Ukraine (82)

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UKRAINE:
SITUATION ANALYSIS AND TREND ASSESSMENT

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commissioned by United Nations High Commissioner for Refugees,
Protection Information Section (DIP)

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List of Acronyms

CPSU	Communist Party of the Soviet Union
Gulag	Glavnoye Upravleniye Lagerey [Chief Directorate of Collective Labour Camps]
ICFTU	International Confederation of Free Trade Unions
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organization
OSCE	Organization for Security and Cooperation in Europe
RSFSR	Russian Socialist Federated Soviet Republic
SSR	Soviet Socialist Republic
UNA	Ukrainian National Assembly
US	United States
USSR	Union of Soviet Socialist Republics

Executive Summary

Ukraine, with its population of 48 million and territory larger than that of France, has the potential to become one of the emerging new nations of Europe. With a history that has included periods of statehood and domination by foreign powers such as the Russian and Austrian Empires and most recently as a republic within the USSR, its appearance as an independent state in 1991 dramatically changed the map of Europe and reassured the world community that the Cold War had finally ended.

The adoption of the Ukrainian Constitution in June 1996 was hailed as a major step in creating a political system based on the rule of law and guarantees of human and civil rights and freedoms. The Constitution outlined the powers of the executive, legislative and judicial branches of government as well as the individual liberties to be enjoyed by Ukrainian citizens. Ukraine's ratification of United Nations agreements on human rights, its steady integration into international organizations such as the OSCE and the Council of Europe, and interest in joining NATO and the European Union have also provided additional incentive for both the citizens of Ukraine and the international community to encourage its Western orientation.

Ukraine's record on human rights has been marred in the past five years, however, by instances of apparently politically motivated repression, especially against journalists, exemplified in the murder of the investigative journalist Heorhiy Gongadze in the autumn of 2000. Numerous instances of harassment or the suspicious death of journalists have occurred since then. This repression has been accompanied by increasing government control over freedom of the press.

In other areas of rights protection – the right to life, freedom of belief, assembly, association and movement – Ukraine's record is average for the region. The potentially explosive situation created by the integration of thousands of Crimean Tatars returning to their homeland has been managed without major conflicts. In addition, contrary to expectations in 1991, there have been no major conflicts concerning the large Russian minority. The trafficking of women, and the migration of large numbers of Ukrainian citizens to seek work legally and illegally abroad, remain a major problem for the Ukrainian government, which has received some but by no means all the attention it needs.

The presidential election campaign of October 2004 has been a test for the diverse elements of Ukrainian society. Its relatively well-developed civil society organizations and opposition political parties worked for months prior to the elections to provide information to the electorate and to ensure that the elections proceed in a free and fair manner. Pro-governmental supporters have used their control over the media and access to administrative resources to influence the outcome. The conduct of such a closely fought election is nonetheless a testimony to Ukraine's progress towards political pluralism compared with other post-Soviet states.

The outcome of the election is likely to have a strong impact on whether Ukraine moves more quickly towards the West or remains in the orbit of Russia. The human rights situation in the country and the well-being and protection of vulnerable groups and individuals will depend a great deal on this future orientation.

1 Introduction

1.1 General Background

Ukraine is a land of diversity and paradoxes in its cultural and historical background and even in its physical environment. The name Ukraine is generally believed to have derived from the term *okrainy*, meaning periphery or borderland, but the country now finds itself in the centre of Europe.[1] Occupying a territory of 603,700 square km, Ukraine is larger than France or Texas. Its climate varies from the continental climate of the northern border to the semi-tropical Crimean peninsula, which juts into the Black Sea. The agricultural and steppe lands are in the central and eastern regions, which border on Russia. In the west, the Carpathian Mountains spill over the borders with Romania, Hungary, Slovakia, and Poland. Ukraine's post-Soviet neighbours Belarus and Moldova lie to the north and south. The River Dnipro (Dniepr), the third longest in Europe, flows through the capital city Kyiv (Kiev)[2] from north to south into the Black Sea and divides Ukraine into the left-bank in the east and the right-bank in the west, which have through history often followed different paths of development.

As of August 2004, Ukraine's population stood at 47.42 million (of which 32.04 million urban and 15.38 million rural). Due to a low birth-rate and emigration, the population of Ukraine continues to age and decrease. Only three years ago, the national census had still counted 48.46 million inhabitants.[3] In this census, 78 per cent of the population had classified itself as ethnically Ukrainian and 17 per cent as Russian. Other ethnic groups include Belarusans, Moldovans, Crimean Tatars, Bulgarians, Romanians, Poles, Jews, and others.[4] There are six million Ukrainians living across the borders in contiguous regions.

For most of the twentieth century, Ukraine was one of the "hidden nations" that made up the Soviet Union. Since gaining its independence in 1991, Ukraine has not only become a real place on a map but has built many of the institutions of independent statehood that did not exist before: a national army, a presidency and a parliament, a national bank with its own currency, stock exchange, and now a vibrant diplomatic community with representatives from most of the countries around the world.[5] Looking at the geostrategic importance of Ukraine in the twentieth century, former US National Security Adviser Zbigniew Brzezinski has hailed Ukraine's independence as the most significant event of the twentieth century. Without Ukraine,

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[1] See, e.g., the very accessible account in Reid, A., *Borderland: A Journey Through the History of Ukraine*, London: Weidenfeld and Nicolson, 1997

[2] Both the Russian (Kiev) and the Ukrainian (Kyiv) forms of the name of the capital are now used internationally. This paper will use the form Kyiv.

[3] See the State Committee of Ukraine for Statistics http://www.ukrstat.gov.ua [accessed October 2004]

[4] United States, Central Intelligence Agency, *The World Factbook*, Washington, January 2004, updated October 2004, http://www.cia.gov/cia/publications/factbook/geos/up.html [accessed October 2004]

[5] Diuk, N. and Karatnycky, A., *The Hidden Nations: The People Challenge the Soviet Union*, New York: William Morrow, 1990

he has argued on many occasions, Russia is obliged to become a national state and will not be able to reconstitute itself as an empire.[6]

1.2 Historical Overview

Before becoming an independent state, Ukraine had a long and turbulent history. Some of the key events in this history continue to be relevant today as the country struggles to define an identity and to accommodate the pressures of being in such close proximity to Russia, a neighbour toward whom a part of the population harbours an ambiguous attitude. A fully developed state has existed on the territory of Ukraine for more than a thousand years.[7] Kyiv became the main city or capital of the East Slavic kingdom of Kyivan-Rus, in 882, and Christianity was adopted as the state religion in 988. The name Ukraine was first mentioned in the chronicles in 1187. In the tenth and eleventh centuries, Kyiv gained the name "the golden-domed" and "mother of Rus' cities" because of the 400 churches built at that time. A codex of customary laws – *Rus'ka Pravda* – was drawn up during the reign of Prince Yaroslav the Wise (1036-1054), which served to bring some institutional structure to the relations between the Prince and the nobility as well as providing rudimentary rule of law for the population. Kyiv remained a major economic, religious and cultural centre until the Mongols sacked it in 1240, whereupon Moscow began its rise as a regional power.

Ukrainians also highlight the significance of the period of history from the sixteenth to the end of the eighteenth century, when the Cossacks roamed the territories of Ukraine, living beyond the borders of the established republics and empires in order to be free. Whether or not it was actually so, the mythology around the Cossacks has left modern day Ukrainians – in contrast to their Russian neighbours – with a certain lack of reverence for the institutions of state, and a belief that the Cossacks lived under a quasi-democratic system. Resentment against Russian rule has deep historical roots: at least to 1654, when Bohdan Khmelnytsky, head of the Ukrainian Cossack Hetman state, ceded sovereignty to Muscovy through the Treaty of Pereyaslav. Ukrainian historians and poets of the nineteenth century, such as the national bard Taras Shevchenko, portrayed this as a dark period for Ukraine, which thus lost two centuries of statehood. The loss was compounded under Catherine the Great, when in 1775 the last vestiges of the independent Cossack units were brought under control and integrated into the Russian empire.

Through much of history, today's Ukraine was almost equally divided into a Polish or Habsburg dominated West and a Russian dominated East. Only in the late 18th century did the Russian empire also gain control over its South. Tatars and other groups, who had been allied with the Ottoman empire, fled or became minorities amongst many new Russian or European immigrants that the empire encouraged to settle in these regions (including nowadays Crimea and Odessa), now called "New Russia".

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[6] Brzezinski, Z., Ukraine and the World, speech at the National Kiev Mohyla Academy, 14 May 2004, http://www.csis.org/ruseura/040514_transcript.pdf [accessed October 2004]

[7] For a good comprehensive history of Ukraine see Subtely, O., *Ukraine: A History*, Toronto: University of Toronto Press, 1988

Throughout history, the eastern lands of Ukraine were considered the keystone of the Russian imperial edifice. The territories that fell to the Russian empire also included the so-called Pale of Settlement, which the tsars established as an area where Jews who were prohibited from living elsewhere in Russia were allowed to live. The Jews in Ukraine have from that time been an integral part of Ukrainian society. This was also the century when land-starved Russians labourers migrated from the north to work in the newly-established coalmines of the Donbas. This is just one phenomenon that reinforced the urban rural divide, when Russian speakers flocked to the towns, while the rural areas remained mostly Ukrainian.

The Ukrainians who found themselves in the Polish or Austrian empire experienced a very different political system and governmental attitude toward diverse ethnic groups, and thus their society developed in different ways culturally and in terms of political and social expectations. These differences persisted, when these lands were incorporated into the newly-created independent Poland after the First World War, and up until the absorption of what has come to be known as Western Ukraine into the Ukrainian SSR (Soviet Socialist Republic) after the Second World War. The division of Ukrainians into Catholics, generally to be found in former Austrian Empire lands, and Orthodox, who prevailed on the Russian Empire side, has persisted until today. Another major difference was the fact that the Ukrainian language was banned in the Russian empire under the terms of the Ems Ukase of 1876 up until 1905, whereas the language flourished freely in the Austrian empire. Between the First and Second World Wars, the Ukrainians in Poland enjoyed much greater freedom to develop their language, religion and political life, as well as the benefits of private landownership and agriculture. On the Soviet side of the border, Stalinist purges wiped out an entire generation of intellectuals and politicians, and soon after the drive to collectivize agriculture the famine of 1933 took the lives of between four and seven million inhabitants of the Ukrainian SSR.

After the Second World War, even though the territories inhabited by ethnic Ukrainians were united for the first time in centuries, the population had suffered severe depletions through the casualties of war and also through the mass exodus of a generation of Western Ukrainians escaping from Soviet rule. This group has become the vociferous diaspora that struggled to support the idea of independence throughout the years of the Cold War. The only significant change in territory since the Second World War was the acquisition of the Crimean peninsula. The Crimean Autonomous Socialist Republic had previously been a part of the Russian Socialist Federated Soviet Republic (RSFSR), but was given as a gift to Ukraine in 1954 in a magnanimous gesture of the Soviet leadership to commemorate the 300th anniversary of the Treaty of Pereyaslav. Ukraine thus inherited the problem of the Crimean Tatars, who like the Chechens and many other small nations had been deported en masse to Siberia or Central Asia in 1944, and who started a return to their homelands even before the break up of the Union of Soviet Socialist Republics (USSR).

Many of the dissidents who returned to Ukraine from prison camps in the late 1980s came to play a significant role in the early years of independence. Most of them had started their activities in the 1960s, when the Ukrainian SSR experienced a period of liberalization. With encouragement from First Party Secretary of Ukraine Petro Shelest, a generation of young people threw themselves into the struggle to regain Ukraine's language and national culture. When the crackdown came in the early

1970s, many of the new dissidents found themselves in the Gulag[8] camps along with other human rights activists from Moscow, Jewish "refuseniks" (those refused permission to emigrate), national activists from other national republics, and also with Ukrainian nationalists who had been there since the war. The repressions that took place in Ukraine mostly had a national character: the Ukrainian dissident Ivan Dzyuba most eloquently expressed the protest against the renewed repressive policies in his seminal essay "Internationalism or Russification?", first published in 1968.[9]

The tenure of Leonid Brezhnev as General Party Secretary and leader of the Soviet Union in the 1970s and early 1980s marked a bleak period in the history of Ukraine as well as the rest of the Soviet Union. It ended with the introduction of *glasnost* ("openness") and *perestroika* ("restructuring") as the hallmark policies of the new Soviet leader Mikhail Gorbachev, which coincided with the explosion at Chernobyl nuclear power station on 26 April 1986. Many commentators credit the tragedy and the political fiasco that followed the explosion with launching the movement that eventually broke apart the Soviet Union. The fact that all orders for both the attempt to cover up the facts and the mishandling of the rescue attempts originated in Moscow, while very little information was available to the Ukrainian authorities and much less to the Ukrainian population, was considered by many to be yet another example of how the lack of sovereignty was harming the Ukrainian people.[10] Almost 20 years after the disaster, its effects are still felt on a social level with continuing medical problems and the dip in birth rate that it caused. Politically, Chernobyl spurred the creation of numerous ecological groups and provided more urgency for the formation of Rukh ("the Movement") or the Popular Movement in Support of Perestroika, as it was then known. Originally established in 1989 as a coalition of dissidents who had returned from the Gulag after Mikhail Gorbachev's amnesty in 1987, critical intelligentsia and nationally inclined members of the *nomenklatura* (the holders of influential positions in administration, economy and academia), the Rukh soon grew to be a mass popular movement which put the impendence of Ukraine as its goal.

2 The Modern State

Ukraine declared its independence on 24 August 1991, just days after the Soviet Union's beleaguered leaders had been threatened by a coup d'état in Moscow and Boris Yeltsin had faced down the threat and announced his intention to take charge in Russia as the leader of a sovereign state. Similar events took place in many of the other Soviet republics, even though it was not until 8 December 1991 that the Belovezhkaya Pushcha Accords were signed by Boris Yeltsin for Russia, Leonid Kravchuk for Ukraine and Stanislav Stankievich for Belarus, formally dissolving the Soviet Union.

But were Ukrainians ready for independence? Even though the striving for independence was integral to the national aspirations of Western Ukrainians in the

[8] Gulag - Glavnoye Upravleniye Lagerey ("Chief Directorate of Collective Labour Camps") was a branch of the Soviet secret police (the NKVD/KGB)

[9] Dzyuba, I., *Internationalism or Russification? A Study in the Soviet Nationalities Problem*, London: Weidenfeld and Nicolson, 1968

[10] Marples, D., *Chernobyl and Nuclear Power in the USSR*, London: Macmillan Press, 1986

years when the Soviet Union existed and was supported by a political and vociferous diaspora in the "Free World", Ukraine was a land of paradoxes. Looking to the east, the Ukrainians of Dnipropetrovsk and Donbas formed the anchor of the Soviet Union. The republic that nurtured dissidents who questioned the very basis of Soviet rule in the 1960s, also produced the most rigid Soviet bureaucrats in the 1970s. Paradoxical too, is the fact that when assessments were made in the period leading up to 1991 of the likely independent viability of the fifteen republics of the USSR, three areas were taken into account: viability of the economy, likelihood of maintaining independence, and success in reforming the political system. Ukraine was rated highly on the first and extremely low on the second, the reverse of what has actually turned out to be the case in the past fifteen years.

2.1 Economy

In terms of its economy, Ukraine began with many advantages including a highly educated work force, natural mineral resources and potentially rich agriculture. In retrospect, however, it is easy to see that the swift transition to a free market economy and the realization of the country's economic potential were hampered by the absence of a political system based on democratic principles and the rule of law. All of the post-Soviet states have suffered similar obstacles, emerging out of a political and administrative system shaped by 70 years of communism. Unlike Russia, where price liberalization and voucher privatization were introduced to kick start the transition to a market economy, benefiting a broad range of prospective businessmen, Ukraine chose a slower route to reforming its economy, thus opening up the possibilities for large scale corruption and undermining the initiatives of many potential small and medium entrepreneurs. Despite its successes in curbing inflation and introducing a new currency – the hryvnia – large-scale privatizations and the issuing of licences have been largely restricted to a circle of favoured businessmen. Ukraine's economy started to take off in a significant way only in the early 2000s.

2.2 International Relations

In terms of its sovereignty, expectations in 1991 that Ukraine would maintain independent statehood were rather low. The break-up of the Soviet Union was greeted with alarm in some international circles. Working on the assumption that the Russian minorities now "trapped" in other states and separated from their homeland would rise up against their new non-Russian leaders, or that Russia itself would declare war in defence of its nationals in what it started to refer to as the "Near Abroad", there were fears that the entire region could very quickly be engulfed in war. With only a few exceptions, the post-war delineation of borders between the 15 republics of the USSR became the international boundaries of the new states. All eyes were on Ukraine, with its large ethnic Russian population, as the litmus test as to whether these borders would hold and whether the two major ethnic groups could peacefully coexist.

The potential flash point was considered to be Crimea, which seemed to encapsulate all of the potential problems of consolidating statehood in the entire region: a majority ethnic Russian population lived alongside a growing number of returning Crimean Tatars, who as yet had few rights in their old homeland. There was also the substantial interest of Russia's security community in the naval base of Sevastopol, which was still home to the former Soviet Union's Black Sea Fleet. For Russia, waging a successful campaign to establish control over the Black Sea Fleet went hand in hand

with the issue of regaining the entire peninsula. Many Russian politicians travelled to Crimea in the early 1990s to exacerbate an already inflamed situation, thus inspiring the hope among Russian nationalists in Crimea that reunification with Russia was just around the corner. For Ukraine, the problems in Crimea seemed to carry the potential to generate the break-up of the entire country.

Even though the likelihood of war breaking out over Crimea was in reality remote, the Ukrainian government should be given credit for its skillful handling of one of the major obstacles to settling its territorial integrity, and to tempering Russian ambitions concerning the minority Russian populations in other states. The agreement with Russia over the division of the Black Sea Fleet in 1997, which was marked by President Yeltsin's first, highly symbolic, visit to Ukraine as a foreign head of state, marked a high point in Ukraine's state building efforts.[11]

That same year, the confirmation of Ukrainian statehood as a permanent feature of international relations came in the form of agreements with the United States on a strategic partnership and the signing of the Distinctive Charter of Understanding with NATO. These agreements marked the final departure from a US policy that had been dominated in the early 1990s by the single issue of withdrawal of nuclear weapons from Ukrainian territory.

2.3 Political System

The third part of Ukraine's transition, the reform of its political system toward liberal democracy, was to be much more complex. In fact, the decisions and reform efforts of the early 1990s still have a major influence on the political system today. In late 1991, when Vyacheslav Chornovil, the leader of the national democratic movement Rukh, was a front-runner in the presidential campaign, it looked as if Ukraine might follow in the tradition set by Lech Walesa of Poland and Vaclav Havel of Czechoslovakia to elect a celebrated former dissident and leader of a mass popular movement as president. As it turned out, the 1 December 1991 presidential election was won by the former Secretary for Ideology of the Communist Party of the Soviet Union (CPSU), Leonid Kravchuk.[12] On the same day, Ukraine held a referendum on independence – the only post-Soviet state to do so. It received an overwhelming majority.

The withering away of the Communist system left very few alternatives for the post-Soviet states in terms of the kind of governmental system they could adopt. For all but the Baltic States and Moldova, a parliamentary system was not an option. The USSR had been administered as a unitary state according to a vertical system of command that came through the CPSU from Moscow. In Ukraine, as in most of the republics, the break up of the Soviet Union did not dramatically change the distribution of power, except for the switch from Moscow to Kyiv as the centre. The CPSU's command chain administrative functions were largely taken over by the system of executive *vertikal*, or vertical command, controlled by the newly created institution of the presidency.

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[11] On this subject see Solchanyk, R., *Ukraine and Russia: The Post-Soviet Transition*, Lanham: Rowman and Littlefield, 2001

[12] Leonid Kravchuk is counted as Ukraine's "second" president; the "first" is generally considered to have been Mykhailo Hrushevsky, who held office for a brief period in 1918.

Like most of the post-Soviet states, Ukraine has instituted many of the formal elements of a democratic state: there have been elections for head of state and for the members of the national legislature; political parties have been formed and compete with each other; there are three parts of government – the executive, the legislature and the judiciary – even though there is no separation of powers in practice; and a constitution outlines the rights and responsibilities of the citizens and the functions of different parts of the state. Compared with other post-Soviet states, Ukraine lies somewhere in between the Central Asian states – which have reverted to an authoritarianism even more severe than during Communist times – and the Baltic states, which are developing genuinely democratic institutional arrangements. The US-based NGO Freedom House rates Ukraine as "partly free", with a rating of four for political rights and civil rights, having slipped from a rating of three for each category in 1993 (on a seven point scale where seven denotes the lowest rating).[13]

2.4 Governance 1991-1994

Unlike Russia, Ukraine did not begin its existence as an independent state with a reformist government. Although Leonid Kravchuk was a member of the triumvirate that signed away the Soviet Union in December 1991 as chairman of Ukraine's Supreme Soviet, he was noted for his hesitation in condemning the coup against Gorbachev and was certainly not on the front lines when the institution that was still called the Supreme Soviet declared Ukraine's independence on 24 August 1991.[14]

From 1991 to 1994, Ukraine was not unusual among the post-Soviet states in experiencing a period of chaos and lack of clarity in terms of law and government. As did many of the post-Soviet states, independent Ukraine started its existence under the terms of the 1977 Brezhnev Constitution, which was constantly being amended with a patchwork of new statutes and legislation, and the structure of government for the new state was still uncertain in the first year or so of independence.

The direct election of the president as head of state in 1991 confirmed his position as the chief of the executive, but it was not until the new Ukrainian Constitution was adopted in 1996 that the president's powers were ultimately defined. From the start, the President's Administration was considered an important part of presidential power. The Cabinet of Ministers was expanded to include ministries now needed by the new independent state, as well as national versions of the old "power ministries" of the Soviet era, which covered internal affairs, security, the economy, defence, and foreign affairs.

Ukraine's national legislature, the Verkhovna Rada, was essentially the same Supreme Soviet that had been elected in 1990. This body suffered from the handicap of having been elected under the old regulations, with many seats going to Communist Party members and members of the *nomenklatura*, although the new democratic forces managed to gain over 100 seats. The characteristic feature of this parliament, where many of the important decisions of the immediate post-Soviet

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[13] *Freedom in the World 2004*, New York: Freedom House, 2004. See especially http://www.freedomhouse.org/research/freeworld/2004/countryratings/ukraine.htm [accessed October 2004]

[14] For the immediate post independence years, see, Nahaylo, B., *The Ukrainian Resurgence*, London: C. Hurst, 1999

period were made, was the existence of a bloc of 239 Communist deputies who held the majority in the 450-seat legislature, and who were constantly challenged by the former dissidents and deputies from the Rukh and other pro-independence parties.

2.5 Year of Elections – 1994

The elections of 1994 have been characterized as probably the most free and fair in the short history of independent Ukraine. Elections were held both to the parliament and for the post of president. The parliamentary elections were held under a mixture of new and old (Soviet) rules, with the 450 seats of the Verkhovna Rada to be filled according to majority voting system. However, there was also a requirement for a minimum 50 per cent turnout, to secure the validity of the elections. This necessitated the repeat of many of the elections, a process that lasted from the general election in March until the end of the year.[15]

Ukraine holds the distinction of having been the first and, for a long time, the only post-Soviet state to have affected a peaceful transfer of power from one president to another, when in 1994 Leonid Kuchma succeeded Leonid Kravchuk. Despite the fact that power was passing from one member of the old Soviet elite to another, the election was generally considered to have been reasonably free and fair. The result was close. Kravchuk won the first round, but without the majority needed to be declared outright winner. In the second round, limited to the top two contenders from the first round, Leonid Kuchma emerged the surprising victor, increasing his share of the vote from 31.25 per cent in the first round to gain 52 per cent against Kravchuk's 45 per cent.

As president, Leonid Kuchma has shaped the Ukrainian presidency after his own fashion in much the same way as other presidents in the region, to the point where it is difficult to separate the powers and role of the presidency from the persona of the incumbent. A native of Dnipropetrovsk and a graduate of its university, he became an engineer and won steady promotions until he became director of the Southern Machine-Building Plant in 1986 – the largest missile factory in the USSR. Elected to the Supreme Soviet of the Ukrainian SSR in March 1990, he served briefly as Prime Minister under President Kravchuk (October 1992 – September 1993). Kuchma's victory in the 1994 presidential election surprised many observers, even though his campaign clearly had a great deal of appeal in the populous south and east, where his reassuring slogans in favour of closer ties to Russia and greater accommodation of Russian speakers drew mass support.

3 The New Constitution of 1996

Ukraine was one of the last of the post-Soviet states to adopt a new constitution. The fact that its form and content were the subject of fierce debate in the parliament is a testimony to the resilience of Ukraine's legislature compared with others in the region. For the year prior to the adoption of the constitution, Ukraine had lived under a document called the Constitutional Accord, which was meant as an interim measure until a full constitution could be agreed. When the Constitution was finally passed on 26 June 1996, it was hailed as a milestone in the history of Ukraine and heralded a

[15] See Kuzio, T., *Ukraine under Kuchma: Political Reform, Economic Transformation and Security Policy in Independent Ukraine*, London: Macmillan, 1997

national holiday with parliamentarians being carried out of the chamber shoulder high in jubilation at having come to an agreement. The new Ukrainian Constitution not only delineated the rights and responsibilities of citizens, emphasizing universal human rights, but also strengthened the powers of the presidency.

3.1 Governance Provisions

The 1996 Constitution makes governance the responsibility of a directly-elected president, a Cabinet of Ministers, the Verkhovna Rada (the parliament), and the Constitutional Court.[16] The president names the premier (who must be approved by the parliament), the three vice-premiers, and the members of the cabinet. He also appoints the heads of the executive in regional (oblast) and district administrations, and in the administration of the cities of Kyiv and Sevastopol.

According to the Constitution, parliament not only passes laws, but also confirms such key officials as the prime minister; the chairman of the State Property Fund; the head and half of the board members of the National Bank; half of the board of the state-owned television and radio network; and six of the eighteen judges of the Constitutional Court. Formal legislative confirmation powers had been greater under the old Soviet-era Constitution, extending as they did to nominees for the posts of foreign minister, interior minister, and head of the Security Services. According to the letter of the Constitution, the parliament is supposed to review and confirm the programme of work of the Cabinet of Ministers. The parliament also has the authority to approve the state budget and oversee its implementation, as well as exercise authority over economic reform legislation. The Constitution also spells out the parliament's power to impeach the president.

One institution that is barely mentioned in the Constitution, but which has come to play a major role in the government of Ukraine, is the President's Administration. This body has broad powers and operates as an extension of the presidency. It has gained in strength throughout the Kuchma years and its staff has often exercised substantive responsibilities that have worked in parallel and overlapping with those of the Cabinet of Ministers. This institution has encouraged the strengthening of presidential power in Ukraine, moving it further towards what, in the case of Russia and former Soviet republics, is termed a super-presidential system.[17]

3.2 Constitutional Rights and Freedoms

The adoption of the new Ukrainian Constitution was considered a milestone in the development of Ukraine, not only because it outlined the structure of governance of a new independent state that had not existed before, but also because for the first time in history, the population of Ukraine were to enjoy constitutionally guaranteed rights and freedoms. [18]

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[16] Ukraine, Constitution of Ukraine, adopted at the Fifth Session of the Verkhovna Rada 28 June 1996 [official English translation], http://www.rada.kiev.ua/const/conengl.htm [accessed October 2004]

[17] For a discussion of this tendency in Ukraine see, e.g., Wilson, A., Ukraine's New Virtual Politics, *East European Constitutional Review*, Spring/Summer 2001, http://www.law.nyu.edu/eecr/vol10num2_3/focus/wilson.html [accessed October 2004]

[18] For the full text of an unofficial translation of the 28 June 1996 Constitution, see Refworld 2004, issue12, CDROM 2.

The Ukrainian Constitution, being of direct legal force, devotes an entire chapter to the rights, responsibilities, and freedoms guaranteed to its population – from Article 21 to Article 68. These range from guaranteeing equality before the law, to the right to life, guarantees against arbitrary arrest, against violation of the sanctity of the home and family, guarantees for privacy of communications through written correspondence or telephone, freedom of movement, freedom of conscience, freedom of association, freedom to peacefully petition the authorities, and freedom to conduct entrepreneurial activity. These articles, considered as more rooted in western concepts of rights and freedoms, are complemented in the Ukrainian Constitution by a number of articles that refer to rights that were once guaranteed under the Soviet Constitution. The Ukrainian Constitution therefore guarantees the right to work, as well as the right to strike, the right to rest from work, as well as rights to social benefits, housing, healthcare, an ecologically clean environment, and education. A number of articles in the Constitution relate to protection extended by the law: the right to be informed about rights and responsibilities, the right to legal assistance, and the guaranteed presumption of innocence in circumstances where there is no evidence. The Constitution also includes a somewhat curious article that protects people from having to carry out "criminal orders or instructions".

3.3 Judiciary

Ukraine's judicial system is outlined in two chapters, on the Procuracy and on Justice. The Procuracy is the institution responsible for prosecution in court on behalf of the state and the representation of the interests of a citizen and of the state in court, as well as the supervision of laws and the execution of judicial decisions. The Procurator General is appointed by the president, with confirmation by the parliament, but the Procuracy itself is separate from the judicial branch which is headed up by the High Council of Justice. Although the role of this body could be seen as one that strengthens oversight of the independent judiciary, in practice its incumbents have often been an instrument for extending the powers of the president.

Justice in Ukraine is administered by the courts, which constitute a self-sufficient authority. The system of courts of general jurisdiction is organized according to territorial principles and according to specialization. The Constitution, which was supplemented by the Law on the Judicial System of Ukraine of 21 June 2001, outlines a system of local courts, courts of appeal, specialized courts with their highest judicial bodies and the Supreme Court of Ukraine. These courts handle civil, criminal, administrative and commercial matters. The Supreme Court is the highest judicial body in the system of courts of general jurisdiction.

The Constitutional Court rules on issues of conformity of laws and the official interpretation of the Constitution. It comprises 18 members with a third each being appointed by the president, the parliament and the Congress of Judges. Although it was originally hailed as the guarantor of an independent judiciary, in practice over the years, the Constitutional Court has often come under pressure from the president to bolster his rule and has also met with competition from the less government influenced Supreme Court in its role as the highest court in the land.

Trust in the rule of law and the independence of the judiciary amongst the population remains low. There is a widespread believe that judges as well as prosecutors may

succumbs to favours or pressure and that judges may fear retribution or repercussions if ruling against powerful individuals or groups.

3.4 Human Rights Provisions

Ukraine has ratified 16 out of 25 international United Nations agreements on human rights, which thus become a part of Ukrainian law according to the Constitution.[19] In November 1995, Ukraine also became a member of the Council of Europe and signatory to a number of European conventions on human rights. Ukrainian citizens thus acquired the right to turn to the European Court of Human Rights if they received no satisfaction from the Ukrainian legal system in response to a violation of their rights enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The position of Ukrainian Parliament Commissioner for Human Rights, or Ombudsman, is constitutionally mandated, and the most recent incumbent, Nina Karpachova, was re-elected in June 2003 for another five-year term. According to the law, the Ombudsman oversees the human rights situation in the country, including those rights guaranteed by international human rights treaties and agreements signed by Ukraine. In theory, the Ombudsman has access to all public officials including the president, although it is unclear whether such access has been sought. In 2003, the office of the Ombudsman consisted of approximately 100 full-time and part-time staff, and received around 270,000 items of correspondence from the public.[20]

3.5 Civil Society

Ukraine is unique among the post-Soviet states in the level of activity and the efforts of its civil society to influence the government in a non-authoritarian direction. Although there are as many nongovernmental organizations, political parties and other nongovernmental institutions in other of the post-Soviet states, in Ukraine the level of engagement of some of them in the processes of democratization and the protection of human rights and civil liberties is particularly high.

3.5.1 Nongovernmental organizations

From 1995 to 2003, the number of nongovernmental organizations in Ukraine increased from 4,000 to 35,000.[21] They span a broad spectrum of activities: humanitarian and charitable, sports, cultural and educational. Many are affiliated to certain governmental offices or enterprises, serving to collect and manage contributions to their "welfare funds". Other NGOs are directly engaged in defending rights, monitoring institutions of executive power and encouraging the participation of citizens in the political process.

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[19] Zakharov, E., International Day of Human Rights: On Observing Human Rights in Ukraine, *Analysis of Human Rights in Ukraine*, Kharkiv: Kharkiv Group for Human Rights Protection, [1999], http://www.khpg.org/index.php?id=958944813&r=29 [accessed October 2004]

[20] See, the website of the Ukrainian Parliament's Commissioner for Human Rights, http://www.ombudsman.kiev.ua [accessed October 2004]

[21] See Haran, O., Pavlenko, R., Kyseliov, S., *Nations in Transit 2004: Ukraine*, New York: Freedom House, 2004, http://www.freedomhouse.org/research/nitransit/2004/ukraine2004.pdf [accessed October 2004]

Unlike in Russia, where the human rights movement has been supported and stimulated by the older generation of dissidents, in Ukraine many of the dissidents went into politics. The human rights organizations that have emerged are much more focused on strictly human rights work. The pioneer and one of the leading human rights groups in Ukraine is based in Kharkiv. The Kharkiv Group for the Protection of Human Rights was established in 1992, and has set the standards for professional human rights work for all other groups since then.[22] The group not only monitors the state of human rights in Ukraine, but also provides education on human rights issues, produces publications and is used as a resource by numerous international organizations. Other human rights organizations in Ukraine focus on specific sub-groups, as does for instance the National Society of Political Prisoners and Victims of Repression. International human rights organizations such as Amnesty International also have branches in Ukraine. On the whole, human rights organizations have so far been tolerated in Ukraine and allowed to conduct their activities without much interference from the government, even though the government is the main focus of their criticism. Some NGOs in Ukraine engage in some form of social protest, whether through dissemination of information, advocacy or analysis of current events.[23]

Ukraine has also developed NGOs, generally referred to as "think-tanks", which are part activists and part analytical centres. Organizations such as the Ukrainian Centre for Economic and Political Studies Olexander Razumkov,[24] the Europe XXI Foundation,[25] the Institute for Policy Studies[26] and the Democratic Initiatives Foundation,[27] as well as many others have been especially active in the past five years as a source of information about government policy and social trends. As the government has exerted increasing control over the media in Ukraine, these analytical centres have come to play a crucial role in informing society and have been an invaluable resource for the international community.

Nongovernmental organizations focusing on a specific social group have also been successful in Ukraine. There are numerous women's organizations, some tracing their history back to their creation in Western Ukraine in the 1930s and others of a more recent creation. They have taken on not only issues of social significance for women, such as trafficking and gender inequality, but some have also encouraged women to become more active in local and national politics.

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[22] The English language version of the group's website is at http://www.khpg.org/index.php?r=33 [accessed October 2004]

[23] Democratic Initiatives Foundation and SOCIS Centre for Social and Political Investigations, *Civil Society in Ukraine: Analytical Report*, New York: World Bank, 2003, http://siteresources.worldbank.org/INTUKRAINE/Resources/WB_Civil_Society_in_Ukraine_ENG.pdf [accessed October 2004]

[24] The Razumkov Centre's website is at http://www.uceps.org/eng/ [accessed October 2004]

[25] The Europe XXI Foundation's website is at http://www.europexxi.kiev.ua/ [accessed October 2004]

[26] The Institute for Policy Studies' website is at http://www.ipt.iatp.org.ua/ [accessed October 2004]

[27] The Democratic Initiatives Foundation's website is at http://www.dif.org.ua/ [accessed October 2004]

After the student protests in the autumn of 1990, which brought down the Ukrainian Prime Minister, youth organizations faded from the forefront of the protest movement. In the past two or three years, however, numerous student and youth groups have formed to press for student rights, to seek civic education that is missing in their educational establishments and most recently, to struggle for free and fair elections.

Since official control over the media began to intensify in Ukraine around 1999, nongovernmental organizations have also been formed to protect journalists' rights and also to collect and disseminate news and analysis as independent media outlets and a substitute for the government-controlled press. Such organizations generally work on the Internet and range from providing objective news (*Ukrains'ka Pravda*,[28] International Media Institute [now Institute for Mass Information][29]) to providing a forum for participants' discussion (e.g. *Maidan*[30]) and specialist resources for journalists (e.g. *Telekritika*[31]) to conducting monitoring of the media (e.g. Equal Access Committee and Spilniy Prostir, who are currently jointly providing media monitoring through the *Ukrainian Monitor for the Conscious Choice*[32]).

As the political situation has deteriorated and the forces around the president have pushed to increase the degree of authoritarian power during the past five years or so, Ukraine's community of nongovernmental organizations has stepped up its activities and self-organization to counteract these trends. Coalitions of NGOs have worked actively in cooperation with each other since the 1998 parliamentary elections. Their efforts were strongly felt in the March 2002 parliamentary elections and more so in their organization for the crucial October 2004 presidential election. Going by names such as New Choice 2004, Freedom of Choice, etc., the community of NGOs, each working in its field of specialization, carry out a range of activities. They conduct tracking polls, monitor the media, provide information about candidates, press the authorities to desist from using administrative resources for the pro-presidential candidate, track violations of the electoral law and provide thousands of observers for election day. Hundreds of NGOs will be involved in the October 2004 elections, with a special role for one of Ukraine's largest independent organizations, the Committee of Voters of Ukraine. The Committee has been in existence since the mid 1990s and claims a membership of around 20,000, mostly young volunteers. This organization provided thousands of domestic observers registered as journalists, when parliament passed a law prohibiting the presence of domestic nongovernmental observers at polling stations in the October 1999 presidential elections.[33]

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[28] The *Ukrains'ka Pravda* English version website is at http://www2.pravda.com.ua/en/ [accessed October 2004]

[29] The English version website of the Institute for Mass Information [formerly International Media Institute] is at http://eng.imi.org.ua/ [accessed October 2004]

[30] The *Maidan* website is at http://www.maidan.org.ua/ [accessed October 2004]

[31] An English-language digest of the *Telekritika* website is available at http://www.telekritika.kiev.ua/english.html [accessed October 2004]

[32] The English-language version of the *Ukrainian Monitor* is at http://prostir-monitor.org/index.php?language=eng [accessed October 2004]

[33] An English-language website for the Committee of Voters of Ukraine is available at http://www.cvu.org.ua/?lang=eng [accessed October 2004]

3.5.2 Political Parties

Although they are by no means close to behaving like, or performing all of the functions of political parties in developed democratic states, Ukraine's political parties are nonetheless an important part of civil society and together with Ukraine's third sector organizations they have maintained a level of discussion and debate in the political system that has been absent in other post-Soviet states. Their actions in the parliament have thus far been able to prevent the restoration of authoritarianism that has come to dominate the political system in Russia and elsewhere in the post-Soviet region.

For the first few years of independence, the only two political parties with any claim to having a popular base of support were the Rukh – the Popular Movement of Ukraine – officially recognized in 1989 as a legitimate manifestation of *glasnost* and *perestroika*, and the Communist Party. The latter, even though it was made illegal for a couple of years in the early 1990s, retained its base of support, primarily among the older population living in the Central and Eastern regions of Ukraine. It has retained many of its supporters up until the present day. These two parties dominated the ideological spectrum which, in the mid-1990s, divided up very simply between those who supported the Communists, wishing to see greater links if not reintegration into Russia and a halt to privatization of the state's resources, and those who supported the Rukh, which stood for strengthening Ukraine's sovereignty and greater outreach to the West.

As long as Ukraine retained the simple majority system for electing deputies to the parliament, the other parties remained weak and undifferentiated; but as soon as the law was changed to a 50/50 system, with half of the parliamentary deputies to be elected on a proportional party-list system for the 1998 elections, the scramble to create parties began.

Some of the powerful blocs that had emerged out of the Communist past and had been gaining strength and asserting their influence in both the business world and the political arena began to form parties. The peculiar nexus between the business and political worlds, highlighted in the emergence of oligarch-politicians, is not particular to Ukraine and has been seen as a phenomenon in many countries where the parliament offers immunity from arrest and where the division of state assets becomes a political affair. The emergence of political-financial blocs was first noted in Ukraine in 1994, when Leonid Kuchma first brought people from Dnipropetrovsk to Kyiv after his election as President; the creation of parties based on such clan-like loyalties has been a major feature of the Ukrainian political landscape in the past decade. This type of party was for the most part formed by major and minor oligarchs and includes such parties as the Social Democrats United, the National Democratic Party, Labour Ukraine, the Party of the Regions and a few others. Their distinguishing feature is that they have generally supported the president, primarily because their financial viability has usually depended upon this relationship. The major exception has been Yuliya Tymoshenko's party, Batkivshchyna, which has been in vehement opposition to the president, as a manifestation of their personal relationship.

Parties that have been implacably against the president have also emerged in the past five years. These have come together as the Our Ukraine bloc in the past two years – the two Rukh parties, Reforms and Order, the nationalist parties around the Congress

of Ukrainian Nationalists, and several others. On this side too are the members of Yuliya Tymoshenko's bloc.

The strength of these parties was tested in the March 2002 parliamentary elections, which were considered by many to be a trial referendum on President Kuchma. Only a few leading parties crossed the four per cent threshold to gain seats in parliament on a party list. The largest share of the proportional side of the vote was won by the presidential opponents: Our Ukraine (Nasha Ukraina) received 23.57 per cent; the Communist Party, also in the anti-presidential camp at that time came through with 19.98 per cent; Yuliya Tymoshenko's bloc polled 7.28 per cent and the Socialist Party 6.87 per cent. On the pro-presidential side: For a United Ukraine gained 11.77 per cent and the Social Democrats United 6.27 per cent. With these kinds of figures, it should have been expected that the parties in opposition to the president would have been able to dominate the parliament, with around 75 per cent of the population having voted for them. Though opposition parliamentarians thus gained a majority of the seats in Parliament that are determined through proportional representation, pro-presidential parties gained influence over the other 50% of seats that are filled through direct representation and were thereby able to gain the speaker's chair and other influential positions. These developments are an indication of the many hidden elements that feed into the way politics works in Ukraine. Nevertheless, it must be stressed that some political parties have been on the front line in preserving political space and pluralism in Ukraine, even though many of them are still personality based with only a weak reference to platform differences and membership concerns.

4 Review of the Human Rights Situation

The Ukrainian Constitution provides guarantees for all of the major rights and freedoms that form part of the international body of rights treaties and conventions: the Right to Life, Freedom of Expression, Freedom of Belief, Freedom of Assembly, Freedom of Movement, Socio-economic Rights and others. A close examination of the reality of implementation, however, shows a more mixed picture.[34]

4.1 Right to Life

Ukraine formally removed the death penalty from the criminal code in February 2000, thus bringing Ukraine's commitments in line with the Council of Europe. In addition, there had been a moratorium on executions since 1997, when Ukraine signed the European Convention for the Protection of Human Rights and Fundamental Freedoms. A number of high profile murders and suspicious deaths in the past few years, however, have highlighted the precariousness of the right to life in Ukraine. Since 2000, the murders of journalists Heorhiy Gongadze and Ihor Alexandrov have remained unsolved, with both suspected to have been perpetrated for political motives, and to have been, in fact, extra-judicial executions. The death in custody of police officer Ihor Honcharov, who had begun to reveal information about the

[34] For an overview of the human rights situation, see, United States, Department of State, *Country Reports on Human Rights Practices 2003: Ukraine*, Washington, 25 February 2004, http://www.state.gov/g/drl/rls/hrrpt/2003/27871pf.htm [accessed October 2004]. See also Amnesty International, *Ukraine before the United Nations Human Rights Committee*, London, 15 October 2001, http://web.amnesty.org/library/Index/ENGEUR500012001?open&of=ENG-UKR [accessed October 2004]

Gongadze case, was also considered extremely suspicious. The deaths of opposition politicians such as Yuri Bosak, Vyacheslav Chornovil, Ivan Havdyda, Vadim Hetman and Valeri Malev have contributed to the list of high profile cases that have gone unsolved. The unusually high death rate from unnatural causes in the military is also noteworthy.[35]

4.2 Freedom of Expression

The media in Ukraine continues to come under pressure to conform to the messages coming from the President's Administration.[36] The President's Administration issues theme directives, called *temnyky*, to all major news outlets and media, providing instructions on how the news is to be broadcast. This tends to ensure that the public presentation of most politicians will have a similar profile: pro-government politicians will be covered in a favourable way and the opposition, in most cases, not at all or else in a negative way. Information about the reaction of international institutions and foreign governments to events in Ukraine is also controlled and sanitized in this way. All three of the major national TV channels, UT-1, Channel One Plus One, and Inter, reflect the political line of the President's Administration. Some of the other smaller stations, for example ICTV, STB, and Novyi Kanal, which are owned by a less restricted segment of the political elite, have broadcast a somewhat wider range of opinions and political views. Channel 5, owned by a supporter of the leader of the Our Ukraine opposition bloc, Viktor Yushchenko, constantly has to struggle to remain on the air, even though its broadcasts are regarded by outside observers as offering an objective perspective from many points of view.[37]

Many other broadcast voices, which are generally regarded as having provided Ukrainian citizens with unbiased reporting and balanced debate, have now been silenced: the Ukrainian service of *Radio Free Europe/Radio Liberty*, which has for the past decade broadcast to a growing Ukrainian audience, was taken off the air early in 2004. In addition to broadcasting a range of political debates on issues in the run up to the presidential election *Radio Free Europe/Radio Liberty* had also just started to cover the trial in San Francisco of former Ukrainian Prime Minister Pavlo Lazarenko, accused of laundering millions of dollars of stolen money through US bank accounts. Another major independent broadcaster that has suffered much harassment in the past few years, *Radio Kontynent*, was closed and its assets seized, with its owner fleeing Ukraine in fear of his life.

There have been attempts to close *Sil's'ki visti*, the newspaper of the Socialist Party, which has generally been in opposition to the president. In addition, the flagship of independent internet publishers, *Ukrains'ka Pravda*, whose founder and editor-in-chief Heorhiy Gongadze was found decapitated in November 2000, has often come under pressure from court cases emanating from the President's Administration.

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[35] United States, Department of State, *Country Reports...2003...*

[36] See Human Rights Watch, *Negotiating the News: Informal State Censorship of Ukrainian Television*, New York, March 2003, http://www.hrw.org/reports/2003/ukraine0303/Ukraine0303.pdf [accessed October 2004]

[37] See, e.g., Maksymiuk, J., Analysis: Ukrainian Media Not Playing Fair in Presidential Campaign, *Radio Free* Europe, *Radio Liberty*, 2004, http://www.media.com.pl/institute/ukraine/archive_art87.htm [accessed October 2004]

4.3 Freedom of Belief

The Constitution and the 1991 law on Freedom of Conscience provide for freedom of belief. Religious freedom is not a major issue in Ukraine, although some problems do exist, particularly concerning disputes between confessions. The law requires that religious organizations should obtain registration with the State Committee for Religious Affairs, and registration is needed to acquire property and conduct any economic activities such as banking and publishing. "Non-indigenous" religious organizations, defined as any group other than Orthodox, Greek Catholic, and Jewish, face more restrictions on their activities, although there are no reports of government persecution. Other denominations active in Ukraine include, Roman Catholics, Muslims, Protestants, Evangelical Baptists, Seventh Day Adventists, Pentecostals, Mormons, Jehovah's Witnesses, and Evangelical Christians as well as new communities of Lutherans, Calvinists, Anglicans, Presbyterians, Methodists and others. The number of non-traditional groups has grown over the years and as of July 2003 includes 39 Krishna Consciousness communities, 42 Buddhist communities and 13 Baha'i communities.[38]

4.4 Freedom of Assembly

The Constitution and legislation provide for the freedom of assembly and association, although there are some restrictions: for instance, there is a requirement to apply for permission to hold demonstrations 10 days in advance. Many large demonstrations took place as part of the protest movement in 2000 and 2001, not always with the full consent of the authorities. Closer to the presidential election campaign of 2004, however, the authorities have attempted to prevent opposition candidates from holding large meetings[39] and used courts to limit freedom of assembly.

4.5 Freedom of Association

Groups that wish to undertake activities of any kind, open bank accounts, acquire property or enter into any kind of contract, must be registered with the government. The process of registration has sometimes been unduly delayed or obstructed by the registration authorities in the case of groups that have been perceived as helping the opposition, or as supporting controversial causes.[40] The largest independent organization is the 124,000-strong Confederation of Independent Trade Unions of Ukraine, which includes miners, steelworkers, railroad engineers, metro workers, dockworkers and others. Created in 1998, its affiliated independent trade unions have often come under scrutiny and attack by the authorities, especially since the Confederation was admitted to the International Confederation of Free Trade Unions (ICFTU) ahead of the old-style former Soviet trade unions, which still dominate the trade union movement in Ukraine. The president of the Confederation, Mykhailo Volynets, an opposition parliamentarian and supporter of Yuliya Tymoshenko,

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[38] United States, Department of State, *International Religious Freedom Report 2003*, Washington, December 2003, http://www.state.gov/g/drl/rls/irf/2003/24441.htm [accessed October 2004]

[39] See, e.g., Kuzio, T., Ukrainian Opposition Candidate Targeted by 'Skinheads', *Eurasia Daily Monitor*, 7 June 2004, http://www.jamestown.org/publications_details.php?volume_id=401&issue_id=2976&article_id=2368058 [accessed October 2004]

[40] See e.g. International Helsinki Committee for Human Rights, *Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2004 (Events of 2003): Ukraine*, Vienna, June 2004, http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3860 [accessed October 2004]

continues to come under pressure from the authorities, including a physical attack on a member of his family.[41]

4.6 Freedom of Movement

Freedom of movement has generally been respected by the Ukrainian government. The *propyska* system, a carry-over from the Soviet era when registration at the place of residence was required to procure jobs and social benefits, in practice has not been exercised since 2001. Ukrainian citizens have not been prevented from leaving the country either to work or to emigrate, and many have taken the opportunity to work abroad legally or illegally.

Refugees and migrants fall under the jurisdiction of the laws on refugees, immigration and aliens. Refugee status determination is undertaken by the State Committee for Nationalities and Migration, though access to it remains limited by law and practice. As a result, many asylum seekers remain undocumented exposing them to harassment, arrest, detention or deportation. Persons recognised as refugees, are entitled to almost all the rights and benefits accorded to citizens. Under the law on citizenship, legally registered refugees may apply for citizenship after three years of permanent residence.[42]

Ukrainian legislation does not yet allow for the granting of any international protection subsidiary or complementary to convention refugee status. It also does not yet stipulate protection against deportation that should be warranted by an implementation of international law, for example, the Convention against Torture and Other Cruel and Degrading Treatment or Punishment or the European Convention for the Protection of Human Rights and Fundamental Freedoms. As a result, for instance, in 1999, some Uzbek citizens fleeing from persecution by the Uzbek government arrived in Ukraine and were summarily apprehended and returned to Uzbekistan by the Ukrainian authorities.[43]

5 Vulnerable Groups

5.1 Ethnic Groups

Crimean Tatars

The Crimean Tatars are unique among ethnic minorities in Ukraine in that they claim the Crimean peninsula as their only homeland, from which they were deported by Stalin in 1944 for allegedly collaborating with the Nazis during the Second World War.[44] Officially rehabilitated in 1967, they were allowed to return from their places of deportation in Central Asia only since 1988. Estimates vary, but most sources calculate that around 260,000 have returned, now forming around 12 per cent of the

[41] Son of Miners' Union President, Ukrainian MP Brutally Assaulted: Political Motivation behind Near-Death Assault of Andriy Volynets, *ICEM [International Federation of Chemical, Energy, Mine and General Workers Unions] Update*, 10 March 2004 http://www.icem.org/update/upd2004/upd04-14.html [accessed October 2004]

[42] United States, Department of State, *Country Reports..;* For more detail on refugee and asylum issues see *Country Operations Plan 2004 Ukraine*, Refworld 2004, issue 12 CDROM1.

[43] Amnesty International, *Annual Report 2000: Ukraine*, London, 2000

[44] Conquest, R., *The Nation Killers: The Soviet Deportation of Nationalities*, London: Macmillan, 1970

population of Crimea. Crimean Tatars who returned before 1991 gained citizenship of the newly-independent Ukraine, but over one hundred thousand who returned later initially faced problems in acquiring citizenship. The conclusion of bilateral agreements on simplified procedures for the changing citizenship, for example with Uzbekistan in September 1998, as well as progressive improvement of the citizenship law, enacted with advice from UNHCR and the OSCE High Commissioner on National Minorities, led to a solution to almost all these cases by the end of 2001. 1997-2001, UNHCR also launched a programme to conduct an information campaign about the simplified procedures as well as a programme to create jobs and housing for the returnees.

Under the terms of the 1996 Ukrainian constitution, Crimea was once again given the status of Autonomous Republic with its own parliament. In the parliamentary elections of 2002, only eight Crimean Tatars were elected to the Crimean parliament, while a further 933 were elected to various levels of local government. Six Crimean Tatars are members of the Crimean Cabinet of Ministers. The national legislature of Ukraine, the Verkhovna Rada in Kyiv, includes two Crimean Tatars, both affiliated with the Our Ukraine opposition faction.

Despite significant international attention to their problems, Crimean Tatars remain disadvantaged in many ways, with an unemployment rate of 46 per cent. Many remain without a permanent home, 70 per cent of their settlements lack running water and 90 per cent lack paved roads. In addition, the majority ethnic Russian population continues to discriminate socially against the Tatars, often harking back to the negative stereotypes created by Soviet propaganda. Crimean Tatars have tended to side with nationally conscious Ukrainians, who are also in a minority on the peninsula.[45]

Roma

According to the census of 2001, there are around 47,600 Roma in Ukraine, although unofficial estimates by experts from the Institute of Culture, Folklore and Ethnology of the Ukrainian Academy of Sciences are as high as 200,000. The Roma of Ukraine suffer a very high rate of unemployment and low level of integration into society as a whole.[46]

Ethnic Russians

The ethnic Russian minority in Ukraine constitutes 17 per cent of the population, concentrated mainly in the east and south of the country. Policies toward the Russians are ambivalent, however. Although Ukrainian is the official state language and its use is mandated by law in government institutions and the media, Russian is routinely used without penalty. Many ethnic Ukrainians continue to use Russian, and Russian language newspapers and literature are freely available. Allegations that the

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[45] Based on materials provided by the US-Ukraine Foundation's Pylyp Orlyk Institute for Democracy in Kiev. See also Belitser, N., "Indigenous Status" for Crimean Tatars in Ukraine: A History of a Political Debate, research paper, University of Birmingham, 2002, available at http://www.cidct.org.ua/en/studii/15-16/2.html [accessed October 2004]; The 2001 census counted 248,200 Crimean Tatars, while the Tatar political leadership claims to represent about 275,000.

[46] Tyshchenko, Y., Roma in Ukraine, unpublished paper, Ukrainian Centre for Independent Political Research, Kiev, September 2004

obligatory use of Ukrainian discriminates against Russian speakers do not generally appear to have been well founded.[47]

5.2 Prisoners

Ukraine is a signatory to a number of European and international treaties that set conditions for the treatment of prisoners. The Ukrainian constitution also prohibits torture and specifies the requirement to investigate such allegations. Nonetheless, the conditions of incarceration remain harsh and in some cases life threatening. The human rights Ombudsman has suggested that 30 per cent of prisoners have been victims of torture. Some reports refer to special military detachments using the beating and torture of prisoners as training practice. Other reports state that 25,000 individuals are being held in prison cells without windows or toilets and that funds for food for prisoners is often misallocated. As a result of the poor conditions in prisons, there is a high rate of diseases such as tuberculosis and dysentery among inmates. There is, however, general agreement among human rights organizations that Ukraine no longer holds political prisoners.[48] During the campaign for the presidential elections, scheduled for 31 October 2004, opposition activists have been subject to detentions that are viewed by many as politically motivated.[49]

5.3 Women

Women are guaranteed equal rights by the Constitution in Ukraine, although in practice they often encounter discrimination.[50] Although women generally are well educated and participated extensively in the labour force during the Soviet period, recent trends have revealed increasing unemployment among women, salary discrepancies, under-representation in decision-making positions and an increasing concentration in a limited range of occupations such as teaching, nursing, accountancy and in the service sector. Formally and legally, there are apparently generous provisions for maternity leave, but the result has been a general reluctance by employers to hire women of childbearing age. The protection of women against domestic or sexual violence is generally considered as weak or ineffective.

As part of the Soviet Union and as far back as the nineteenth century, Ukraine has had a tradition of women's organizations. Ukrainian women's groups in nineteenth century Galicia, in the Austrian empire, provided a gathering place for women to pursue intellectual interests as well as carry out consciousness raising and good works. The tradition has endured to the present day, when issues such as the trafficking of women have emerged as serious social problems. Women's

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[47] Ukraine: Kyiv Imposes Controversial Ban on Russian-Language Broadcasts, *Radio Free Europe/Radio Liberty*, 16 April 2004, http://www.rferl.org/featuresarticle/2004/04/cda8b69c-7f6d-42c0-8417-cfc66fa1545d.html [accessed October 2004]

[48] See Amnesty International, *Ukraine before the United Nations Human Rights Committee...*, United States, Department of State, *Country Reports...2003...*

[49] See *Ukraine: Opposition activists arbitrarily detained*, Press release of Amnesty International 25 October 2004, http://news.amnesty.org/index/ENGEUR500042004 [accessed October 2004]

[50] Human Rights Watch, *Women's Work: Discrimination Against Women in the Ukrainian Labor Force*, New York, August 2003, http://www.hrw.org/reports/2003/ukraine0803/ [accessed October 2004]

organizations such as La Strada-Ukraine focus on combating the trafficking of women and assisting its victims.

As the level of unemployment among women rose during the 1990s and opportunities for travel opened up, many Ukrainian women sought alternative employment abroad. In many cases, they then fell victim to deceptive inducements by professional traffickers. According to the Ukrainian Ministry of the Interior, by the late 1990s, an estimated 400,000 women had been trafficked from Ukraine.[51] Ukraine is also a transit point for women coming from farther east. In addition to the sex industry, many Ukrainian women have migrated to Western Europe, both legally and illegally, to work as housekeepers and caregivers to an ageing West European population. In many of these situations, the level of exploitation and lack of rights and protection expose these women to dangers that the Ukrainian government is reluctant to take up on an international level.

5.4 Children

Children's rights in Ukraine are protected under the Convention on the Rights of the Child, although there remain significant discrepancies between Ukrainian legislation and international norms. Child labour is not a significant problem, although 17-year-old minors are allowed to voluntarily join the armed forces, where they often undertake physical labour, as do other conscripts. Domestic violence against children, and particularly sexual molestation, often goes unreported and is largely still a taboo subject for public debate. Ukraine suffers from a major problem with homeless street children, many abandoned by parents who are unable or uninterested in taking care of them. Conditions in orphanages are reported to be inadequate.[52]

5.5 Journalists

The situation of journalists deserves a special mention as a new category of the extremely vulnerable in Ukraine. Because of the deteriorating political situation, the rise of corruption and increasing control over the media by the authorities, the profession has become more dangerous in the past few years. In 2001, the Committee to Protect Journalists ranked President Kuchma number seven on its list of the 10 worst enemies of the press in the world.[53] In 2003, Reporters Without Borders, which tracks journalists' rights throughout the world, ranked the situation of the press in Ukraine as 132nd out of 166 countries.[54]

In the years just prior to and immediately after the presidential election of 1999, many journalists were finding themselves increasingly either censored or excluded from the

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[51] See International Organization for Migration, *Information Campaign against Trafficking in Women from Ukraine: Research Report*, Geneva, July 1998, http://www.iom.ch/documents/publication/en/ukr_traff_women_proj_rep_part1.pdf [accessed October 2004]

[52] See World Organization Against Torture (OMCT – Organisation Mondiale Contre la Torture), *Rights of the Child in Ukraine*, Geneva, 2002

[53] Committee to Protect Journalists, *Europe and Central Asia 2001*, New York, 2002, http://www.cpj.org/attacks01/europe01/europe.html [accessed October 2004]

[54] Reporters Without Borders, *Second World Press Freedom Ranking 2003*, Paris, October 2003, http://www.rsf.org/article.php3?id_article=8247 [accessed October 2004]

mass media, primarily from state television. Some, like the young investigative journalist Heorhiy Gongadze, believed that the high level of corruption within government circles was one of the main reasons why the media and flow of information was being controlled.[55] The difficulties he was encountering in publishing investigative pieces, especially about members of the political elite, led him to establish an internet publication, *Ukrains'ka Pravda* early in 2000. His mysterious disappearance on 16 September 2000 and the subsequent discovery of his decapitated body a couple of months later sent shock waves through the community of journalists. However, even this incident may have remained an unsolved and soon to be forgotten crime had it not been for the sensational revelation in the Ukrainian parliament by the Socialist party leader Alexander Moroz in November 2000, of secretly recorded tapes implicating the president and his top officials in the crime. Despite the persistent denials of the Ukrainian leadership, the case has received broad publicity and has become a cause celèbre worldwide.[56]

Since 2000, many investigative journalists have come under pressure, especially those pushing to solve this case, such as Oleg Yeltsov. Another journalist, Volodymyr Yefremov, died in a mysterious car accident in July 2003.[57] Another instance of harassment involves Serhii Sholokh, the owner and manager of the radio station *Kontynent*, which was planning to re-broadcast *Radio Free Europe/Radio Liberty*, and already carried *BBC* and *Deutsche Welle* on its airwaves. For a couple of years *Kontynent* had been broadcasting without a licence, while waiting for its case to go through the European Court of Human Rights. Nevertheless, due to the increasing control of the government over the media, the station was closed down by a group of unknown men who came to take away the equipment. Sholokh himself was threatened with physical violence and chose after that incident to flee the country. He currently has refugee status in the United States.[58]

Other journalists have simply run afoul of corrupt business associations, but because of the close links between corrupt business and the law enforcement authorities, the likelihood of receiving due process seems remote. The death by beating in July 2001 of Ihor Alexandrov, the director of the *TOR* television station, is assumed to have been because of his investigation of corruption in Donetsk. None of the cases of murdered journalists have been adequately investigated in Ukraine.

6 The Human Rights Situation since 1999

Many observers have pointed to the autumn of 2000 as a turning point in Ukraine, when the human rights situation began to deteriorate rapidly in parallel with a

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[55] Heorhiy Gongadze. Personal interview, Washington DC, December 1999

[56] For an account of the murder and attempt to describe the political situation at that time see Koshiw, J., *Beheaded: The Killing of a Journalist*, London: Artemia Press, 2003

[57] Smith, C.H., Statement: Murder of Ukrainian Heorhiy Gongadze Still Unsolved after 3 Years, *Congressional Record*, 16 September 2003, http://www.csce.gov/crs_csce.cfm?crs_id=202 [accessed October 2004]

[58] Pawlowsky, V., Serhii Sholokh: 'I Fear that the Closure of Kontynent Is Not the Last Action against Freedom in Ukraine', *Ukrainian Weekly*, 14 March 2004; text available at http://www.memo98.sk/en/index.php?base=data/newsletter/6/ukraine_interview_sholokh.txt [accessed October 2004]

worsening political environment. Following his re-election in October 1999, President Kuchma appointed the former head of the National Bank, Viktor Yushchenko, as Prime Minister after a couple of other candidates were turned down by the parliament. This began a period of internal conflict between the supporters of the president on one side – generally members of the old former Soviet elite – and what could be loosely called the pro-Western forces and opponents of the president. This polarization has channeled most of the human rights and civil society organizations in Ukraine into work that monitors the actions of the government and presses for a more open and accountable system. Many of the major public protests and government reprisals against journalists, and activities of opposition politicians and civic activists in this period, should be viewed in this context.

The political crisis in Ukraine was also exacerbated by a sharp response from the international community, particularly after the details of the Gongadze case began to emerge. The tapes, which had allegedly revealed high-level government complicity in the murder of Gongadze, also contained information about illegal arms sales to Iraq, which further alienated the West.[59] The Ukrainian government's denial and the US insistence that approval to authorize sale was given, remains an unresolved issue between Ukraine and the United States to this day. The dismissal of the popular pro-Western Foreign Minister Borys Tarasyuk earlier in the autumn of 2000 strengthened the impression that Ukraine's leadership was moving away from a Western orientation.

The death of the popular parliamentarian Alexander Yemets in a car accident in January 2001, reopened questions about the accident which had killed the leading democratic politician Vyacheslav Chornovil two years earlier.[60] The murders of a number of regional politicians intensified suspicions and rumours that many such crimes were politically motivated and that corrupt officials had the upper hand in Ukraine's government.

News of all of these events was not to be found in the state-controlled mass media, but the population and especially young people soon learned enough to launch a wave of public protests – the largest protest movement in any of the former post-Soviet states in the past decade.[61] The plan to put up tents for a "sit in" protest in the centre of Kyiv in mid-December 2000 came initially from the youth connected to the Socialist Party and was quickly joined by more radical groups from both the left and the right such as the UNA (Ukrainian National Assembly) as well as the young Communists. A number of politicians also soon started to take an interest in the nascent movement. The "tent city" protests were held under the slogan "Ukraine without Kuchma". Young people gathered from all around the country to join the tent sit-ins and the pickets of the main government office buildings, the President's

[59] See,e.g., Niekerk, P. and Verloy, A., Kuchma Approved Sale of Weapons System to Iraq, Washington: Center for Public Integrity, 15 April 2002, http://www.publicintegrity.org/report.aspx?aid=209&sid=100 [accessed October 2004]

[60] Bachynsky, Y., Three Deputies Die in Ukraine, *Ukrainian Weekly*, 11 February 2001

[61] Gongadze, M. and Kudelia, S., Challenging the State: Political Elite, Protest Movement and the Opportunity for Democratic Change in Ukraine 2000-2001, unpublished paper, presented at the Eighth Annual World Convention of the Association for the Study of Nationalities, Columbia University, 3-5 April 2003

Administration and the Ministries. The first mass demonstration took place on 19 December 2000, consisting of around 5,000 people. By the time the protests wound down for the holidays, similar tent camps had appeared in other cities such as Cherkasy, Chernivtsi and Lviv. Another group that coalesced on the crest of the political crisis at that time was the For Truth group. Bringing together seven youth organizations, this new group also reunited some of the original student hunger strikers from 1990. It advertised its aims as being broader than to merely be rid of the president, thus anticipating gaining wider support.

The protest movement took on a more political edge in early 2001 in response to the dismissal of one of the deputy prime ministers, Yuliya Tymoshenko, who had been a leading advocate of curbing the oligarch's powers within the government. In February, a demonstration of up to 50,000 took on the form of a "Tribunal against Kuchma". A few days later, the tent-city in Kyiv was forcibly dismantled, following a court order. The crisis came to a head at the 9 March 2001 commemoration of the Ukrainian national poet Taras Shevchenko's birth. By tradition, the president lays flowers at the poet's statue every year. This year, the event turned into a protest by young people gathered under the auspices of the Ukraine without Kuchma campaign and the For Truth committee. Around 250 young people were arrested in clashes that ensued. Rumour abounded, and some people's deputies as well as members of the security services claimed they had evidence that the skirmishes had been deliberately stirred up by provocateurs. Several of the protesters remained in prison for more than a year.[62]

In April 2001, Prime Minister Yushchenko was dismissed in a vote of no confidence by the parliament. Protests occurred intermittently throughout the following year to culminate in a mass rally in Kyiv on the anniversary of Gongadze's disappearance in September 2002. By that time, however, the opposition's failure to consolidate power after the parliamentary elections and the lack of progress on the Gongadze case undermined the impetus for renewed public protest.

7 The Elections of 2004

Many commentators have described the presidential elections of October 2004 as the culmination of a struggle between the pro-government forces and the political opposition, which has become personified in the election choice between the current Prime Minster Viktor Yanukovych, supported by the president, and the former Prime Minister and leader of the opposition Our Ukraine bloc, Viktor Yushchenko.[63] The choice offered by these two leading candidates illustrates the growing polarization within the political elite and reflects long-standing divisions within Ukrainian society. Yanukovych's home base is the Donbas region and other regions with stronger Russian ethnic and language influence, while Yushchenko is overwhelmingly supported by Ukrainians in the capital, central and western regions. His candidacy

[62] Amnesty International, *Concerns in Europe January to June 2001: Ukraine*, London, 1 September 2001

[63] Diuk, N., Statement before the Subcommittee on Europe of the Committee on International Relations of the US Congress House of Representative, 12 May 2004, http://commdocs.house.gov/committees/intlrel/hfa93661.000/hfa93661_0f.htm [accessed October 2004]

appears more attractive to younger and better educated voters that starve for change, modernization and a stronger European and Euro-Atlantic orientation of Ukraine. Followers of Yanukovych, on the other hand, tend to prefer preservation of the status quo, claiming that a victory of Yushchenko would lead to deterioration of relations with Russia and of the status of the Russian language in Ukraine. The apparent stark choice posed by the election has engaged an increasingly polarized Ukrainian population. In mid-September, tracking polls were giving Yushchenko the lead with Yanukovych in second place out of the 26 candidates, and Yushchenko the clear lead by five to seven points in a second round run-off. [64]

Numerous statements and expressions of concern from the international community to the government of Ukraine show significant international interest in seeing a free and fair process and also the extent to which relations with Ukraine have been dominated by the electoral race in the past few months. Despite the high level of interest in the Ukrainian elections both at home and abroad, there is evidence of pre-electoral violations and irregularities, documented by international organizations such as the OSCE and domestic NGOs such as the Committee of Voters, as well as supporters of the various political factions. [65]

Despite the lack of information in the media, a large percentage of the Ukrainian electorate believes that the election will not be free and fair and that significant violations have already been observed. A full 77 per cent believe that there will be violations and 65 per cent believe that the outcome will not be free and fair. Nonetheless, Ukrainians are determined to vote: 68 per cent say that they will definitely take part in the elections and an additional 18 per cent say that they will probably take part.[66]

In previous elections in Ukraine, the OSCE has highlighted two major deficiencies: the lack of objectivity of the media and the lack of access for opposition candidates and the use of administrative resources in support of pro-government candidates. Ukrainian NGOs and independent news outlets have reported many other types of violations. As of early October 2004 violations that had already been noted included local authorities preventing Yushchenko from holding rallies around the country; packing the electoral commissions with supporters of the other 26 candidates, with the anticipation that they will be coerced into support for Yanukovych when their candidate drops out; preparations to manipulate the vote in closed institutions such as hospitals and military bases; registering pro-Yanukovych voters en masse in Russia; and releasing false public opinion polls conducted by Russian polling companies. In addition, the Yushchenko campaign claimed that there had been two attempts on their candidate's life: the first in the summer when a KamAz truck attempted to push his

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[64] See, e.g., Rating of Candidates for the Presidency of Ukraine (8-19 September), *Tak*, 24 September 2004, http://www.razom.org.ua/en/news/cat/4/ [accessed October 2004]

[65] Organization for Security and Cooperation in Europe, Election Observation Mission Presidential Election Ukraine, *Interim Report 3: 30 September – 8 October*, Kyiv, October 2004; Committee of Voters of Ukraine, *Report of the Pre-election Environment for September 16 to October 3 2004*, Kyiv, 8 October 2004

[66] Statistics from polling conducted by the Democratic Initiatives Foundation, Kiev. Data published 29 September 2004, available at http://www.dif.org.ua/doc.php?action=doc&i=103&id=290904035820 [accessed October 2004]

car off the road, and the second in September when he was taken into a clinic in Austria and diagnosed with chemical poisoning.[67]

Many domestic and international observers in the Western Ukrainian city town of Mukachevo noted unorthodox methods of manipulating the elections in April 2004, during the election for mayor. Numerous reports detail how skinhead thugs roughed up a number of the parliamentarians, who had travelled there to observe the elections, threw authorized observers out of the polling stations, smashed up some of the polling stations, threatened and harassed exit poll workers, and stole the ballot papers and protocols at the close of voting. These incidents took place in full view of the international observers present.[68]

8 Conclusion

The outcome of the presidential election of October 2004 will be a watershed for Ukraine, which will determine its political and economic orientation for some time to come and will shape the environment for the development or deterioration of the well-being of its citizens, including the overall human rights situation and the protection of vulnerable minorities and individuals. With such a hard fought campaign and the divisions it is creating in society, it may be anticipated that whoever wins, there will be some unrest for a while. However, for many Ukrainian citizens the choice has been distilled down to a clear difference in orientation for the country – towards Europe or back to Russia.

The importance of the elections for the human rights situation in Ukraine and the general social environment will be far-reaching. As this report shows, Ukraine's laws and Constitution provide a good framework and guarantees for protecting the civil liberties and human rights of individuals and vulnerable groups of citizens and refugees. The main issue for Ukraine today is whether its leadership will exercise the political will to enforce and implement these laws and achieve its potential as a democratic state that is part of Europe.

The Ukrainian presidential elections of 2004 are unlike any that have taken place in the post-Soviet states. The clear choice of candidates, the existence of a lively and sophisticated opposition that enjoys mass support, and the activities of increasingly well organized and sophisticated civil society organizations, sets the country apart from others in the region. During the 1990s, Ukraine made good progress toward joining a number of international organizations and was poised to be considered for entry into NATO and the European Union. Unfortunately, the slow progress on democratic reforms enabled the old elite to consolidate their hold on power and on the process of privatizing the state's assets. For some members of the pro-government elite, the election represents a major struggle not only to stay in power, but also to defend themselves against possible criminal investigations in the event of an opposition victory.

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[67] Organization for Security and Cooperation in Europe, Election Observation Mission...

[68] See e.g., Kuzio, T., Dirty Election Tactics in Ukraine, *Jamestown Foundation Eurasia Daily Monitor*, 6 May 2004

A continuation of the policies of the current leadership is likely to lead to lack of economic opportunities caused by corruption and continuing lack of economic reforms to support the growth of small and medium business. This will encourage even more migration of legal and illegal workers to Western Europe. It is likely that disillusionment felt by the leaders of civil society in experiencing an unfair election might also encourage their migration to the West, or at least a withdrawal of the best civic leaders from public activity. Another scenario in the event of an obviously manipulated election might be clashes between the authorities and an enraged public. The continuation of a system that controls the media and threatens its opponents is not a good prognosis for positive developments in Ukraine.

If the elections turn out to be free and fair, the prospects for social stability and strengthening Western values look promising. A new government could quickly gain the confidence of a majority of the population and could resume Ukraine's move toward Europe.

The elections of March 2002 and October 2004 have had a galvanizing effect on an already increasingly professional and sophisticated Ukrainian civil society. It seems that the more attempts there have been to manipulate the society, the media and the elections, the more resilient civil society and its organizations have become. This bodes well for the future. Ukraine already has a more pluralistic and diverse political culture that any of the other post-Soviet states with the exception of the Baltics.

The next few months will show whether Ukrainian citizens will continue to be distracted in the struggle with a system where reforms for the average individual have proved slow to bring social and economic benefits and security or whether they will finally be able to realise their potential in their own country.

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