

Ukraine

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U.S. Department of State

Ukraine Country Report on Human Rights Practices for 1998

Released by the Bureau of Democracy, Human Rights, and Labor, February 26, 1999.

UKRAINE

Ukraine is governed by a directly-elected president and a unicameral parliament, the Verkhovna Rada (Supreme Council), which is elected partially according to proportional representation and partially by direct constituency mandate. According to international observers, the parliamentary elections held in March were an improvement over those held in 1994. Despite numerous flaws and irregularities, the elections generally reflected the will of the electorate. The President appoints the Cabinet and controls government operations. Although the Constitution mandates an independent judiciary, the courts are funded through the Ministry of Justice and are subject to political interference and corruption, and are inefficient.

The Security Service of Ukraine (SBU), the Ministry of Internal Affairs (which controls the various police forces), and the Ministry of Defense all have equal responsibility for internal security and report to the President through the Cabinet. The National Bureau of Investigation, established by presidential decree in 1997, was still not funded or fully organized by year's end. The armed forces largely have remained outside politics. While civilian authorities generally maintain effective control of the security forces, institutional government corruption sometimes can lead to their improper use. The SBU and other government agencies have interfered indirectly in the political process through criminal investigations of politicians, journalists, and influential businessmen. The SBU, police, and Prosecutor's Office have drawn domestic and international criticism for their failure to take adequate action to curb institutional corruption and abuse in the Government. Members of the security forces committed human rights abuses.

Ukraine is making a difficult transition from a centrally planned to a market-based economy. The private sector has continued to grow and now represents a substantial portion of the economy. Nevertheless, the country remains in a serious economic crisis. Industrial output has suffered years of sharp decline. Reform, particularly in the agricultural sector, has stagnated. According to official statistics, about half the workforce is employed formally in manufacturing, with the balance divided between services and agriculture; however, in reality many industrial enterprises have reduced or stopped production. Exports are diversified and include metals, chemicals, sugar, and semi-finished goods. Annual per capita gross domestic product for 1998 was approximately \$1,000. However, millions of employees go months without being paid, and most people derive a significant proportion of their income from the shadow economy. The Russian financial crisis adversely affected Ukraine's currency market, leading to a 70 percent devaluation and increased inflation. Investment remains at low levels with many potential investors discouraged by rampant corruption, onerous taxation, and arbitrary licensing practices. Unemployment has affected women disproportionately. Wealth is concentrated among the political elite and directors of state-dominated sectors such as metals, oil, and gas.

Ukraine's human rights record during the year was mixed; there was limited progress in some areas, but serious problems persisted. There were more reports of human rights violations than in the previous year, primarily due to infringements on freedom of the press and reports of government interference in the March parliamentary elections.

The criminal justice system has been slow to reform. Prison conditions are harsh, and police and prison officials regularly beat detainees and prisoners, and there were numerous instances of torture sometimes resulting in death; the beating of conscripts in the army by fellow soldiers was common and sometimes resulted in death. The Government rarely punishes officials who commit such abuses. There were instances of arbitrary arrest and detentions. Lengthy pretrial detention in very poor conditions was common, and detainees often spent months in pretrial detention for violations that involved little or no prison time if convicted. Long delays in trials are a problem. Political interference and corruption continue to affect the judicial process. The judiciary is overburdened, inefficient, and lacks sufficient funding and staff. These factors undermine citizens' right to a fair trial. The State continued to intrude inordinately in citizens' lives. The Government increasingly interfered with freedom of the press, most notably in the context of the March parliamentary elections. There were significant restrictions on freedom of association and limitations placed on nonnative religious organizations. There also are some limits on freedom of movement. Laws governing political party organizations have the potential to limit human rights. Violence against women and children; trafficking in women; discrimination against women; deep-seated societal anti-Semitism; and discrimination against religious, racial, and ethnic minorities are problems.

The 1996 Constitution provides a legal framework for protecting civil and human rights; however, many constitutional provisions still await the passage of enabling legislation. Consequently, actual human rights practices often do not conform to constitutional requirements, and many areas of life still are regulated by Soviet law and practices. Nonetheless, the country has made progress on a number of basic freedoms, including freedom of speech, which is generally respected. In addition, on several occasions, the Government implemented measures to punish officials who committed or abetted mistreatment of detainees and to purge local law enforcement agencies of corrupt elements. These measures do not appear to have had a significant effect, but are a first step. In January the President signed into law the creation of the constitutionally mandated Office of the Human Rights Ombudsman, and the Rada elected the first Ombudsman in April. However, the law does not provide any significant enforcement authority or provide for penalties for obstructing the Ombudsman's inquiries. In addition the 1998 budget contained no funding for the offices and staff of the Human Rights Ombudsman. Despite these hindrances, the Ombudsman's office was active in investigating human rights violations.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political killings by government agents; however, the pervasiveness of corruption, connections between government officials and organized crime, and the political activities of organized crime figures often blurred the distinction between political and criminal acts. Politicians,

politically connected businessmen, campaign managers, and journalists were victims of possibly politically motivated--and sometimes fatal--attacks.

According to official statistics, there were 46 contract killings during the year, some of which may have been politically motivated. In April Vadym Hetman, former Member of Parliament and former director of the National Bank, was murdered outside his home. In February the deputy head of the Crimean government, Aleksandr Safontsev, was killed in a bomb explosion in Simferopol. The mayor of Shakhtersk was murdered in February. The campaign manager of a prominent Kiev mayoral candidate was found strangled in March. At year's end, these cases remained unsolved. In addition several politically active individuals were wounded in violent attacks.

Abuse of prisoners and detainees, and harsh prison conditions, sometimes led to death (see Section 1.c.). For example, a police officer in Kryuyrh beat a person to death; however, he was arrested and prosecuted. One of his colleagues also was arrested for condoning the beating (see Section 1.c.). There were 2,300 deaths in prison and detention facilities during the year.

Members of the military killed soldiers during violent hazing incidents (see Section 1.c.). According to a government official, 10 to 12 military personnel were beaten to death during the year, and a total of 20 to 30 died as an indirect result of injuries sustained from hazing. The Procuracy prosecuted approximately 200 military personnel for violent hazing during the year.

The Government made no known progress in resolving a number of the high profile killings of the past years. There was no progress in resolving the 1997 murders of the governor of the Razoolnensky district; the Crimean Deputy Minister for Tourism and Resorts; and the prominent businessman, Arkadiy Tabachnyk of Odesa; or the bombing of the intensive care unit of a hospital in Simferopol. The Government announced in the autumn that it had identified the killers of Rada deputy Yevhen Scherban in 1996 but did not publicize their names.

b. Disappearance

There were no reports of politically motivated disappearances.

There were no new developments in the 1996 kidnaping of the former speaker of the Crimean legislature or the 1994 disappearance of Myhailo Boichyshyn, a prominent leader of the Popular Movement of Ukraine party.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture; however, police and prison officials regularly beat detainees and prisoners, and there were numerous reports of such abuse. Amnesty International and other human rights groups continued to receive regular reports that Berkut (special militia units or riot police) troops beat and tortured inmates as part of regular training exercises. The media reports that police subject detainees to the "swallow" where the detainee is placed on his stomach and his feet are tied to his hands behind him, forcing his back to arch. Another abuse is the "baby elephant," where a gas mask is placed on the prisoner's head and the flow of oxygen slowly reduced. Other detainees are beaten until they waive their right to an attorney. There is no effective mechanism for registering

complaints about mistreatment or for obtaining redress for such actions. Prisoners may address complaints to the Human Rights Ombudsman and, in the first 5 months of its operation, that office received widespread reports of torture in pretrial detention. However, the Ombudsman has no enforcement authority, and the Government made little effort during the year to end such practices or to punish officials who committed or abetted such abuses. According to the office of the Human Rights Ombudsman, most of the complaints it received centered on human rights violations by law enforcement personnel.

Police also abused Roma, particularly in the Transcarpathian region, and harassed and abused dark-skinned persons (see Section 5).

In April by presidential edict, the Government created a Penal Department to oversee reform of the penal system and to serve as the administrative center of the penal system. The new department originally was placed under the supervision of the Ministry of Interior. Subsequently, however, it was placed under the Ministry of Justice, as requested by international observers. To date there have been no known changes in personnel, responsibilities, or practices from those of the Interior Ministry's penal system administration. The Government also acted to punish some prison and police officials who committed or condoned violence against prisoners. A supervising police officer in Kryvy Rih was arrested for condoning the actions of his colleague, who in 1997 beat to death an inmate of a "sobering center," to which publicly drunken persons are taken. In Sevastopol a court convicted a police officer of the 1996 beating death of a detainee in police custody. Given the scope of the problem, these isolated actions failed to limit abuses. Police corruption also remains a serious problem.

There were continued reports of harsh conditions and violence against conscripts in the armed forces. Senior officers reportedly required malnourished recruits to beg for food or money. Senior conscripts often beat recruits, sometimes to death. Punishment administered for committing or condoning such activities did not serve as an effective deterrent to the further practice of such abuses. Since 1991 450 soldiers have been convicted of violent harassment of their colleagues. Approximately 200 military personnel were prosecuted during the year for violent hazing (10 to 12 conscripts were beaten to death and 20 to 30 died from injuries related to hazing) (see Section 1.c.); sentences for beatings without serious injury were 2 to 3 years in a military penal unit. In May two soldiers were sentenced to 15 years in prison for killing a recruit. In June a court sentenced two soldiers to 15 years in prison and sentenced two others to 2 years in a penal unit for beating a young recruit until he committed suicide in 1997.

There were no developments in the 1996 beating of the Member of Parliament (M.P.) from Kiev (Myroslav Horbatiuk) or the attack on the former M.P. from Zaporizhzhia (Victor Slesarenko) whose car was blown up. They had claimed that the violent attacks against them were linked to their investigations into high-level corruption in the Government. The Government still has not announced the results of its investigations.

There was no improvement in prison conditions, which are very harsh and do not meet minimum international standards. Prison officials intimidate and mistreat inmates. Due in part to the severe economic crisis, prisons and detention centers are severely overcrowded and lack adequate sanitation and medical facilities. Due to overcrowding, the Parliament announced in July a mass amnesty that released 25,000 inmates. Because the country lacks a well-developed system of suspended sentences, and

the law does not differentiate between misdemeanors and felonies, at least one-third of inmates were convicted of only minor violations.

According to the law, information on prison and pretrial detention conditions is considered to be a state secret, and no official statistics are available. However, information from diplomatic sources indicated that at the beginning of the year there were 218,085 prisoners in the penal system, 44,300 of whom were in pretrial detention. There were 2,300 deaths during the year, which is more than 3 times the death rate of the general population. Poor sanitary conditions result in deaths from diseases such as tuberculosis and dysentery, and there are frequent incidents of murder by fellow inmates and suicide. According to media reports, in 1997 there were 107 suicides in jails.

The Government continued to allow prison visits by diplomatic representatives and human rights monitors; however, these groups reported that during the year it became more difficult to obtain access to prisons. Cases were reported in which prisoners were not permitted correspondence and family visits were allowed only once per year. Prisoners may complain to the Ombudsman about the conditions of detention, but human rights groups reported that inmates were punished for initiating complaints.

d. Arbitrary Arrest, Detention, or Exile

Arbitrary arrest and detention remain problems. The law provides that authorities may detain a suspect for 3 days without a warrant, after which an arrest order must be issued. The Constitution stipulates that only courts may issue arrest warrants, but under its transitional provisions, the Prosecutor's Office retains the right to issue search and arrest warrants until 2001. The maximum period of detention after charges have been filed is

18 months, but the law does not limit the aggregate time of detention before and during a trial. The law permits citizens to contest an arrest in court or appeal to the prosecutor. The Constitution requires immediate notification of family members about an arrest, but this action often is not taken in practice.

By law a trial must begin no later than 3 weeks after indictment, but this requirement rarely is met by the overburdened court system. Months may pass before a defendant finally is brought to trial, and the situation did not improve during the year. Complicated cases can take years to go to trial. Although the 1996 amendment to the Criminal Procedures Code provides for bail, it is used rarely. Restrictions on travel outside of a given area sometimes are employed. Accused persons usually are held without bail in pretrial detention for several months. The latest available official statistics (from 1996) indicated that there were 233,000 prisoners, 45,000 of whom were persons held without bail in pretrial detention. The Constitution provides compensation for unlawful or arbitrary arrest, detention, or conviction, but there are no known cases in which this provision was invoked. Reports indicate that this inaction is a result of lack of faith in the judiciary, rather than the absence of unlawful or arbitrary detentions.

The law stipulates that a defense attorney be provided without charge to the indigent from the moment of detention or the filing of charges, whichever comes first. There are insufficient numbers of defense attorneys to protect suspects from unlawful, lengthy imprisonment under extremely poor

conditions. Although the concept of providing attorneys from the state system remains in principle, public attorneys often refuse to defend indigents for the low government fee. While in custody, a suspect or a prisoner is allowed by law to talk with a lawyer in private; however, human rights groups report that the client-attorney privilege occasionally is denied by prison or investigative officials. To protect the defendant, each investigative file must contain a document signed by the defendant attesting that the charges against him, his right to an attorney, and his right not to give evidence against himself or his relatives have been explained to him. An appeals court may dismiss a conviction or order a new trial if this document is missing. As defendants increasingly became aware of their rights, they insisted on observance of these procedures. However, many persons still were unaware of these safeguards.

The Government occasionally arrests persons who are openly critical of the Government (usually opposition politicians or editors/journalists from the opposition press) on criminal libel or tax evasion charges (see Section 2.a.). Mykhaylo Brodsky, part owner of the opposition paper *Kievskiyе Vedomosti*, was arrested on tax evasion charges related to his "Dendi" financial companies in March. He was released in April following his election to Parliament. However, a fellow Dendi employee is still in pretrial custody. Mykola Syvulskiy, a leading activist of the opposition *Hromada* party, was arrested in September for illegal financial transactions. Since Syvulskiy was a member of the opposition shadow cabinet and the chief organizer of a referendum drive to unseat President Kuchma, many observers concluded that this arrest was politically motivated. In December an arrest warrant was issued for Oleh Lyashko, editor in chief of the opposition newspaper *Polityka*, for allegedly failing to appear at the criminal libel trial against him (see Section 2.a.)

Official corruption is widespread. The Government apparently enforced anticorruption statutes selectively for political ends. Victor Palyvoda, an aide to the former president, was acquitted of corruption charges after 3 years in pretrial custody. Former cabinet official Petro Shkudun was held in pretrial detention on corruption charges since February. All defendants and their attorneys maintained that they were singled out for their opposition to the current presidential administration.

In August the Government arbitrarily detained several hundred directors of mostly state-owned enterprises in the Kiev convention center where they were meeting. They were allowed to leave only after signing an agreement to repay contributions to the state pension fund (although in many instances the State owed more to the enterprises in terms of back wages and debts on purchases than the enterprises owed the State). Other debtor enterprise directors were sent to compulsory civil defense training at a camp outside of Kiev until they signed the agreement.

Exile as a punishment does not exist in the law, and the Government does not use it.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice, the judiciary is subject to considerable political interference from the executive branch and also suffers from corruption and inefficiency. The courts are funded through the Ministry of Justice, which allows the Government to influence the judicial process. The presidential administration also reportedly continues the old Soviet tradition of weighing in by telephone directly with justices.

The establishment of an independent judicial system provided for in the Constitution awaits the passage of implementing legislation. As a result, the judiciary continues to operate according to Soviet principles. Most judges and prosecutors were appointed during the Soviet era, and court officials are attuned closely to the Government's interests. Human rights lawyers claim that the judiciary is not free from government influence, particularly at the regional and local levels. Court chairmen are, for instance, appointed directly by the executive and wield considerable influence over the outcome of a case through case assignments, control of staff and promotions, and control of social benefits available to judges. Court chairmen reportedly deliberately overburden independent-minded judges with too many cases and then instigate disciplinary actions against them for not completing their casework. There are credible reports that court chairmen regularly followed executive instructions.

The judiciary lacks sufficient staff and funds, which engenders inefficiency and corruption. The court system receives all its funding from the Ministry of Justice. Early in the year, the Prime Minister announced his intention to cut the budget of the arbitration courts drastically because they allegedly too often decided against state interests. Although this cut was not carried out due to the controversy it created, the action demonstrated clearly the dependence of the court system on the executive, and the Government's willingness to make use of that dependence.

The authority and independence of the judicial system also are undermined by the poor record of compliance with court decisions in civil cases. Provisions calling for criminal punishment for non-compliance with court decisions rarely are used. Compliance is particularly poor if the decision clashes with government interests. The Prosecutor General, Head of the Supreme Court, chairmen of regional courts, and the chairman of the Kiev municipal court (or the deputies of these officials) can suspend court decisions, which leads to interference, manipulation, and corruption.

Although many local and international observers regard the Constitutional Court as the most independent judicial body, the extent to which it is independent in practice from the Government is not yet clear. Some observers construed the July ruling that subordinated the State Property Fund (the body responsible for privatization of state-owned property) to the Government as indicating a presidential bias.

The 1996 Constitution provides for a thorough restructuring of the court system, including the introduction of appellate courts; however, pending the passage of the required enabling legislation, the court system still is organized along Soviet lines, with the exception of the Constitutional Court. The 1996 Constitution provides that the old court system may remain in place for a maximum period of 5 years, until 2001.

The court system consists of the Constitutional Court, general jurisdiction courts, and arbitration/commercial courts. General jurisdiction courts and arbitration courts are organized according to three levels: District courts; regional courts; and the Supreme Court and Supreme Arbitration Court. General jurisdiction courts are divided into criminal and civil sections. Military courts only hear cases involving military personnel.

The Constitutional Court consists of 18 members, appointed for 9-year terms in equal numbers by the President, the Parliament, and the Congress of Judges. It is the ultimate interpreter of legislation and the Constitution and determines the constitutionality of legislation, presidential edicts, cabinet acts,

and acts of the Crimean Autonomous Republic. The President, at least 45 Members of Parliament, the Supreme Court, the Human Rights Ombudsman, and the Crimean legislature can request the Constitutional Court to hear a case. Citizens may only apply to the Constitutional Court through the Human Rights Ombudsman.

Under the current court system, cases are decided by judges who sit singly, occasionally with two public assessors ("lay judges" or professional jurors with some legal training), or in groups of three for more serious cases. The Constitution provides for public, adversarial trials, including a judge, public assessors, state prosecutor, defense, and jury (when required by law). With some qualifications, these requirements are upheld in practice. However, implementing legislation establishing juries has not been adopted. Complicated cases can take years to go to trial. In the interim, defendants usually wait in pretrial detention. The 1996 amendment to the Criminal Procedures Code provides for bail, but to date it has been used rarely.

Organized crime elements also are widely alleged to influence court decisions. The Justice Ministry reported that in 1997 135 judges were disciplined, 22 dismissed, and 5 prosecuted for bribery. No higher court judge has been disciplined to date. Criminal elements routinely use intimidation to induce victims and witnesses to withdraw or change their testimony. The law requires that a special police unit protect judges, witnesses, defendants, and their relatives. However, it has not yet been formed, and trial participants are vulnerable to pressure.

Prosecutors, like the courts, are also organized into offices at the rayon, oblast, and republic levels. They are responsible ultimately to the Prosecutor General, who is appointed by the President and confirmed by the Parliament for a 5-year term. Regional and district prosecutors are appointed by the Prosecutor General.

Although by law prosecutors and defense attorneys have equal status, in practice prosecutors are much more influential. The procuracy, in its pretrial investigative function, acts in effect as a grand jury. A prosecutor may initiate investigation through his own office or conduct investigations initiated by the Ministry of Internal Affairs or the SBU.

The Constitution considerably curtails the prosecutor's authority, limiting it to prosecution, representing the public interest in court, oversight of investigations, and implementation of court decisions. However, in the absence of new criminal and criminal procedure codes to implement constitutional restrictions, the Prosecutor's Office continues to conduct investigations and oversee general observance of the law. In November 1997, the Constitutional Court interpreted the Procuracy Law, ruling that citizens can dispute prosecutors' decisions in court.

The Constitution includes procedural provisions to ensure a fair trial, including the right of a suspect or witness to refuse to testify against himself or his relatives. However, pending passage of legislation to implement these constitutional provisions, a largely Soviet-era criminal justice system remains in place. While the defendant is presumed innocent, conviction rates have changed little since the Soviet era. Nearly all completed cases result in convictions.

According to official statistics, in 1997 there were 237,000 convictions and only 1,102 acquittals (83,500 convictions led to jail sentences). In the first half of 1998, there were 125,429 convictions of

which 46,144 resulted in prison sentences; 444 defendants were acquitted. However, as judges frequently send cases unlikely to end in conviction back to the prosecutor for "additional investigation" (which usually leads to the dropping of the case), these statistics are somewhat misleading. Additionally, evidence indicates that suspects often bribe court officials to drop charges before cases go to trial, to lessen sentences, or to commute them. However, as courts have become more independent, the number of acquittals has increased each year.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Although the Constitution requires that courts issue search warrants, this provision has not yet been implemented, and prosecutors continue to issue search warrants. The SBU may conduct intrusive surveillance and searches without a warrant, with the consent of the Prosecutor General, who nominally oversees this function of the SBU. However, the extent to which the Prosecutor General utilizes his authority to monitor SBU activities and to curb excesses by security officials is unknown. The Constitution provides citizens with the right to examine any dossier on them in possession of the SBU and to sue for physical and emotional damages incurred by an investigation. However, this right does not exist in practice, because the necessary implementing legislation has not been passed.

Some remnants of Soviet control mechanisms persist. There are no probable cause statutes, and police officials and militia personnel have the right to stop persons and vehicles arbitrarily to initiate extensive document checks and vehicle inspections. Police may detain a person arbitrarily for up to 3 hours to verify identity.

All internal passports contain a stamp indicating residence and matrimonial status. Groups must be registered with the government to engage in almost any activity, whether commercial, political, religious, or philanthropic. Unregistered groups are prohibited from opening bank accounts, acquiring property, or entering into contracts.

The Law on Public Organizations prohibits members of the police, SBU, and armed forces from joining political parties. Prior to the March parliamentary elections, mass--perhaps coerced--enrollment of public sector and government employees augmented the ranks of progovernment parties, particularly the People's Democratic Party (see Section 2.b.).

The press and human rights groups reported several cases of abuse of psychiatry for economic reasons, where persons involved in property, inheritance, or divorce disputes were diagnosed wrongfully with schizophrenia and confined to psychiatric institutions. The country still uses Soviet classifications of mental illness and has no law on psychiatric practice. Persons diagnosed with mental illness may be confined and treated forcibly, declared not responsible for their actions, and stripped of their civil rights without being present at the hearings or notified of the ruling.

Section 2 Respect for Civil Liberties, Including:

Freedom of Speech and Press

The Constitution and a 1991 law provide for freedom of speech and of the press; however, in practice the Government partially limits freedom of the press through tax inspections, libel cases, subsidization, and intimidation of journalists that leads many to practice self-censorship. The Government has a virtual monopoly on broadcast media; however, there is a wide variety of newspapers and periodicals available, espousing different political points of view, and individuals can and frequently do criticize the Government without reprisal.

The print media, both independent and government-owned, demonstrate a tendency toward self-censorship on matters sensitive to the Government. Private newspapers have been established and are free to function on a purely commercial basis. However, they are subject to various pressures such as control of access to affordable state-subsidized newsprint; dependence on political patrons who may facilitate financial support from the State Press Support Fund; close scrutiny from government officials, especially at the local level; and politically motivated visits by tax inspectors. In 1997 the President issued a decree on support of the press that requires the Cabinet to draw up a list of publications needing government support, including those whose founders include central and local governments, public organizations, associations, unions, educational institutions, and newspaper employees. The journalistic community believed that this decree was intended to control the press by supporting loyal members. The dependence of the subsidized press and much of the private press on government patronage has particularly inhibited criticism at the local level. The Ministry has warned some periodicals against fomenting ethnic tensions and conducting antistate propaganda and has applied to the Prosecutor's Office to open investigations into those newspapers. However, no newspapers are known to have been prosecuted as a result.

The Committee on Protection of State Secrets enjoys broadly defined powers over all media. According to current law, information on executions, prison and pretrial detention conditions, and centers for the forcible treatment of alcoholics, are considered state secrets (see Sections 1.a. and 1.c.). Journalists report that, in general, the Committee has not interfered with their activities. One journalist, Oleg Lyashko, editor of the opposition newspaper Polityka, was charged in June with violating secrecy statutes for a series of articles describing covert SBU activities against the West. His case was dropped shortly afterwards; however, in December Polityka was forced to cease publication following an October 6 district court ruling that banned the newspaper for having published these articles that allegedly contained state secrets--the same state secrets from the previously dismissed charge. The newspaper had never been informed that a court case was pending against it and was not given an opportunity to present a defense.

An arrest warrant for Lyashko also was issued by the Kiev Pechersk District Court for allegedly not appearing in court in connection with a summons for a separate libel case, although Lyashko claimed that he never received a court summons. Also in December, the local state printing company in Dnepropetrovsk refused to print the local opposition newspaper Dnepropetrovskaya Pravda, citing technical upgrades. Several observers argued that this action was a political decision, because these technical upgrades did not affect printing of the other newspapers that the company prints, and because Dnepropetrovskaya Pravda is currently the subject of a criminal libel suit.

The Government, both central and local, regularly targeted opposition newspapers with unannounced tax inspections or fire and building code inspections. Three opposition newspapers were forced to cease operations because their accounts were frozen at various points during the year by the Tax In-

spectorate: Pravda Ukrayiny; Polityka; and Vseukrayinskiye Viedomosti. These newspapers appealed the decisions of the Tax Inspectorate. Pravda Ukrayiny won its appeal in June, but at year's end the decision was in abeyance pending a decision on the Tax Inspectorate's counterappeal. Although its accounts were frozen in June, Polityka still is being published, having reopened following a court appeal. Vseukrayinskiye Viedomosti went out of business in March due to a court decision that continued the freeze on its accounts and allowed confiscation of income, even while its appeal of the libel suit that had prompted the Tax Inspectorate's actions still was pending. A fourth opposition paper, Kievskie Viedomosti, had its accounts frozen in October but continued operation through the support of financial backers. In April the radio news station Kievskiy Viedomosti (the carrier of Voice of America and British Broadcasting Corporation programming) was closed temporarily for alleged fire code restrictions but resumed operations shortly thereafter. In March Mykhaylo Brodsky, part owner of the popular opposition newspaper Kievskiy Viedomosti, was arrested on tax evasion charges. He was released in April following his election to Parliament. In October an arbitration court evicted the editorial staff of Kievskiy Viedomosti from its offices due to alleged lease contract violations, and its accounts were frozen. The paper appealed the decision to a higher court, but was forced to reduce publication as a result of the eviction. At year's end, Kievskiy Viedomosti still had no permanent offices, its accounts remained frozen, and it was unable to pay its staff or distributors.

Central and local governments also frequently use criminal libel cases or civil suits based on alleged damage to a "person's honor and integrity" to punish critics. Article 7 of the Civil Code allows anyone, including public officials, to sue for damages if circulated information, including a publication, is untrue or if it insults a person's honor or dignity. Article 125 of the Criminal Code prescribes imprisonment of up to 5 years for libel. There is no distinction between private individuals and public officials (except for the President) nor is there a limit to the amount of damages that can be awarded to the plaintiff. Consequently, any journalist who publishes an article critical of a public official risks being sued for damages. Additionally, the Prosecutor General can file criminal libel charges. At least 11 newspapers, 2 regional television stations, and numerous individual journalists were fined heavily during the year for libel or injury to personal honor and dignity. Journalists complain that because the law does not limit damages, it is biased against them and can be used to drive opposition newspapers out of business.

On occasion fines were so large that accounts were frozen and equipment confiscated by the Tax Inspectorate to enforce payment. In July the director of a Donetsk television company was barred from any journalistic activity for 5 years for alleged libel; however, in August the regional court overturned the local court's decision and ordered a new judicial review, but by year's end the results of the review were not available. In April the Kherson regional prosecutor specifically warned editors of all local newspapers against libeling the President. In May the Prosecutor General ordered Kiev district prosecutors to investigate the operations of several opposition newspapers. Journalistic professionalism often is lacking; nevertheless, it is clear that the majority of libel and personal dignity suits are motivated politically.

Journalists sometimes were subjected to physical attack related to their professional activities, and the journalistic community contended that reporters received threats of arrest and sometimes were assaulted physically for investigation of crime and official corruption. The intermeshing of organized crime and many public officials makes it difficult to assess to what extent these attacks and threats were motivated politically. In August a Kievskiy Viedomosti reporter was arrested on charges of

evasion of conscription, which carries a 3-year prison term, following a series of articles mildly critical of the Government.

Despite government pressure and media self-censorship, the variety of newspapers and periodicals on the market, each espousing the view of its respective sponsor, provides a variety of opinion. Government attempts to control the press are reported by the media. Foreign newspapers and periodicals are circulated freely.

The broadcast media, the primary source of news and information for most Ukrainians, are primarily state-owned, and the Government took steps to strengthen its control over this sector. In June the Government transferred control of state-owned broadcasting and transmission facilities from the State Committee on Television and Radio (the state body responsible for managing the broadcast media) to the Ministry of Information. A September presidential edict subordinated the State Committee directly to the Cabinet of Ministers, thus eliminating the partial parliamentary control over the institution that previously existed. One private television station complained that it was required to submit its news broadcasts to the State Committee for approval, but following public outcry, the requirement ended. The President and the Parliament each appoint half of the members of the National Council for Television and Radio Broadcasting, which issues licenses and allocates broadcasting time. The law entitles private and foreign companies to establish and operate their own transmission facilities, provided that they obtain a license from the National Council.

There is no known government censorship of books, film, or theater.

While major universities are state owned, they operate for the most part under full autonomy. However, academic freedom is an underdeveloped and poorly understood concept. Nepotism and bribery are reportedly common during entrance exams and also influence the granting of degrees. Administrators of universities and academic and research institute directors possess the power to silence colleagues by denying them the ability to publish, withholding pay and housing benefits, or directly terminating them. This atmosphere tends to limit the spirit of free inquiry. Restrictions by the Communications Ministry on the mailing of scientific documents also have caused concern.

The State Secrets Committee maintains censorship offices in state scientific and research institutes, including those not conducting any classified research. An April presidential edict allows only government-designated contractors to provide Internet access at state institutions that have such censorship offices.

All private and religiously affiliated universities operate without any reported state interference or harassment.

b. Freedom of Peaceful Assembly and Association

The Constitution and law provide for freedom of assembly, and the Government generally respects this right in practice. The 1989 Law on Public Assembly circumscribes the freedom of assembly by stipulating that organizations must apply for permission to their respective local administration at least 10 days before a planned event or demonstration. The Constitution requires that demonstrators merely inform the authorities of a planned demonstration in advance; however, authorities insist that

all demonstrations meet the restrictive requirements of the 1989 law. Under the 1989 law, participants in demonstrations are prohibited from inciting violence or ethnic conflict and from calling for the violent overthrow of the constitutional order. In practice unlicensed demonstrations are common, and most occur without police interference.

The Constitution, law, and onerous government regulations restrict freedom of association to varying degrees. The Constitution prohibits the establishment of parties and organizations that advocate the elimination of the country's independence or the violent overthrow of the Government and of the constitutional order; that jeopardize Ukraine's sovereignty or territorial integrity; that undermine its security; that foment ethnic, racial, or religious hatred; that violate individual rights and liberties; or that jeopardize public health. The Constitution also prohibits the establishment of political party organizations in the executive and judicial branches, military units,

state-owned enterprises, educational, and other public institutions. Many members of such bodies nonetheless publicly associate themselves with specific parties.

A Government requirement to have representatives in at least half of the regions (oblasts) of the country as a prerequisite for registration as a political party primarily affects Russian and Crimean Tartar organizations in Crimea. The Ministry of Justice, with the Prosecutor General's consent, has the authority to warn, fine, or suspend operations of political parties for illegal operations. Suspension can be for up to

3 months and can be extended for 6 months upon the Ministry's request.

In March the Constitutional Court invalidated the 1993 Crimean law on citizens' associations, thus outlawing regional Crimean parties. The 1992 Law on Public Organizations prohibits the State from financing political parties and other public organizations. According to the law, political parties may not receive funds from abroad or maintain accounts in foreign banks. It bars political parties from having administrative or organizational structures abroad. The law prohibits police authorities, members of the SBU, and armed forces personnel from joining political parties.

Prior to the March parliamentary elections, mass--perhaps coerced--enrollment of public sector and government employees augmented the ranks of progovernment parties, particularly the People's Democratic Party (see Section 1.f.).

Freedom of association also is restricted significantly through a strict registration requirement that lends itself to political manipulation and corruption. Groups must register with the Government to pursue almost any purpose. The Ministries of Internal Affairs, Justice, Economy, and Foreign Economic Relations, as well as the State Committees on Religion and Broadcasting, and other government bodies have registration functions and used this power to limit freedom of association (see Sections 1.d. and 2.c.).

The registration law gives the Government an unlimited right to inspect the activities of all registered groups. According to this law, a registered group must: (1) keep the Government apprised of all its activities, including notification of any meetings; (2) make its meetings open to all persons at all times, regardless of whether they are members; and (3) upon request, present its registration documents

to any government official, including the Prosecutor's Office, and be ready to prove that its activities are in compliance with its charter.

A change in the group's charter necessitates reregistration.

A registered group may not duplicate any function or service that the Government is expected to provide. For example, human rights lawyers who wish to represent prisoners are prohibited from establishing an association because the Government is required by the Constitution to provide lawyers for the accused. Lack of registration has several important disadvantages. Unregistered groups are prohibited from having bank accounts, acquiring property, or entering into contracts.

c. Freedom of Religion

The Constitution and the 1991 Law on Freedom of Conscience and Religion provide for separation of church and state and the right to practice the religion of one's choice. With the exception of some nonnative religions, the Government generally respects these rights in practice. The Government generally permits religious organizations to establish places of worship and to train clergy. The Government has continued to expedite allotment of land plots for construction of new houses of worship and to return religious buildings and sites to their former owners.

However, the Government's protection of religious freedom deteriorated for nonnative religious organizations (defined as all organizations other than Orthodox, Greek Catholic, or Jewish). The Government does not discriminate against individual believers of nonnative religions, but their organizations faced greater difficulty in carrying out their activities during the year. Through burdensome licensing requirements and informal means, local governments restricted nonnative religions as well as Christian denominations other than Greek Catholic and Orthodox.

A 1993 amendment to the 1991 law restricts the activities of nonnative, foreign-based, religious organizations. The amendment narrowly defines the permissible activities of members of the clergy, preachers, teachers, and other foreign citizen representatives of foreign organizations. They may preach, administer religious ordinances, or practice other canonical activities "only in those religious organizations which invited them to Ukraine and with official approval of the governmental body that registered the statutes and the articles of the pertinent religious organization." The Church of Jesus Christ of Latter-Day Saints complained that this restriction prevented the transfer of its missionaries between cities. It also claimed that the Kiev municipal committee on religious affairs has not allowed any new missionaries to enter Kiev since December 1997.

All religious organizations are required by the Law on the Freedom of Conscience and Religion to register with both the central office of the State Committee on Religious Affairs, a process that generally takes about 1 month, and the Committee's local city or regional office. The regional offices also supervise the compliance of religious organizations with the provisions of the law. Nonnative religious organizations credibly reported that, especially at the local or regional levels, officials of the State Committee refused to register their organizations for protracted periods, thus effectively preventing their activities (see Section 2.b.).

Native religious organizations, especially the Orthodox Church in central, southern, and eastern Ukraine and the Greek Catholic Church in western Ukraine, exerted significant political influence at the local and regional levels and pressured local officials not to register nonnative religious organizations or allow them to rent or purchase property. Each of the two dominant denominations, within their respective spheres of influence, also pressured local officials to restrict the activities of the other.

The ongoing dispute among competing Orthodox Christian administrative bodies claiming to be "the Ukrainian Orthodox Church" remained deadlocked. In 1997 leaders of major religious denominations and churches signed a government-drafted memorandum on the nonviolent resolution of religious disputes. However, the Government has been unable to stop disagreements between the Orthodox believers and Greek Catholics in the western part of the country, where the two communities are contentious and often engage in bitter disputes over church buildings and property in over 600 localities. The Kiev Patriarchate of the Orthodox Church complains of harassment by local authorities in predominantly Russian-speaking eastern Ukraine, while the Moscow Patriarchate of the Orthodox Church complains that local governments turn a blind eye to the appropriation of their churches in Ukrainian-speaking western Ukraine by Ukrainian nationalists.

Implementation of a 1992 decree on restitution of religious community property seized during the Soviet era remains stalled in many places. Numerous Jewish congregations have negotiated successfully with local authorities for worship space. In 1996 a Kiev arbitration court decided in favor of transferring the title of the former Kiev Central Synagogue, which in Soviet times was used as a puppet theater, to a Chabad Hasidic congregation. By December 1997, the puppet theater had vacated the building, and in the spring the building reopened once again as a synagogue. The decision set an important precedent for the judiciary's role in religious property restitution.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and with some limits, the Government respects them in practice. However, the Government has not yet fulfilled its pledge to abolish mandatory registration and to replace it with an informational residence register. Regulations impose a nationwide requirement to register at the workplace and place of residence in order to be eligible for social benefits, thereby complicating freedom of movement by limiting access to certain social benefits to the place where one is registered. Persons who move to other regions for work in the private sector, for example, may be denied formal access to free medical care and other services provided by the State. Residence without registration carries a fine under the administrative code, but this provision rarely is enforced. Human rights groups reported an increasing number of cases of persons being stripped of their residence registration, evicted from their homes, and made homeless through criminal fraud or court error.

A regulation announced in August requires foreigners to obtain special permits to visit areas within 30 to 50 kilometers of the border. The regulation is not being enforced, pending the adoption of implementing regulations.

Citizens who wish to travel abroad are able to do so freely. Exit visas are required for citizens who intend to take up permanent residence in another country. There were no known cases of exit visas

being denied during the year. The Government may deny passports to individuals in possession of state secrets, but denials may be appealed.

Citizenship law provides the right to Ukrainian citizenship for all individuals who were born or lived in Ukraine before independence and to their descendants who lived outside Ukraine as of November 13, 1991. In order to be eligible, persons must not be citizens of other countries and must submit their application by the year 2000. Dual citizenship is not recognized. The amended law also provides the right to citizenship for deported victims of political oppression like the Crimean Tatars. Refugees can acquire Ukrainian citizenship if they have lived legally in Ukraine for 5 years and can communicate in the Ukrainian language. Since independence over 1.5 million Ukrainians have returned to Ukraine, while over 1 million persons, mostly ethnic Russians, have left the country.

The Government has not supported a foreign-funded program to facilitate the travel to Ukraine of some emigrants who qualify for resettlement as refugees. Approximately 260,000 Crimean Tatars have returned from exile to Crimea, mainly from Central Asia. Crimean Tatar leaders have complained that their community has not received adequate assistance in resettling and that an onerous process of acquiring citizenship has excluded many of them from participating in elections and from the right to take part in the privatization of land and state assets. A 1997 amendment to the citizenship law waives some of the usual residence and language requirements for returning deportees. This expedited procedure of acquiring citizenship by the deported victims of political oppression was expected to facilitate the acquisition of citizenship by Crimean Tatars. The 1997 amendments to the Citizenship Law allow deported persons, including Crimean Tatars, to acquire Ukrainian citizenship without a mandatory 5-year term of residence in Ukraine and without Ukrainian language proficiency. As with any other would-be citizens, Crimean Tatars are required to provide official documents from their country of residence confirming that they no longer are citizens of that country. An August agreement between Ukraine and Uzbekistan (from which most Tatars arrive) was expected to make it easier for Tatars to relinquish Uzbek citizenship and acquire Ukrainian citizenship, but at year's end it was unclear whether it will reduce the waiting period for Tatars to acquire citizenship.

The 1993 Law on Refugees governs the treatment of refugees and entitles refugees to all the benefits accorded to citizens. The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR), and refugee status is initially given for a

3-month term and is subject to further extension. Under the Refugee Law, refugees are entitled to material assistance. By October there were 3,101 persons officially registered refugees (2,353 are Afghans); 1,056 are children. A commitment has been made to award refugee status to all Afghans who arrived in Ukraine before 1995. Under the new citizenship law, legally registered refugees can apply for citizenship after 5 years of permanent residence. Under the Refugee Law, refugees are entitled to material assistance. The Cabinet decided to start allocating funds in the 1999 national budget for payment of refugee pensions and small allowances for indigent refugees, plus transportation fare to a refugee center. In cooperation with the UNHCR in 1997, the Government established a refugee receiving center for 200 people in Vinnytsya. The Government plans to open four other centers elsewhere; however, no additional center has as yet been opened.

Instances of police harassment of certain categories of refugees appear to have diminished during the year.

According to the State Committee for Nationalities and Migration, there is a first asylum policy under the law. There were no reports of forcible deportation of asylum seekers or refugees, and no reports of persons forced to return to countries where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the right and the ability to change the government peacefully. The Constitution provides universal suffrage for citizens at least 18 years of age and for periodic elections every 4 years for the Parliament and every 5 years for the President. Presidential elections that resulted in a transfer of power took place in 1994. Parliamentary elections took place in 1994 and in March.

Power is divided between the executive, legislative, and judicial branches. Although nominally independent, the judicial branch in practice is influenced heavily by the executive (see Section 1.e.). The President appoints the Prime Minister, who appoints the remainder of the Cabinet. The Prime Minister, as well as certain other appointments, such as the Prosecutor General, is subject to parliamentary approval. The Constitution grants the President limited power to pass binding decrees and directives that have the power of law.

International observers considered the March parliamentary elections to have been an improvement over those in 1994. The campaign was generally peaceful and there were no signs of wide scale fraud. However, the OSCE described the campaign as marred by instances of violence and other procedural flaws, including open voting and the presence of unauthorized personnel in the polling stations, "that represented a serious shortcoming in the conduct of the campaign." In the preelection period, various forms of government pressure on the media served to limit the independence of the press (see Section 2.a.). In February the President issued a secret edict that strengthened the powers of presidentially appointed regional governors at the expense of democratically elected local councils. The Government allegedly used government agencies, especially the Tax Inspectorate, to disrupt or eliminate the businesses of political opponents prior to the elections. Election results in seven constituencies were declared invalid by courts or elections commissions and court proceedings to review the election results for a number of Rada seats were not transparent. In two high profile cases, election commissions twice invalidated the victories of government opponents Serhiy Holovaty and Yuriy Orobets. Although Holovaty was eventually seated in Parliament, at year's end Orobets status remained unclear. Both the original election and two subsequent by-elections have been annulled due to fraud. A third by-election was scheduled for early 1999.

Women are active in political life but hold a disproportionately small percentage of offices. Women hold 28 of the 450 seats in the Rada. Only two women hold ministerial posts. The 18-member Constitutional Court has 2 female members. Jews are well represented among the political elite and hold several parliamentary seats. Many Crimean Tatars are unable to participate fully in the political process, primarily due to citizenship problems (see Section 2.d.).

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials

generally are cooperative and responsive to their views. However, inquiries into penal conditions, which are a significant human rights concern, are limited by their status as state secrets, and human rights groups reported more difficulties in investigating this area.

In January the President signed the law creating the Parliamentary Commissioner on Human Rights, which is a constitutionally-mandated independent human rights Ombudsman. Parliament elected the first ombudsman in April. The human rights Ombudsman serves a 5-year term and, in principle, is invested by law with very broad powers. However, this year's budget provided no funds for the Ombudsman's office staff, nor were accommodations provided. Since its inception, the staff has worked without salary. Moreover, the extent of the ombudsman's independence has not been established. When the Government arbitrarily detained several hundred enterprise directors in August for non-payment of contributions to the state pension fund, the Ombudsman supported the Government's action, declaring that the enterprise directors had committed the real human rights abuse by preventing pensioners from receiving their only source of income. The Ombudsman's office has not yet released any reports.

The law provides the Ombudsman with unrestricted and unannounced access to any public official, including the President; unrestricted access to any government installation; and oversight of implementation of human rights treaties and agreements signed by Ukraine. All citizens and current residents can address their concerns to the Ombudsman. The Ombudsman also serves as the intermediary between citizens and the Constitutional Court, since citizens cannot address the Court directly. During the summer, the Ombudsman toured penal institutions and subsequently submitted instructions for reforms to the Ministry of Interior which, according to the Ombudsman, at least were partially implemented. In October the Ombudsman provided the expert opinion that served as the basis for the presidential veto of an antiterrorism bill. The Ombudsman determined that the bill described "terrorism" too vaguely and would have inhibited due process.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination on the basis of race, sex, and other grounds; however, due in part to the absence of an effective judicial system, the Government does not enforce these provisions effectively.

Women

Violence against women is reportedly pervasive. According to new statistics compiled by United Nations Development Program, the number of reported rapes and attempted rapes decreased during recent years, but surveys indicate that the majority of rapes and other cases of physical abuse go unreported. Past surveys by women's groups indicated that between 10 and 15 percent of women had been raped, and over 25 percent physically abused, in their lifetimes.

The Criminal Code outlaws rape and "forced sex with a materially dependent person," which may allow prosecution for spousal rape. Spousal abuse is also illegal, but authorities often pressure women not to press charges against their husbands. Separate statistics on prosecutions for wife beating or on average sentences are not available. In 1997, the last year for which statistics are available, 1,510

criminal cases were opened for rape, 822 for sexual abuse, and 3 for sexual compulsion. Information on convictions was not available.

Violence against women does not receive extensive media coverage, despite the efforts of human rights groups to highlight the problem. Hot lines, shelters, and other practical support for victims of sexual abuse are practically nonexistent. In August Kiev municipal authorities opened the country's first women's center. The Government announced plans to establish a network of shelters throughout the country, but by year's end it had not begun to implement these plans.

Ukraine is an important source country of girls and women trafficked to Central and Western Europe and the Middle East for sexual exploitation. The International Organization for Migration estimated that 100,000 Ukrainians had been trafficked abroad for this purpose since 1991. A western sponsored Conference on the Prevention of Trafficking was held in Lviv in July that highlighted the problem for the Ukrainian public. The Government took a step to address this problem in April with an amendment to the Criminal Code that imposes harsh penalties for--among other offenses--trafficking in human beings, including for sexual exploitation and pornography; however, the effectiveness of these steps has not yet been established. The authorities rarely prosecute men for engaging women in the explosively growing sector of sexually exploitative work. However, in August two traffickers in Kryvy Rih were sentenced to 3 years in prison for trafficking minors to Western Europe. Non-governmental organizations (NGO's) claim that the militia receives bribes in return for ignoring this problem. Moreover, some reports alleged that public officials abetted or assisted organized criminal groups in trafficking women abroad. The Government, primarily due to lack of funds, is unable to assist victims effectively. Some NGO's, such as the indigenous NGO La Strada, began offering some support services for victims of trafficking, but also suffered from a shortage of funds.

Women's groups reported that there was widespread sexual harassment in the workplace, including coerced sex. Apart from the law that prohibits forced sex with a "materially dependent person," which applies to employees, there are inadequate legal safeguards against harassment. There have been no known cases of prosecution for sexual harassment in the workplace.

Labor laws establish the legal equality of men and women, including equal pay for equal work, a principle that generally is observed. However, the economic crisis has harmed women disproportionately. Women are much more likely to be laid off than men. Women constitute approximately 60 percent of the unemployed population, and as many as 90 percent of newly unemployed persons.

The Constitution and the Law on Protection of Motherhood and Childhood prohibit the employment of women in jobs that are hazardous to their health. For example, the law prohibits women from working at jobs that require them to lift more than 25 pounds at one time. However, despite implementation of a government program to combat dangerous labor, these laws remain poorly enforced, and the Ministry of Labor estimated that 15 percent of working women are employed at hazardous jobs. Furthermore, human rights groups maintained that management selectively conforms to the law only as necessary to lay off or fire female workers. Many women's rights advocates fear that the law may be used to bar women from the best paying blue-collar jobs. By law pregnant women and mothers with small children enjoy paid maternity leave until their children reach the age of 3. This benefit is a disincentive for employers to hire women for responsible or career track jobs.

Few women attain top managerial positions in state and private industry. According to government statistics, 69.2 percent of the country's 213,000 state administration jobs are held by women, including 45.2 per cent of the managerial positions. However, of the highest "first" and "second" category offices, only 5.6 percent in central or local governments are filled by women. (These numbers do not include the "power ministries," the Ministries of Defense, Internal Affairs, Foreign Affairs, and the SBU, which have substantially more male employees at all levels.)

Educational opportunities for woman generally have been, and continue to be, equal to those enjoyed by men.

Children

The Government is committed publicly to the defense of children's rights, but the deep economic crisis severely limits its ability to ensure these rights. The low priority that both the public and the Government attach to children's rights is reflected in the absence of groups that aggressively promote children's rights. For example, the widely acknowledged problem of growing violence and crime in and outside schools, especially the notoriously violent vocational schools, largely is ignored by the public and the Government.

Free, universal education is compulsory until the age of 15. However, the public education system has deteriorated as a result of government financial disarray. Teachers often go unpaid for months. Increasing numbers of children from poor families drop out of school, and illiteracy, which was previously very rare, has become a problem. Health care is provided equally to girls and boys, but economic problems have worsened the overall quality of the health care system.

There were increased cases of homeless children, who usually fled poor orphanage or poor domestic conditions. Although statistics are unavailable, drug use and child prostitution among these children are widespread and received substantial media attention during the year. Several charity groups were formed to assist these children, but they have not been able to reduce the problem. In 1997 the All-Ukrainian Committee for Protection of Children released survey results that reveal every fifth or sixth child of both sexes under age 18 suffers from sexual harassment (including every third girl), and every tenth girl is raped.

Deteriorating conditions in the state orphanages led the Government to encourage families to provide foster homes for orphans and to facilitate the establishment of private, government-supervised orphanages. Currently, there are 75 such orphanages with some 800 children. Public concern over the fate of children adopted by foreigners led to a 1997 amendment to the adoption law, which provided for thorough court examination of each case and follow-up monitoring of the children's well-being. To curb illegal adoption, the April amendment to the Criminal Code prescribed up to 15 years' imprisonment for trafficking in children and illegal adoption. However, there had been no known successful cases of its application by year's end. For example members of an organized criminal group who were tried this summer in Uzhhorod for the alleged trafficking of children to Russia for begging, crime, and organ transplantation, only were fined because the witnesses withdrew their testimony.

People with Disabilities

The law prohibits discrimination against the disabled, but the Government has been unable to support programs targeted at increasing opportunities for the disabled. The law mandates access to buildings and other public facilities for the disabled, but it is enforced poorly.

Religious Minorities

Anti-Semitism exists on an individual and societal basis. Some ultranationalist groups and newspapers continued to publish and distribute anti-Semitic tracts regularly. Public officials did not take adequate steps to condemn anti-Semitic statements and have not enforced the Criminal Code prohibitions against inciting interethnic hatred. Anti-Semitic stereotypes are widespread among the general population. Anti-Semitic incidents, such as an October cemetery desecration in Chernivtsi by ultranationalist groups, continue to occur but, according to local Jewish organizations, declined in number and were concentrated in western regions of the country.

In July the Cabinet issued an ordinance prohibiting construction and privatization on previous and current Jewish cemeteries. However, some construction was reported at the cemetery in Lviv, destroyed by the Nazis in World War II and now the site of the city's central market. The cemetery in Berdychiv was returned to the Jewish community early in the year, and restoration has begun.

There were no arrests made in the 1997 firebombing of the Kharkiv Israeli cultural center, nor have there been any prosecutions for desecrating Jewish cemeteries in 1997.

Jewish groups maintained that they continued to face obstacles in reacquiring community properties confiscated during the Soviet period. The small Reform Jewish community reported that it was subject to pressure and discrimination from the dominant Orthodox Jewish organizations.

Evangelical Christian missionaries reported some instances of societal discrimination against members of their churches, such as salary cuts, layoffs, and public criticism for betraying "native religions."

National/Racial/Ethnic Minorities

Frequent harassment of racial minorities is a problem. Police officials routinely detain dark-skinned persons for arbitrary document checks. In addition there were increased reports of racially motivated violence against persons of African and Asian heritage. Representatives of these groups claimed that police officials routinely ignored, and sometimes abetted, violence against them.

Roma face considerable societal discrimination. Opinion polls have shown that among all ethnic groups, the level of intolerance is highest towards Roma. In the Transcarpathian region in particular, Roma have been subject to violence and abuse by police (see Section I.c.).

The Constitution provides for "the free development, use and protection of the Russian language and other minority languages in Ukraine." This compromise builds on a 1991 Law on National Minorities, which played an instrumental role in preventing ethnic strife by allowing individual citizens to use their respective national languages in conducting personal business and by allowing minority groups to establish their own schools. Nonetheless, some pro-Russian organizations in eastern Ukrai-

ne complained about the increased use of Ukrainian in schools and in the media. They claim that their children are disadvantaged when taking academic entrance examinations, since all applicants are required to take a Ukrainian language test. Some regional councils attempted unsuccessfully in 1997 to give the Russian language official status alongside Ukrainian.

In Crimea Ukrainian and Crimean Tatar minorities credibly complain of discrimination by the Russian majority and demand that Ukrainian and Tatar languages be given equal treatment to Russian. While the Crimean government, pleading insufficient funds, did not assent to requests from the Crimean Tatar community for assistance in reestablishing its cultural heritage through Tatar language publications and educational institutions, the central government is working with the UNHCR, the OSCE, and the International Organization for Migration on support for the Crimean Tatar community.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right to join trade unions to defend "professional, social and economic interests." Under the Constitution, all trade unions have equal status, and no government permission is required to establish a trade union. The 1992 Law on Citizens' Organizations (which includes trade unions) stipulates noninterference by public authorities in the activities of these organizations, which have the right to establish and join federations on a voluntary basis. In principle all workers and civil servants (including members of the armed forces) are free to form unions. In practice the Government discourages certain categories of workers, for example, nuclear power plant employees, from doing so. A new trade union law to replace Soviet-era legislation remains before the Rada's Labor Committee.

The successor to the Soviet trade unions, known as the Federation of Trade Unions (FPU), has begun to work independently of the Government and has been vocal in advocating workers' right to strike. The FPU has supported the protests of miners and other professions over unpaid wages. In March the FPU held rallies in protest over unpaid wages. In May and June, it supported large-scale protests by miners. As during the Soviet era, most FPU affiliates work closely with management. Following President Kuchma's appointment of the head of the FPU-affiliated coal miners' union to be director of the national coal monopoly, the FPU ended support for striking miners. It did not support, for example, the August mine strike in Lugansk. Enterprise managers are free to join the FPU. In 1997 the FPU leadership created a political party, the All-Ukrainian Party of Workers, which is virtually indistinguishable from the FPU.

Independent unions now provide an alternative to the official unions in many sectors of the economy. The Independent Miners' Union of Ukraine (NPGU), unions representing pilots, civil air traffic controllers, locomotive engineers, aviation ground crews, and other unions operate either independently or within one of three national confederations. Independent union membership is approximately 100,000 while FPU-affiliated unions have between 17 and 23 million members, depending on the methodology of the counting process. Independent unions have claimed unsuccessfully a share of the former Soviet trade unions' huge property and funds, especially the social insurance benefits fund, a Soviet-era legacy traditionally controlled by the official unions. In June a government decree handed

over control of the social insurance benefits funds from the unions to the government Treasury. In protest 20 unions suspended their membership in the Presidential Social Partnership Council. In response to their protests, the Government retracted its decision, and the unions returned to the Council.

The Constitution provides for the right to strike "to defend one's economic and social interests." The Constitution states that strikes must not jeopardize national security, public health, or the rights and liberties of others. The law does not extend this right to members of the procuracy, judiciary, armed forces, security services, law enforcement agencies, and public servants. However, a new Law on Labor Disputes Resolution, passed in March, extends the right to strike to employees of "continuing process plants," for example, metallurgical factories, provided that they give 15 days advance notice of their intent to strike. The law prohibits strikes that jeopardize life or health, the environment, or that can hinder disaster, accident, or epidemic-related operations.

The law does not prohibit specifically strikes based on political demands. The law prohibits strikes based on demands to change the constitutional order, the state borders, or the administrative division of Ukraine, or on demands that infringe on human rights. The Government has relied on the prosecutors and the courts to deal with strikes that it considered illegal. The law does not extend the immunity from discipline or dismissal to strikers who take part in strikes that later are declared illegal by the courts. A union that organized an illegal strike is liable for the strike-inflicted losses.

Coal miners in eastern Ukraine struck several times during the year to demand unpaid wages. In June several thousand miners marched on Kiev and picketed government offices for several days. In December two miners burned themselves alive in the Luhansk oblast. Teachers, primarily in western Ukraine, also went on strike for unpaid wages throughout the year. In December teachers from a school district in Ternopil oblast began a hunger strike that received extensive media attention. At year's end, the teachers often continued to be without pay and to strike at irregular intervals.

There are no official restrictions on the right of unions to affiliate with international trade union bodies. The NPGU is a member of the International Miners' Union.

b. The Right to Organize and Bargain Collectively

The Law on Enterprises states that joint worker-management commissions should resolve issues concerning wages, working conditions, and the rights and duties of management at the enterprise level. Overlapping spheres of responsibility frequently impede the collective bargaining process. The Government, in agreement with trade unions, establishes wages in each industrial sector and invites all unions to participate in the negotiations. The Law on Labor Disputes Resolution that came into force in March provides for the establishment of an arbitration service and a National Mediation and Reconciliation Service to mediate labor disputes. However, these services have not yet been established.

The manner in which the collective bargaining law is applied prejudices the bargaining process against the independent unions and favors the official unions (affiliates of the FPU). Most workers never are informed that they are not obligated to join the official union. Renouncing membership in the official union and joining an independent union can be bureaucratically onerous and typically is discouraged by management. The collective bargaining law prohibits antiunion discrimination. Under

the law, disputes are supposed to be resolved by the courts. There have been cases in which such disputes have not been settled in a fair and equitable manner.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits compulsory labor, and it is not known to occur. The Government does not prohibit specifically forced and bonded labor by children; however, the Constitution and the Labor Code prohibit forced labor generally, and there were no reports of such practices during the year.

Human rights groups described as compulsory labor the common use of army conscripts and youth in the alternative service for refurbishing and building private houses for army and government officials. Student groups protested against a presidential decree obliging college and university graduates, whose studies have been paid for by the Government, to work in the public sector at government-designated jobs for 3 years or to fully repay the cost of their education. Students described the decree as an anticonstitutional attempt to introduce compulsory labor, as the Constitution provides for free choice of job and one's agreement to work. The Government stated that the decree would cover only students who entered higher education institutions in 1997 and thereafter. The extent of enforcement of the decree is unknown. However, human rights groups reported complaints from medical and law students that they had been forced to accept government-assigned jobs or not receive their diplomas.

d. Status of Child Labor Practices and Minimum Age for Employment

The minimum employment age is 17; however, in certain nonhazardous industries enterprises may negotiate with the Government to hire employees between 14 and 17 years of age, with the consent of one parent. The Constitution provides for general secondary education. School attendance is compulsory to the age of 15, a regulation vigorously enforced by the Ministry of Education. However, since the Soviet era the number of dropouts has increased significantly, mostly because of rising poverty. The Criminal Code prescribes up to 5 years in prison for involving children in criminal activities, drinking, begging, prostitution, gambling, or other exploitation. The Government does not prohibit specifically forced and bonded labor by children, but there were no reports that it occurred

(see Section 6.c.).

e. Acceptable Conditions of Work

The minimum monthly wage and pension is about \$15.28 (55 hryvnias) effective in September, and the officially reported average monthly wage is about \$39.44 (142 hryvnias), which does not provide a decent standard of living for a worker and family. Moreover, millions of persons go unpaid for many months because of shrinking budget revenue. In 1997 the Parliament raised the minimum monthly pension to the official subsistence level of some \$20.50 (73.7 hryvnias), but the Government has not complied because of budgetary constraints. It is estimated that some 50 percent of the population officially live below that line, although the practice of underreporting sources of income is widespread.

The Labor Code provides for a maximum 40-hour workweek, a 24-hour period of rest per week, and at least 24 days of paid vacation per year. Stagnation in some industries, for example, defense, significantly reduced the workweek for some categories of workers.

The law contains occupational safety and health standards, but these frequently are ignored in practice. According to official statistics, the accident rate has increased 1, times since independence in 1991. In 1997 1,646 persons were killed and 51,888 injured in accidents at work, with an equally high figure this year. Lax safety standards and aging equipment caused many serious accidents, resulting in over 15,000 injuries and

295 deaths in 1998. According to the Coal Mining Ministry, in the first half of the year there were 5.5 deaths per 1 million tons of coal, which is a ratio 1, times higher than the rate for the industry in 1997. In the first half of the year, there were 13 major mine accidents with many casualties, including 84 miners who were killed and 144 who were injured. In theory workers have a legal right to remove themselves from dangerous work situations without jeopardizing continued employment. In reality, however, independent trade unionists reported that asserting this right would result in retaliation or perhaps dismissal by management.

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