

**UKRAINE’S CONSTITUTIONAL ‘SAGA’:
UKRAINIAN MEDIA REFLECTIONS
OF THE CONSTITUTIONAL PROCESS**

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Abstract. This paper attempts to demonstrate the construction of political and media narratives in their diachronical circulation of ideas about the role and place of the Supreme Law in the life of a newly independent and equally newly democratic Ukraine. In particular, this study aims to reconstruct Ukraine’s legal portrait through a detailed consideration of its Constitution since its inception in 1996. Positioning this inquiry in the context of legal historiography, the paper adopts a modern view of this discipline that has been claimed to be “restructured as a science of the history of social communication about law” (Max Planck Institut). Accordingly, this paper suggests that the post-independence history of the Ukrainian Constitution can be treated as a *history of discussions about* the Constitution. Assuming that there is a positive association between mass media coverage of an issue and that issue’s place in the public agenda, the study explores the 14-year coverage (1996–2010) of Ukraine’s Constitutional process by a reputable Ukrainian weekly, the *Dzerkalo Tyžnja*. Employing the analytical approach of Critical Metaphor Analysis (conceived at a theoretical juncture between the cognitive linguistic account of metaphors and Critical Discourse Analysis), the article analyzes the media source’s metaphorical imagery of Ukraine’s dramatic Constitutional ‘saga’. Metaphorical representations of Ukraine’s Constitutional developments by the objective, non-partisan reputable media source were argued to contribute to the national policy debate and influence civil awareness within Ukrainian society by adding to the understanding of the complex and abstract political concept and evoking powerful emotional responses.

Keywords: constitutional process, metaphorical images, cognitive analysis, legal historiography, Ukraine

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1. Introduction

A massive European polity, yet a teenager in the family of European democracies, the Ukrainian state is arguably a “vital part of the new Europe”

(Wilson 2000:315). This ‘new’ Europe, previously divided and sidetracked by devastating wars, political purges and famines, remains a patchy puzzle of nations still establishing its geopolitical stance, as well as its identity. Jean Monnet (2006), a visionary of European integration, labeled the continent’s post-World War II quest for identity a result of Europe’s very specific mode of development, which was progressing “from crisis to crisis”. A modern “place brand” (Van Ham 2008:137) for Europe, the European Union (EU) has recently profiled three major crises, namely, the rejection of the Constitutional Treaty by both France and the Netherlands in 2005, and the rejection of the Lisbon Reform Treaty by Ireland in 2008. These suggest that Europe’s identification process includes, among many other aspects, its legal profile, that could be described as a combination of “legal characteristics and capabilities” (Vernygora and Chaban 2008:154) recognized by both Europeans and outsiders.

Ukraine’s place in the process of finding a shared “broader common interest” (Monnet 1978:523) in the European legal paradigm is rather ambiguous. It is complicated, firstly, by the country’s geographical position – according to German Chancellor Angela Merkel (2009), Ukraine is “obliged to stay between the European Union and Russia in all senses of the phrase”. Secondly, the uncertainty in Ukraine’s legal portrait significantly adds to the complexity of the issue. The geographical *status quo* is assumed to remain unchanged in the foreseeable future, despite the outcomes of the 2008 Russia-Georgia war, the 2010 Kharkiv Agreement on the Black Sea Fleet and provocative comments on Ukraine, which were allegedly made by a high representative of the Russian political elite.¹ In contrast, Ukraine’s legal identity is constantly changing, thus presenting an intriguing subject for scholars of modern Ukraine. It is widely known that a democracy’s legal portrait solely depends on the law-abiding activity of the society and its elected representatives. Ukraine’s legal persona may be flawed but the country is still a democracy (Kekic 2007), and it is assumed that the key to the country’s legal personality can be found in the main piece of its legislation – the Constitution of Ukraine.

This paper argues that the social productivity of Ukrainian legislation – in other words, “how well it is accepted and understood by a society” (Vernygora and Chaban 2008:156) – can be analyzed through the prism of its Constitution, the country’s major legal indicator. Therefore, this paper aims to reconstruct Ukraine’s legal portrait through a detailed consideration of its Supreme Law since its inception in 1996. Positioning this inquiry in the context of legal historiography, the paper adopts a modern view of this discipline that has been claimed to be “restructured as a science of the history of social communication about law” (Max-Planck-Institut). Accordingly, this work suggests that the post-independence history of the Ukrainian Constitution can be conceived as a **history of discussions about** the Constitution. In this light, the paper starts with a brief historical review

¹ Back in April 2008, during his meeting with US President George W. Bush, Vladimir Putin allegedly questioned the fact of the very existence of the modern Ukrainian state. See Putin: Ukraine not a state (2008). *The Ukrainian Weekly*, April 13, 2.

of Constitutional processes in Ukraine and attempts to classify the relevant developments and challenges since Ukraine's independence in 1991. Furthermore, this study systematically analyzes reflections on Ukraine's contemporary Constitutional process provided by a respectable, objective and non-partisan Ukrainian media source, the *Dzerkalo Tyžnja*, in the period from 1996 until 2010.

It is assumed that there is a positive association between mass media coverage of an issue and that issue's place in the public agenda. Indeed, media is argued to influence not only what to think, but what to think about and in what terms (McCombs and Shaw 1972:176–185, Cohen 1963). Employing the critical approach of “Critical Metaphor Analysis” (Charteris-Black 2005), the paper analyzes the media's use of conceptual metaphor. It is believed that by highlighting some aspects of issues, and ignoring others, metaphors “form cognitive models which organize thought and action” (Gozzi 1999:10) and “create a moral perspective on life” (Charteris-Black 2005:13). Finally, the paper argues that the internal reputable media's representation of Ukraine's Constitutional developments can influence civil awareness within Ukrainian society.

2. Historical insights into law-building processes in Ukraine

Over the centuries of the country's turbulent history, Ukraine made a number of explorative attempts to adopt a supreme constitutional document or its equivalent. Some attempts were highly successful. One of them was the *Rus'ka Pravda*, a common system of law used from the eleventh century in the area where parts of modern Ukraine are now located. That comprehensive medieval document featured a degree of “relative humanity” (Wilson 2000:7), a definite credit to Prince Yaroslav's² advanced understanding of law. Another hopeful historical development was the Constitution of Pylyp Orlyk. Written in 1710 by Hetman Pylyp Orlyk³ and several co-authors, this constitutional document was semi-successful in terms of achieving proclaimed goals, but with its emphasis on the separation of powers, would later be regarded as outstanding and unique for its time. The Ukrainian pro-independence movement of 1917–1918, described by Bilinski (1964:4) as “a rush venture of a few intellectuals, supported by a few thousand of romantic youth” made a promising attempt towards constitutionalization with the *Tsentralna Rada* adopting its four *Universals*. These documents marked the main stages of the nascent Ukrainian state's development, from the proclamation of its autonomy to the declaration of full independence. A much later move towards constitutionalization of an independent nation – the Declaration of State Sovereignty of Ukraine adopted on 16 July 1990 – was overshadowed by the events of August 1991 in the collapsing USSR. Yet, it was another legal document of immense importance to the Ukrainian statehood. Approved by the then newly

² Yaroslav Mudryj, the Wise (978–1054) – the Grand Prince of Kyiv and the ruler of Kyivan Rus.

³ Pylyp Orlyk (1672–1742) – the Ukrainian Cossack Hetman in exile.

elected (but still very ‘Soviet’) *Verkhovna Rada*, it brought the country’s legal discourse dramatically closer to its local and international classic equivalents. For example, “The people of Ukraine” (Declaration of State Sovereignty of Ukraine) was a definite semantic ‘relative’ to “We are the people of the United States” (The Constitution of the United States 1787), and “Recognizing the necessity to develop a constitutional state” (Declaration of State Sovereignty of Ukraine) was arguably terminologically comparable to that “[I]n Order to form a more perfect Union” (The Constitution of the United States 1787). On 24 August 1991, the post-putsch *Verkhovna Rada* administered by its Speaker Leonid Kravchuk, who was clearly fighting for his political existence, adopted the Independence Act of Ukraine to formalize what the country already had – the *de-facto* independent status.

The Preamble of the current Ukrainian Constitution, adopted in 1996 and amended in 2004, defines the document as the Supreme Law of the country. Since 1991, both Ukraine and its Supreme Law have experienced numerous significant evolutions, which made the independent state and its main legal document remarkably different to their predecessors from Soviet times (correspondingly, the Ukrainian Soviet Socialist Republic and the 1978 Constitution). However, when it comes to the existing Constitution of Ukraine, one thing has remained constant over time. That is, in contrast to the codified part of the Ukrainian legislation, the Supreme Law of Ukraine predominantly consists of a high number of special norms known as ‘non-typical’ normative orders, namely, definitions, statements, principles, norm-etalons and declarations (Skakun 2005:281–285). For example, according to the Supreme Law of the Ukrainian state (1996), “Ukraine is a republic” (declaration), “In Ukraine, the principle of the rule of law is recognized and effective” (principle) or “Censorship is prohibited” (principle and norm-etalon). The dominance of non-typical orders (in combination with the Constitution’s ‘supreme’ status) and the fact that constitutional norms are of “direct effect” are indicative of the document’s unique place in the comprehensive set of “social practices” (Cass 2001) that is called law. It is suggested that the resulting quasi-simplistic jurisprudential technique has unintentionally led to a situation where everybody becomes an ‘expert’ in creating Constitutional norms. Arguably, this makes Ukraine’s Constitution and any legal, political or civil discussion about it an attractive object of media and public attention. Even more alarmingly, it renders the document vulnerable to ‘smooth operators’ and ‘institutional engineers’ from different political groupings.

3. Methodology

Following our initial assumption of media’s considerable ability to influence public agenda, this paper undertakes a rather novel approach to the study of law and its history. In particular, it attempts to analyze Ukraine’s legal identity as depicted by reputable and non-partisan media discourses inside the country. Mykola Kostomarov (1995:46) once gloomily noted that the Ukrainian people

lacked the “political upbringing [to be able] to organize the orderly civil entirety”.⁴ This paper argues that the *Dzerkalo Tyžnja* (*DT*) is one of the voices in present-day Ukraine that attempts to take care of the nation's ‘political upbringing’ from a high-quality, critical and objective perspective.⁵ The weekly is held in high regard both internationally and by Ukraine's ruling and opposing leaders; political, business, academic, civil society and media elites; educated readers and the general public. A ‘prestigious’ newspaper (as defined by de Sola Pool 1952:2), it is read by public leaders, policy-makers, and opinion-formers who take into account the newspaper's views when generating and presenting political activity in the country.

Ukrainian mass media is often claimed to suffer from an endemic problem of not providing truly free democratic avenues to voice critical and un-engaged opinion and analysis. Not only do a substantial number of print and broadcast outlets follow the orders of power-holders or different oligarchic groups, but even those outlets associated with the opposition frequently air partisan attitudes and stances, leaving out an honest analysis of the situation. Moreover, economic instability and hardship have pushed many journalists to look for faster and more lucrative ways of making money, sometimes reneging on the principle of ‘objective and balanced’ journalism considered essential to democratic societies (Mostova 2003). In this rather dreary media landscape, one particular outlet – the *DT* – is recognized as an independent, analytical and objective source of information appealing to the Ukrainian intelligentsia. Yulia Mostova, currently the *DT*'s Deputy Editor-in-Chief, noted in 2003, a difficult time for the Ukrainian democracy:

The DT has circulation of 42,000 copies.⁶ According to the statistics, every copy is read by six people. Around 60,000 read every issue online. [...] It is 250,000 of us – active, politically literate, smart representatives of the yet-survived intelligentsia. We understand what is going on, we have not emigrated yet, we bring up our children here [...].

To trace the imagery of the Constitutional process as presented by the *DT* from 1996 till 2010, this paper analyses the *DT*'s use of metaphor, which has been recognized as a “powerful tool to interpret reality, and also a powerful tool to understand new ideas and concepts in terms of what we already know well” (Porto Requejo 2007). It has been observed that political and media discourses regularly and abundantly use metaphors to introduce new political concepts and describe complex policies. According to Charteris-Black (2005:6), “[m]etaphor is a highly effective rhetorical strategy for combining our understanding of familiar

⁴ Here and further, all Ukrainian or Russian texts are translated into English by authors.

⁵ *Dzerkalo Tyžnja* is a Ukrainian weekly broadsheet initially published in Russian language under the name of *Zerkalo Nedeli*, but currently available in printed hard copies in Ukrainian and Russian and on-line in Ukrainian <<http://www.dt.ua/>> and Russian <<http://www.zn.ua/>>. Selected materials are also available in English <<http://www.mw.ua/>>.

⁶ As of 2006, about 57,000. Available from <<http://news.bbc.co.uk/2/hi/europe/4073375.stm>> [accessed 25 December 2008].

experiences in everyday life with deep-rooted cultural values that evoke powerful emotional responses". This paper employs the analytical approach of "Critical Metaphor Analysis" (Charteris-Black 2005:26–29),⁷ which occupies the juncture between the cognitive linguistic account of metaphors⁸ and Critical Discourse Analysis.⁹ In line with this approach, the study interprets metaphor not only as a rhetorical device, but also a cognitive mechanism and a means of understanding the social, legal and historical contexts within which issues are immersed and texts about such matters written. As one scholar defined this process, "one conceptual domain is partially mapped onto a different conceptual domain, the second domain being partially understood in terms of the first one, with the linguistic metaphor deriving from those domains" (Sacristán 2004:116). Clusters of linguistic metaphors, if systemically accounted, reveal certain propositions or assumptions that underlie metaphor use (Charteris-Black 2005:2). As such, metaphors are not confined to the extraordinary language of poetry, but are also common in the ordinary language of daily life (Lakoff and Johnson 1980, Turner et. al. 1998).

In operational terms, this paper firstly identified linguistic metaphors (both 'fresh' and 'stale') used by journalists in 54 texts referencing the Ukrainian Constitutional process in the *DT* from 1996 till 2010. The identified metaphors were then classified by their linguistic content and what they described. After collating linguistic metaphors, cognitive semantics was employed to identify conceptual metaphors (or propositions that underlie metaphor use). According to Lakoff and Johnson, metaphorical projection allows us to understand complex, abstract concepts which we cannot experience directly in terms of concrete familiar notions. As such, the role of metaphor in the formation of opinion is arguably heightened in the case of Ukraine's rather chaotic political developments in general and its confusing Constitutional process in particular, from which the ordinary Ukrainian citizen is typically removed, often experiencing it on a *post-factum* basis. The fact that the Ukrainian Constitutional process still remains far from being genuinely transparent makes Ukraine a suitable case-study for testing the previously outlined growing role of social communication within legal historiography.

4. Results

By repeatedly using particular linguistic metaphors across the years, the *DT* newsmakers created a peculiar narrative of the Ukrainian Constitutional process.

⁷ See also works of Hiraga (1991), Chilton (1996), Lakoff (1996), Jones (2000), Stockwell (2000), Mussoff (2004), and Goatly (2007).

⁸ See e.g. Lakoff and Johnson (1980), Mark (1987), Turner and Lakoff (1989), Turner et al. (1998), Sweetser, (1991), Gibbs (1999), Steen (1999), and Kövecses (1986).

⁹ See works of Fowler (1991), Fairclough (2001, 2003), Chilton (2004), Fairclough and Wodak (1997), van Dijk (1991, 1998, 2002), Kress and Hodge (1979), Weiss and Wodak (2003), Wodak and Chilton (2005), and Wodak and Meyer, eds (2001).

This narrative featured several distinct 'story lines' and this paper will focus on those that developed over time. A warning should be issued at the onset of this analysis – in the words of one of the authors, the “history of creation and improvements of the Supreme Law of the Ukrainian state is long and instructive [yet a] “sad novella”” (Rakhmanin 2005a).

4.1. Constitutional process as war

One of the most prominent 'stories' resulted in depicting the Constitution of Ukraine as the trigger, means and ultimate prize of the war for political power in Ukraine. A 2006 summary of the Constitutional process since 1996 christened the modern history of Ukraine's politics a “**chronicle of non-stop conflicts**” (Rakhmanin 2006a).¹⁰ The first 'fight' reported was the one to establish a Constitution in 1996. The '**struggle**' (Pogorelova 1996a) to carve the Constitution was seen as between the two larger groupings in Ukrainian politics – the left, the agrarians and the pseudo-centrists on the one side and the right and the President on the other. A victory in this struggle meant that the resulting Constitution (i.e. long-term rules of the political arrangement) would be imposed by a “**winning side on a losing side**” and the winning faction would enjoy a Constitution that effectively constructed “a **fortified wall**” between them and “the rest of society” (Pogorelova 1996a). Unsurprisingly, with the stakes so high, the fight between political nemeses turned out to be a nasty one – the warring sides displayed “**vehemence and sincerity in destroying each other [...] provoking each other and using each other's weaknesses**” (Pogorelova 1996a) against the opposing side. Entrenching their positions in discussing the Supreme Law of the newly independent state, the Ukrainian political rivals turned into “**uncompromising opponents**” (Skachko 1996) – the so-called “party **soldiers**” (Skachko) in “parliamentary **ranks**” (Pogorelova 1996b) conducting the “**war of zombies**” (Skachko) – a mindless but persistent and aggressive activity. The pre-Constitution Constitutional Agreement, signed by President Kuchma and the *Verkhovna Rada*'s Speaker Moroz on 8 June 1995, was simply the legal equivalent of a political compromise to catch some breath before the main battle.

Despite the aforementioned uncompromising attitude, the new Ukrainian Constitution was eventually adopted by the *Verkhovna Rada* on 28 June 1996. In the next few years – until the major push to reform the Constitution in 2003 – the metaphor CONSTITUTIONAL PROCESS AS WAR (as a sub-set of the metaphor POLITICS AS CONFLICT) was used to describe a different kind of war, namely, the “President's **war** against legislations by using the power of veto” (Pogorelova 1997) and the elite's attempt to turn the country into a “**firing range** for working out various versions” (Mostova 2003). The *DT* reported the “**destructive actions**” (Pogorelova 1997) taken by the President to amend the Constitution. Reports on Constitutional issues in 1999 (Tereshchenko) mentioned “president vs. parliament **battles**”, in which the “**victories of the romantic period of national democracy**” –

¹⁰ Bold and italic font in all examples are ours.

i.e. state symbols, language and the Constitution in general – had to be watched closely and defended. In 2000, the publication warned of “**attacks** on parliament ... [under] ... **smoke screens**” (Moroz 2000a) and of “tipsy political **sergeants** who conduct the general line” (Moroz 2000b) favoring neither the people of Ukraine nor the parliamentary majority in the “**exhausting fight** for the Constitution” (Moroz 2000b). Characteristically, according to Fish (2001:55-56), the 1999-2000 period of Ukrainian history represented “a severe degradation of democratic gains”. Remarkably, the same very period was also recognized as a time of economic recovery. In 1998, a comparative analysis of macroeconomic estimates (Maddison 2003) showed a *per capita* Gross Domestic Product growth in Ukraine for the first time since 1991.¹¹ From the end of the 1990s, the Ukrainian polity discarded the remnants of post-1991 romanticism as the tangible economic factor started to play an overwhelmingly important role in the battle for political power in the country. A 2001 publication openly admitted that “in the **fight** to re-divide power various forces are intending to revise the Constitution” (Musiyyaka 2001). President Kuchma’s plan to amend the Constitution in 2003 triggered a flurry of publications in which the metaphor CONSTITUTIONAL PROCESS AS WAR was a dominant image. While the prospect of Ukraine joining the EU became improbable – the then Head of the European Commission, Romano Prodi, pessimistically stated, not without irony, that Ukraine “was [as] likely as New Zealand to become an EU member” (Prodi as quoted in Field 2004) – the totalitarian regime of the outgoing President was clearly looking to provide protection for itself in the future.

Arguably, the Kuchma’s Constitutional initiative was a new twist in the “**fight** for power ... [to] ...” create a new **platzdarm** for a new **storm** of power heights” (Rakhmanin 2003b). In 2001, the President was reported to display an “incredible **opposition** to accepting the Constitution” back in 1996 (Moroz 2001). A year later, his attempts to revise the Constitution were branded a “**blitzkrieg** which failed” (Rakhmanin and Mostova 2002) and an “extended **trench war**” (Rakhmanin 2003c). The 2003 reportage presented the President’s actions using more sophisticated military metaphors – he was described as embarking on a “**strategic** course” (Sylina 2003) using “**tactics** ... [to] ... **split opposition**” (Rakhmanin 2003b), to employ “**distracting maneuvers** which cause the **opposition to lose strength** ... [and] ...stimulate disagreements in **opposition ranks**” (Rakhmanin 2003d), and to use a “special type of political **arms**” (Rakhmanin 2003c). The President’s “**emissary**” (Rakhmanin 2003b), “**allies** and **opposition**” (Moroz 2003) were embroiled in “**hot battles**” (Sylina) both in the parliament and the government. While some of the politicians were “**covering embrasures** [presumably, from ‘bullets’ and ‘grenades’] with their mighty chests”, the others were looking for “sensitive spots to **hit**” (Rakhmanin 2003d). Both sides were craving for more “**reserves**” and “**bayonets**” (Rakhmanin 2003d), i.e. votes in the

¹¹ The estimates use ‘1990 international Geary-Khamis dollars’ (IGHD) as a generic quasi-currency for all countries.

parliament. The “last news from Constitutional **battle-fields**” (Rakhmanin 2003d) registered not only the “**victorious stride** of Presidents’ initiatives” (Rakhmanin 2003a), but also “**scared ... nervous ... fearful ... [and] insecure**” (Moroz 2003) parliamentarians. Unfortunately, in political wars, “being **scared** means **losing the battle**” (Moroz 2003), and in this “**war** of nerves” (Rakhmanin 2006a), the President seemed to be a winner. The President’s “**Sword of Damocles**” – i.e. threat to force the parliamentarians to relinquish their authority prematurely – made the parliament more “pliable” (Rakhmanin 2006a).

The language of military combat had not disappeared as the ‘story’ continued. In fact, it was reinforced and empowered by the remarkable 2004 economic growth of 12 per cent that, according to international experts, was a result of “strong domestic demand, low inflation, and solid consumer and investor confidence”.¹² The assets of the corrupt but growing Ukrainian economy became too lucrative for both local and neighboring politicians to ignore. Thus, a year after the changes to the Constitution were adopted in 2004 and took force in 2006, “**cruel quarrels** between the **supporters and opponents** of the reform had not subsided” (Rakhmanin 2005b). The Constitutional reform shook the balance of power in Ukraine. With both the government and the *Verkhovna Rada* having enhanced their political weight, winning a parliamentary election became more important than ever. In 2006, the conflict between the President and the Ukrainian parliament morphed into a more complicated set of oppositions, namely, a ‘triangle’ between the government, the parliamentary majority and the Head of the State – three corners of political power connected by “high-voltage lines” (Tretyakov 2006).

The 2006 reportage of the on-going Constitutional process prominently painted “permanent **rows**” between the President and the government and “**fanatical clashes** between the **fighting** power teams” (Rakhmanin 2006d). That year’s coverage was dominated by reports of a “**duel**” (Rakhmanin 2006c) between President Yushchenko and Prime Minister Yanukovich. The new stage in the “**fight for power** and authority” showed both sides behaving “**brazenly and aggressively**” (Rakhmanin 2006c) since the “**winner** gets it all!” (Mostova 2007). However, the conclusion to these ‘brawls’ was depressing – “[w]hoever wins the **clash** will not make the country feel better. The country in this **war** is not a goal, but a means. In the **war** of law-makers, the people are again left out by the law” (Rakhmanin 2006c).

The 2007 reportage was dominated by the news about the President’s decision to dissolve the *Verkhovna Rada* that year – “a result of **sharp contradiction** between the head of state, opposition in parliament and beyond and ruling parliamentary-governmental coalition” (Musiyaka 2007). As a result, “Ukrainian society and polity were split into two **irreconcilable camps**” (Rakhmanin 2007a). Regretfully, the “Constitutional **conflict** grew up into constitutional crisis”

¹² The CIA World Fact Book Online. Available from <<http://www.cia.gov/cia/publications/factbook/geos/up.html>> [accessed 27 September 2005].

(Musiyaka 2007). The leaders kept coming up with ideas of how to solve the problem, and in 2008, President Yushchenko created the National Constitutional Council to revise (again!) the Supreme Law of Ukraine – a move that was conceptualized in familiar terms of a “political **fight**” (Ruban 2008). A new edition of the Ukrainian Constitution was expected to be presented by the end of June 2008, yet, as one author noted, “constitutional *blitzkrieg* did not happen” (Hoshovskyi 2008). The summer of 2009, however, saw the latest development in the process of reframing the Constitution. The secret initiative of the leader of the opposition Viktor Yanukovich and the Head of the Ukrainian government Yulia Tymoshenko to establish a new coalition between their political parties resulted in a 47-page document with the proposed amendments to the country’s Supreme Law.¹³ Having been sarcastically nicknamed as the “*PRiBYuT*”,¹⁴ this coalitional attempt dramatically failed to deliver any agreements to be eventually signed. Continuing on the warfare theme, the *DT* ironically commented on the subject with a Soviet anecdote about a group of constructors-amateurs who had an idea in mind to produce a tractor from a number of stolen parts; contrary to their goal, they kept constructing a **tank** (Mustafin 2009a).

The POLITICS AS CONFLICT metaphor is one of the most typical conceptual metaphors of the political discourse. However, as noted by Charteris-Black (2005:14), “metaphorical meaning is determined by the sorts of connotations aroused by the words in their normal non-metaphorical or literal use”. On this note, the POLITICS AS CONFLICT metaphor, so frequently employed by various national media reports, usually carries a neutral connotation in political discourses – political activity is typically about dramatic victories and defeats, opponents and rivals. Sometimes, this metaphor can even have positive connotations – e.g. it could be associated with attributes of strength, courage and determination (noticed by Charteris-Black:14 in the British political discourses). Importantly, “the discourse role of metaphor is to legitimate policies by accessing the underlying social and cultural value system” (Charteris-Black:14). For Ukraine, which has suffered in many wars, an image of war is suspicious at least and tragic and highly negative at most. Significantly, by means of this metaphor the media imagery of the progressive Ukrainian weekly created a negative story of a deep on-going disunity among Ukrainian political elites by explicating their disrespect for the Constitution, the main law of the Ukrainian people (of which they are an integral part). The CONSTITUTIONAL PROCESS AS WAR metaphor helped to portray Ukrainian policy- and decision-makers in an unflattering light – by making the Constitution a weak pawn and downgrading its important status in their battle for power, political elites were presented in the *DT* publications as selfish, self-

¹³ Tajemne stajе javnym: proekt Konstytuciji vid BYuT i PR (2009). *Dzerkalo Tyžnja*. Issue 20, June 6-12. Available from <<http://www.dt.ua/1000/1550/66332/>> [accessed 15 June 2009].

¹⁴ An informal word that combines the known abbreviations of the Party of Regions (PR) and Bloc of Yulia Tymoshenko (BYuT) in one. It represents a semantic ‘mutation’ of both Ukrainian and Russian expressions that can be translated as “they will do them in” or “they will do us in”. In spite of its literal meaning, the word has a distinct humorous connotation.

centered and greedy, aggressive opponents unable to reach a consensus for the people's benefit. Unsurprisingly, a 2007 article (Rakhmanin 2007c) called for a "**moratorium**" on changing Ukraine's Constitution.

4.2. Constitutional process as a game

Politicians come and go in Ukraine, but their strong desire to treat the Constitution as a tool to achieve ultimate power and secure a place for the role of a chief looks to be perennial – each of them seems to have to “plant a tree, build a house and write a Constitution” (Tymoshenko 2007b). Or as one commentator put it, “introducing changes to Constitution [in Ukraine] [...] turned into **a kind of a national sport**” (Rakhmanin 2004). On this note, we would like to examine a different set of metaphors that frame the CONSTITUTIONAL PROCESS AS A GAME. The process of establishing the 1996 Ukrainian Constitution was sometimes described as a gamble, where some of the participants were desperate and had to use their “last **aces**”, while others were “**playing the double-or-nothing game**” (Skachko). In 2007, Ukrainian politicians were compared to chess-players; they “calculate their moves, save their **kings** from **check and mate**, sacrifice **pawns**, make **castling**” (Hrynivetskyi 2007). The Ukrainian political elite were described as “**experienced** and knowledgeable **players**”.¹⁵ Sometimes, they would take a “**time-out**”, sometimes they would offer an “**advantage gambling**” to each other (Rakhmanin and Mostova). At a particular moment of time, as in 2009, the sides could be “in *Zeitnot*” (Mostova 2009a) feeling the time pressure. The fight for the Constitution was clear to result in a “**big prize**” (Pogorelova 1996a). The Constitutional process was also described as a physical competition where the players were not always playing a fair game. In 1996 (Pogorelova 1996a), they were “ready to **provoke** each other and **triple** each other” at any convenient moment. The sides were reported to use “**foul tricks**” and “**betray all agreements**” – the “temptation to **win** more seized all **game players**” and nobody wanted to be an “**outsider**” (Pogorelova 1996a). In 2008, a commentator noted that for many people, the theory and practices of constitutional legislation are perceived as “a **soccer game** which everyone thinks he can play” (Shapoval 2008). Importantly though, there were some “**foreign fans**” (Pogorelova 1996a) for each ‘team’, thus a success in the Constitutional process would garner international as well as domestic attention. Unfortunately, the “**teams** representing [...] power” became notorious for failing to unite “responsible politicians with similar understandings of national interests” (Tretyakov). “Absorbed by the **game**”, Ukrainian politicians “have less space to solve real tasks for the state” (Hrynivetskyi).

Authors repeatedly mentioned the “**rules of the game**”.¹⁶ In the context of accepting the Constitution, they meant the “single, common and obligatory **rules of the game**” (Rakhmanin 2007c) for everyone. However, the 2003 push for a

¹⁵ Spokoino. Eščë nikto nikuda ne idet (1996). *Zerkalo Nedeli*, Issue 40, October 5-11. Available from <<http://www.zn.ua/1000/8308/>> [accessed 16 October 2008].

¹⁶ Spokoino. Eščë nikto nikuda ne idet.

review of the Constitution put a new spin on the political competition in Ukraine. The revision initiated by President Kuchma was reported to push political actors to “**play somebody’s game following unknown rules**”, or even participate in the so-called “*Lokhotron*” (Moroz 2003) – a con, a gamble where the participants are necessarily duped by those who set up the game. In 2005, there was yet another attempt by pro-presidential factions to “re-write **existing political rules of the game**”, yet the Ukrainian government was quoted as defining the “**new rules of the political game** as ‘chaos’, ‘catastrophe’, and ‘the violation of the basic principle of power division’” (Rakhmanin 2005a). Characterizing the Ukrainian political elite of the modern time, the *DT* suggested that “a **weight lifter**, a **chess player**, a **gymnast** and a **boxer** will not be able to **play polo using rules of curling**” (Rakhmanin 2009c).

4.3. Constitutional process as crime

Typically for political discourse, the conceptual metaphor of POLITICS AS GAME usually carries neutral-to-negative connotations of either scheming and tricking, or contesting for amusement. While the latter image arguably downgrades the importance of the Constitution to the players, the former hints at dishonest practices. The framing of politics as deceitful was unexpectedly developed in the less frequent but powerful metaphor of CONSTITUTIONAL PROCESS AS CRIME. For example, relations between President Kuchma and his team and the *Verkhovna Rada* while elaborating constitutional matters were compared to a “**robber** who comes through the back yard” (Moroz 2000b). An article in 2002 evoked an image of the mafia with colorful categorizations of “the **patron**” and “**godfathers**” (Rakhmanin and Mostova). The President and the *Verkhovna Rada* were alleged to be constantly “**blackmailing** each other” and threatening to use “**capital punishment**” (Rakhmanin 2006a) – a people’s referendum (for the parliament) and impeachment (for the President). A later article in 2007 classified the 2003-04 re-tailoring of the Constitution as having been done by an “*ad hoc* regime with [a] **knife against the throat**” (Yukhnovskiy 2007) as the country was on the brink of what became the Orange Revolution. In 2005, the weekly questioned the fate of political reforms in terms of who would take responsibility and “**strangle** the unwanted baby in the crib” (Rakhmanin 2005a)? In 2006, it was noted that the Constitution was turning into a “screen, behind which the ‘**jungle law**’ is picking up its strength” (Tretyakov). This constant ‘tweaking’ of the Constitution to warrant power and privileges was even equated to the “**rape**” of the people of Ukraine and the majority in the parliament (Moroz 2000b and Rakhmanin 2003a) as well as the “legal **castration** of the society” (Mostova 2003). More recently, some of *nouvelle* electoral mechanisms proposed by the authors of the 2009 Yanukovich-Tymoshenko Constitutional project were compared by the *DT* to a “*fomka*” (Mustafin 2009a), a burglar’s tool in a form of a bended iron stick that helps him to break the lock.

Sometimes, a crime theme was presented on the pages of the *DT* in a sarcastic manner. For example, after the 2006 Ukrainian parliamentary elections, a number

of MPs suspiciously switched factional sides, leaving one of the factions 26 members short within six months of being in opposition. In her article published by the *DT*, Tymoshenko (2007a) commented that “it is impossible to **check a person's honesty** in the future without a time-machine”.

4.4. Constitutional process as illness

Analysis also shows that the use of imagery of poor health – or the metaphor of CONSTITUTIONAL PROCESS AS ILLNESS – visibly intensified in the second half of the monitored period (after 2004). The authors were talking about a “permanent political **crisis**” (Tretyakov) – “constitutional, political and psychological” (Mostova 2007), which resulted in a “much **suffered**” Constitution (Rakhmanin 2006d), “**crippled** by illegal changes” in 2004 (Tretyakov), emerging (somewhat contradictory) as “**premature [and] aborted**” (Mostova 2003). President Yushchenko was quoted as saying that “interferences into the Supreme Law of the country in 2004 [...] created a **critical threat to the life** of Ukrainian democracy” (Yushchenko as quoted in Pukshyn 2007). However, the post-Orange Revolution politics in Ukraine did not improve the ‘health’ of the Constitutional process. An on-going struggle between the President and the Prime Minister in 2007 was seen as leading to the “open **disabling**” of the Constitution and even its “**abuse**” (Rakhmanin 2007d). For some, “silencing the **causes of the sickness**, and the **treatment of symptoms**” (Hrynivetskyi) made the country go in vicious circles from crisis to elections. For others, the crisis was “**a slow-going sickness with periodic aggravations**” (Hrynivetskyi). In 2008, the situation around the Constitution was described as a “legislative **blood clot** which will necessarily lead to a **heart attack** in the democratic alliance” (Mostova 2008). The Constitutional process was once again compared to a “**sad** novella” (Rakhmanin 2006a) – typically, the images of sickness and death created a highly negative feeling. Moreover, a wide parliamentary coalition between antagonistic partners started to be labeled as “**shyrka**” (Mustafin 2009b), a cheap home-made opiate derivate.

The imagery of poor health has a hidden meaning to it – an assumed need for a doctor, an authority that can fix what went completely wrong. In June 2009, the weekly referred to the Ukrainian President Yushchenko as to a personality whose political gestures “**lack esthetics and courage**” (Rakhmanin 2009b). Interestingly enough, a similar sentiment was also expressed by Wilson (2005:205), who stated that Viktor Yushchenko was taking the middle ground that “needed to be stronger”. For example, Rinat Akhmetov, Ukraine's wealthiest man and the key decision maker in the Party of Regions, predictably succeeded in opposing Yushchenko's plan to hold the parliamentary 2007 elections in summer,¹⁷ so they were scheduled for autumn. According to the *DT*, the hope that the political situation in Ukraine would be normalized had little substance – the Constitutional Court, a body “intended to **cure the disease**, turned out to be **infected** itself”, probably with “the

¹⁷ As quoted in This Election Must Be Held in Fall (2007). *Zerkalo Nedeli*, Issue 18, May 12–18. Available from <<http://www.WM.ua/1000/1550/59245/>> [accessed 16 October 2008].

virus of corruption” (Rakhmanin 2007b). In addition, the common philosophical formula of time being a “**really good doctor**” was narrowed by the weekly in an unpredictable metaphorical way – the doctor’s specialization in Ukraine was characterized to be a “**forensic pathologist**” who would “**examine and explain everything**”, but the “**autopsy**” would need to be performed first (Rakhmanin 2009c).

4.5. Constitutional process as movement along the road

Another frequent metaphor used by the journalists was the metaphor of CONSTITUTIONAL PROCESS AS MOVEMENT ALONG THE ROAD TOWARDS DESTINATION. From the beginning of the Constitutional process in 1990s, it is getting described as problematic – “the process is **long, complicated and with submerged rocks**” (Makarov 1996), the framework is established in a “**hurried** and controversial way ... [with political rivals] ...**put a spanner in the works**” (Pogorelova 1996b), and the process, at some moment, reaches “a critical *stupor*” (Skachko). It is necessary to say that it was not only the development of the Constitution that was ‘colored’ using the metaphor of unsuccessful movement forward encountering many obstacles. Ukraine’s economy was described as “**stagnating**” (Tereshchenko) and the country was seen as “**losing the momentum** to enter the North-Atlantic and European structures [...] by **losing speed and perspective** [...] and **moving in a zigzag** manner” (Rakhmanin and Mostova). If Ukraine was keen to “**move towards Europe**”, it was called to “**take a step forward to democracy**” (Moroz 2003) by respecting its Supreme Law. The reportage of the 2003 revisionist push (Rakhmanin 2003d) involved controversial imagery – on the one side, the “victorious **stride** of the President’s initiatives”, on the other, a “constitutional **reverse** [...] with **unsurpassable obstacles** on the **path**”. An article in 2005 gloomily compared the progress in the Constitutional process to a “**cross-road in the maze**” (Mostova 2005). Ironically enough, two years later, Viktor Yanukovich, Kuchma’s protégée, called the 2004 Constitutional revision a “natural disaster, after which [the Constitution] needs a **capital fix** already” (Yanukovich 2007). In the meantime, a high number of uncompromising interactions between Ukraine’s President, Prime Minister and the leader of the opposition were noted to “**lead to a dead end**” (Mostova 2007). According to the weekly (Mostova 2007), the reason why Ukraine “**stomps on one place** is that its political elites [...] could not find a common platform compiled of aims recognized by everyone”. A time-consuming attempt to unify the Ukrainian politicum was made by President Yushchenko in the summer of 2006, but the *Universal of National Unity*¹⁸ was generally acknowledged and even ridiculed as a failure days before it was signed on 3 August. In 2008, attention was also drawn to the “**little progress** of leading politicians” in Constitutional matters (Rakhmanin 2008).

¹⁸ Declaration of National Unity. Text Signed at the Round Table (2006). *Ukrayinska Pravda*. August 21. Available from <<http://www2.pravda.com.ua/en/news/2006/8/1/5966.htm>> [accessed 15 September 2006].

While conceptualization of the movement forward carries strong positive evaluations, images of a hurried or 'zigzag' progress and a move along a path overcoming hindrances dampens the positive valence. Moreover, moving backwards, down or not moving at all are actions typically interpreted negatively.

4.6. Constitutional process as a performance on the stage

Political processes around the Constitution were also frequently conceptualized in terms of political drama, tragedy or farce – the metaphor of CONSTITUTIONAL PROCESS AS A PERFORMANCE ON STAGE. Actively contributing to the DT in the beginning of 2000s, Moroz mentioned “loudly **staged** events around [the 1996] Constitution ...[...] ... political **puppeteers**” (2000b) and political “**script writers and actors**” (2000a). Closer to the end of Kuchma's second presidential term, all political groupings were “urgently **rehearsing various scripts**” (Moroz 2003) in case of *force-majour* circumstances. Political reform initiated by President Kuchma was seen as being conducted according to “**script** from the Bankova Street” (Rakhmanin 2003d). Alarming, power hungry elites treated the Constitution, parliament, society and even the opposition in terms of “**chorus line, extras**, turning them into means [...] of producing power and money” (Mostova 2003). While quoting Metternich's expression that “representative government is a demanding instrument [and] [o]nly talented musicians can play it”, Rakhmanin (2006b) compared the Ukrainian political summit to “**performers** who [...] are still learning the skill to drag the grand piano” – “future **soloists** who are not that keen on diving into the subtleties of the complex **music score**”. The least desired wish was that the instrument could be used to “**play a funeral march** of our hopes” (Rakhmanin 2006b).

The metaphor of performance on the stage became more pronounced in later publications about the Constitutional process and the consequences of the 2004 Constitutional reform. The election of Oleksandr Moroz as the *Verkhovna Rada's* Speaker in July 2006 produced the most controversial political shake-up in Ukraine since the time of the Orange Revolution. Aiming to gain the post of Speaker for its leader, the Socialist Party of Ukraine joined the coalition with the Party of Regions and the Communist Party, effectively ruining what was about to become the Orange coalition of the three: the Bloc of Yulia Tymoshenko, the pro-Yushchenko 'Our Ukraine' Party and the Socialists. The DT concluded that “[t]he **curtain** has dropped on the **Maidan stage**” (Mostovaya 2006), clearly hinting that Moroz moved away from his almost iconic democratic position that he had strengthened during the revolutionary days less than two years earlier. In addition, Rakhmanin compared the political situation around the Constitution and the division of power in Ukraine in 2007 to a “political **soap-opera**” (2007a) and even to the “**theatre of absurd**” (2007d) with the audience being more and more tired of the absurdity presented. Providing an example, in November 2009, the DT started a reportage (Rakhmanin 2009c) with quoting a short indirect dialogue between the President (Yushchenko) and the Prime Minister (Tymoshenko) with

the first from the duo accusing his opponent to be a “**homeless**” while receiving straight back an accusation of being a “**killer**”.

As is typical of political media discourse, the metaphor of POLITICS AS PERFORMANCE ON STAGE is not necessarily negatively loaded – political activity is stereotypically compared to acting. For example, the sympathetic image of an actor-turned-politician was one of the core elements of Ronald Reagan’s or Arnold Schwarzenegger’s social stances. Yet, the image of Ukrainian politicians and their contributions to the Constitutional process produced by this metaphorical categorization creates a more sinister picture – amateurish performers, unwilling to master their skills and delivering an absurd, low-quality play while treating the people of Ukraine as speechless extras in their grand scenarios. Importantly, the ‘performance’ metaphor also implies a certain separation between the performers (politicians) and the audiences (the people) – the former are assumed to be an active side seeking glory, recognition and good pay, while the latter are cast as a passive anonymous crowd awaiting entertainment (quite a negative outcome in the representation of the Constitutional process, in which the people are meant to be the main driving force).

5. Discussion and conclusions

Quoting Serhii Rakhmanin (2006b), one of the journalists who wrote most of the articles on the Ukrainian Constitution for the *DT* across 14 years of monitoring,

there are no ideal states or ideal rulers in the world. Every power mechanism is effective and defective in its own way. The idealization of particular systems or individuals is a path to nowhere.

Ukraine is still at the beginning of a tough road towards political and democratic maturity and sophistication. On this road, the Constitutional process is a key step. Unfortunately, the outcome of a 14-year ‘saga’ of the Constitutional construction in Ukraine as depicted by the *DT* is depressing – “there is no complete and compromised Constitution” (Mostova 2007); moreover, “disrespect to the law turned out to be the norm” (Rakhmanin 2007b). Commendably, the *DT* has managed to demonstrate an intelligent and, particularly during the Kuchma period, brave position in its critical representation of the pivotal process of the creation of Supreme Law in the modern Ukrainian society. The weekly has become a civil ‘mirror’ that purported to reflect the intricacies and subtleties of this process to its readers in an exploratory, non-partisan and open way, and thus to contribute to national policy debate. For some external observers, metaphors framing local political processes in terms of war, illness or performance are not that significant. Yet, in a country that has been experiencing persistent problems with freedom of speech and free media, metaphors describing a major political evolution in terms of an on-going war for political power, a dishonest game with a big prize, an amateurish and disappointing performance, a criminal activity, and a process

revealing poor health, destruction and instability are far from benign. Such metaphorical imagery indeed could be seen as an act of civil courage.

This paper attempted to explore the metaphorical imagery produced over the years to identify the 'constitutional narrative' that the *DT* offered to its readers. The rationale behind this close analysis of the metaphorical imagery lies in the fact that, according to Charteris-Black (2005:16) metaphors not only "provide colorful and accessible means of explaining abstract notions", but they also "convey the values of the journalists (or the newspaper for whom they are writing) and thereby influence the readers' interpretation of current political events".

Porto Requejo (2007:61) argues that "the more complex and important a concept is, the more metaphors are required to understand it". Moreover, "new concepts are better introduced through metaphors so that they are assimilated in an automatic way, almost unnoticed" (Porto Requejo:62). Chilton and Ilyin (1993:7–31) reiterated this idea, stating that metaphors have a dual role in signification since they can be used both to strengthen culturally shared concepts and to create new ways of seeing the world. The sheer number and array of metaphors used to describe the Constitutional process in Ukraine indicate that as a reputable voice inside the country, the *DT* provided a venue for the politically engaged part of Ukrainian society to learn about itself while undergoing new and extremely complicated constitutional transformation, as well as a chance for critical self-reflection.

Illustratively, the leading and most visible metaphors that shaped the concept of the Constitutional process in Ukraine presented a highly negative imagery when describing those who are supposed to represent and serve the people – "not a cast, an order, a club, a military unit or even a mafia [but] a sect" (Rakhmanin 2009c). Indeed, the Ukrainian power elites were depicted in a very unflattering way – by rewriting, amending and trying to re-tailor the Supreme Law of Ukraine to benefit themselves, they were revealed as fearful of losing power, cynical, greedy, warring, aggressive, irresponsible, dishonest, and disrespectful to their people and law. They have adopted a bad habit of ignoring the law. Ukrainian politicians who "cannot unlearn to overestimate their personal Self" have still not learnt how to live following the Constitutional norm: "a prime minister or a president who openly ignores the law is dangerous for the country" (Rakhmanin 2006b). Furthermore, as the *DT* argues, the summit of the Ukrainian politicum, having embraced such qualities as "legal nihilism, encouragement of flunkeys, malicious conceit" (Rakhmanin 2010), "have never felt any discomfort from breaking their promises (Mostova 2009b)".

In contrast, following one commentator's words (Mostova 2005), "society demonstrated a much higher level of civil maturity than its leaders" during the Constitution 'drama'. An informed, critically thinking and politically active general public is Ukraine's main hope on its thorny path towards true democracy. Events of the 2004 Orange Revolution showed that the politically inspired and engaged people were a powerful reality in Ukraine. The public's heightened awareness of the politicians' constitutional agenda and sober assessment of the ongoing constitutional crisis make a solid basis for Ukraine's recovery from the malaises of its undemocratic past and power-hungry politicians.

Undoubtedly, a new page in Ukraine's Constitutional 'saga' was turned in the period of the latest Presidential elections that took place 17 January 2010. One of the few controversies around the elections was related to yet another attempt to amend the country's Constitution by President Yushchenko in order to secure his position in power: "the president proposed constitutional amendments to create a second house of parliament, and to give him veto rights over certain government decisions".¹⁹ The *DT* reacted to these developments in the Constitutional 'story' (especially to Yushchenko's desire to secure himself a senatorial seat in the upper chamber of a new parliament for life) with a colorful set of already familiar metaphorical imagery: *constitutional process as a performance*. Only this time the performance was turning into a primitive farce where the leading actors were losing any credibility and reputation with the spectators and even other fellow-players (Rakhmanin 2009a).

With Viktor Yanukovych being elected as Ukraine's new President, future analysis of the media discourses in the country may reveal even more polarized, as well as completely new, imagery of the Constitutional process – at the moment, the construction of the Supreme Law of Ukraine is far from being completed. According to the *DT*, Yanukovych has already "ruthlessly ignored" (Mostova and Rakhmanin 2010) the current Constitution by *de-facto* returning Leonid Kuchma's level of authority for himself.

In conclusion, this paper attempted to demonstrate the construction of political and media narratives in their diachronical circulation of ideas about the role and place of the Supreme Law in the life of a newly independent and equally newly democratic Ukrainian society. Critical awareness of such narratives was argued to help both insiders and outsiders to understand a very complicated, yet essential process in the life of a new European democracy. This paper also aimed to argue that the critical study of images created by the nation's reputable sources of mass communication is a valid perspective to be included into the legal historiography, especially when evaluating the discursive interpretations (or misinterpretations) of historical arguments. There is little doubt that the 'story' of the Ukrainian Constitution will be an intriguing case-study for both lawyers and historians of Ukraine in years to come.

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¹⁹ Ukraine's parliament sets early presidential election date (2009) *RIA Novosti*, April 1. Available from <<http://en.rian.ru/world/20090401/120856551.html>> [accessed 3 April 2009].

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