the current law was adopted, the issue of regional self-development has become a topic of timid discussion [10].

Apart from general legal issues, the law of 1990 defined the list of taxes that local budgets could keep, introduced the notion of communal property, and drew a line between the competences of representative and executive bodies of local self-government. Thus, in general, the Law of 1990 was quite an advanced one at that time. Moreover, it revived self-government in Ukraine and put an end to total communist party control over every single sphere of social life in the country. One of the most important achievements and novelties of the law was the elimination of the councils' absolute power over certain territories; clearly defined competences were attributed to each level of councils and this stopped the councils' "wars for competences".

In effect, the Law of Ukraine "On Local Councils of the Ukrainian SSR People's Deputies and Local Self-government" (December 7, 1990, № 533-XII) changed the system of government in Ukraine from vertically state controlled and highly centralized "councils of people's deputies" to the competence-differentiated, European-like network of local councils. Thus, Ukraine returned to being a naturalised part of the European legal space.

However, the Law of 1990 did not last long. There were many obstacles in its actual functioning. On one hand, the basic level of self-government bodies got quite a number of resources and rights and would eschew the interference from Raion (district) and Oblast councils, on the other, the Raion and Oblast councils wanted to play a more significant political role and started opposing the actions of national level bodies of state power. Moreover, in 1991 the President's Office was established, and the President had to ensure the unity of power and legal space

over the entire territory of the state while the state was entrapped in economic crisis. All of this led to the significant changes in the Law of 1990, and the new version appeared in 1992 [18].

The Soviet self-government system collapse, together with the Declaration of Independence in 1991 were to establish the foundation of a new national model of self-government that would effectively help transform the political system of Ukraine and bring it closer to common European practices. This still has not happened, despite the fact that Ukraine has signed the European Charter of Local Self-Government, adopted the Law of Ukraine "On Self-Government", and guarantees the promotion of local self-government in the Constitution of Ukraine [7].

Conclusion. Today's model of local self-government in Ukraine is characterized by a number of features that complicate and obfuscate its functioning. On one hand, at the procedural level – terminology, promotion of decentralization and so on – local self-government in Ukraine is attempting to follow European principles of power-deconcentration from the center to the regions; while on the other hand, the absence of reform in the institutional character of local self-government means that highly centralized state institutions of the Soviet system – Oblast state administrations – with command-administrative-order are still functioning as local self-government bodies in Ukraine. This situation neither helps effective functioning of local self-government in Ukraine nor offers any solutions to the political conflicts it causes in the context of general social demand for the decentralization of power. Thus, the modern self-government-model in Ukraine is a hybrid: The citizens can nominally partake in local decision-making while the bureaucracy in local bodies of power and lack of finance actually make this participation extremely difficult.

To sum up, this research leads to a number of conclusions. Firstly, local self-government in Ukraine was established earlier than state power, which is a natural course of events. From the very beginning, local self-government in Ukraine developed as a centralized vertical system with few elements of decentralization – considering



the local specifics of exercising Magdeburg Rights. Secondly, the development of the national model of self-government was interrupted for more than 300 years when different parts of Ukraine became territories of the Russian, Austrian-Hungarian, and Commonwealth of Polish Empires. As a result, various Ukrainian territories have a heterogeneous experience of local self-government formation. On one hand, the territory of Ukraine tried to develop a classical European model of decentralization, while on the other, it had an experience of an ostensible vertical and highly centralized system of interconnections between “the centre” and “the peripheries.” Thirdly, the Soviet system of self-government, which merely had nominal existence, was built according to the principle of command-administrative-order, when all decision-making was done at the centre and presented a top-down manner of execution. Institutionally, the Soviet system is still in place and hinders the transformation of local self-government system to a decentralized national one.

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