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HANNE FUGL

REPUBLIC OF BELARUS TURNING BACK THE CLOCK

SUMMARY	3
RECOMMENDATIONS	4
A NOTE ON GEOGRAPHY AND DEMOGRAPHY	6
INTRODUCTION	6
Belarus and the International Community	10
DEMONSTRATIONS	12
Restricting the Right to Demonstrate	13
Arbitrary Arrests and Police Brutality at Demonstrations	14
Shidlovsky-Labkovich Trial	14
March 22, 1998 Demonstration	15
April 2, 1998 Demonstration	15
April 25, 1998 Demonstration	17
State Response to Police Brutality at Demonstrations	18
Irina and Uladzimir Khalip	18
Vladimir Yukho	20
CONTINUED HARASSMENT OF THE MEDIA	21
Depriving Information to the Non-state Media	22
Amendments to the Law on the Press and Other Mass Media	23
Sanctions and Warnings against Newspapers: <i>Svaboda and Imya</i>	24
Sanctions against ORT: The Cases of Pavel Sheremet and Dmitri Zavadsky	25
ASSAULT AND HARASSMENT BY PLAINCLOTHES STATE AGENTS	28
Yury Khashchevatsky	28
Oleg Bebenin	29
Nadezhda Zhukova	30
Ina Pimenava	31



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GOVERNMENT CRITICS AND OPPOSITION UNDER FIRE	32
Criminal Sanctions	32
The Trial of Vadim Labkovich and Alexei Shidlovsky	32
Pavel Syverinets and Dmitri Vaskovich	34
Viktor Gonchar and Andrei Klimov	36
Non-Criminal Sanctions	37
Repercussions at University and Schools	37
Disbarments	41
The Anti-terrorism Decree	44
ACKNOWLEDGMENTS	47
APPENDIX A	49
APPENDIX B	51

It may sound a little immodest, but I have enough brains to rule a state in a sound way, without resorting to a stick or fist. Belarus is in the very center of Europe, it is surrounded by democratic states, and believe me, it is not the kind of state which can be ruled by authoritarian means.

President of Belarus, Aleksandr Lukashenka

Russian NTV television, Moscow, cited in World News Connection (WNC) April 28, 1998.

SUMMARY

President Aleksandr Lukashenka is steering Belarus back toward Soviet-era repression by leading a government that is engaged in violations of a broad spectrum of basic civil and political rights. His four years in office have witnessed the reversal of modest improvements in respect for human rights that followed the perestroika period and the break-up of the Soviet Union. In the past year alone, the government closed the only remaining independent daily newspaper in the country, was implicated in at least four assaults or threats on government critics, and detained scores of demonstrators, many of them minors. Together with restrictions on civic freedoms that have now been codified into law, these developments indicate that President Lukashenka is truly turning back the clock on rights.

Government control over the state media, restrictions on the circulation of the independent press and the lack of independent broadcast media that dare carry programs critical of the president or of government policy gave street demonstrations greater significance as a forum for the public expression of opposition sentiment. The government has since introduced rules on demonstrations that necessitate cumbersome and onerous bureaucratic hurdles that must be overcome to hold even the smallest public gathering. Indeed, in February 1998 a solitary demonstrator with a placard was imprisoned for fifteen days for breaking such rules. In addition, the government has sought to intimidate peaceful demonstrators through arbitrary mass arrests, beatings and prison terms. Lawyers have been stripped of their licence to practice law, students expelled and school teachers and university lecturers warned or fired for organizing or participating in opposition demonstrations deemed to have violated stringent government rules. Such rules permit the authorities to change the time, location and even the number of participants of a given demonstration. Even the symbols to be used by demonstrators must be registered to avoid government sanctions.

President Lukashenka's government has sought to control the content, access to, distribution, and even the personnel of independent newspapers, magazines and the broadcast media. The largest independent newspaper was closed in November 1997 while others operate at great risk of closure should they publish articles that openly criticize the government. An informal policy of non-disclosure of official information to the independent press is now brazenly enforced, following a confidential government memorandum that was leaked to the press in April. State-owned newspapers' content is also tightly controlled, with recalcitrant editors facing dismissal. Out of fear of punitive sanctions and fines, the independent broadcast media no longer carry news programs.

Plainclothes state security agents have been implicated in the beating, kidnaping and/or threatening of a number of journalists, members of non-governmental organizations and those connected with the opposition. Victims have attempted to bring the perpetrators of such crimes to justice, often with clear evidence of state involvement, yet Human Rights Watch is not aware of a single instance in which these assaults has resulted in a prosecution. This failure by Belarus law-enforcement agencies reinforces the supposition that they are carried out by state agents operating in plainclothes with complete impunity.

Individuals affiliated with opposition political groups have been systematically intimidated and punished: this pattern has encompassed politically active youth, prominent and active demonstrators, lawyers who defend demonstrators or work on politically sensitive cases, and deputies to the disbanded Thirteenth Supreme Soviet.

Measures employed by the government against these people include criminal and administrative prosecution and non-criminal sanctions, including disbarment from the legal profession, dismissal from teaching jobs, and expulsion from school or university. Whereas the Belarusian Peoples' Front (BPF) had previously been targeted, in the past twelve months this alarming campaign has turned its focus to the youth wing of the BPF, the *Malady Front* (The Youth Front). Young people have been beaten, arrested, threatened, intimidated and expelled from university on disproportionate charges of graffiti-writing or participating in an illegal demonstration; at play as well may be their membership in, and openly expressed support for, the Youth Front. Police and security service employees have beaten and ill-treated members as young as fifteen years of age.

In addition to conducting regular field research missions to Belarus and publishing reports, Human Rights Watch has presented its findings in person to Belarusian government officials and in letters to them. In August 1997, we presented our report, "Crushing Civil Society" to, and conducted meetings with, Natalya Drozd, head of the Department for Human Rights and International Cooperation at the Foreign Ministry, Mr. Pogdayny of the presidential administration, Minister of Justice Gennadiy Vorontsov, Deputy Procurator General Aleksandr Ivanovsky, Deputy Chair of the Supreme Court, Vladimir Ptashnik, and Presidential Parliament Deputy Yury Kulakovsky. Some officials reacted to our findings with denial and outright rejection. Others highlighted the fact that unlike many former Soviet republics, there is no ethnic conflict in Belarus and that this "achievement" should be recognized. Still others expressed a desire to respect international obligations, but underscored that time was needed to achieve this goal. A point-by-point response to our report promised by Ms. Drozd in August had yet to be received as of this writing.

Since August 1997, Human Rights Watch has issued seven letters of protest to the Belarusian government, highlighting our concerns over human rights violations in cases featured in this report.¹ As of this writing, Human Rights Watch has yet to receive an official response from the Belarusian government to any of these letters.

RECOMMENDATIONS

Human Rights Watch respectfully submits the following recommendations:

To the President and Government of Belarus:

- Release immediately political prisoner Alexei Shidlovsky;
- Release immediately Andrei Klimov from pre-trial detention and ensure his right to a free and fair trial before a recognized court of law, represented by counsel of his choosing;
- Launch an inquiry into the mass arrest and beating of demonstrators at the April 2, (1997) and March 15, 22, April 2, and 25 (1998) demonstrations, bring those responsible to justice and make public the inquiry's findings;
- Cease the practice of the arbitrary arrest of demonstrators and demonstration organizers; cease the practice of beating demonstrators to disperse them and ensure that the perpetrators of such beatings are brought to justice; ensure that plainclothes policemen and other law-enforcement agency employees on duty at demonstrations readily identify themselves to detainees; ensure that those detained at or following demonstrations have prompt and unimpeded access to a lawyer and medical attention, if necessary;
- Avoid detaining minors charged on petty offenses, and respect the Convention on the Rights of the Child;
- Launch an inquiry into allegations of beatings and intimidation of those associated with the opposition by members of state security forces, bring those deemed responsible to justice, and make public the inquiry's findings;

¹ These letters include: in August, protesting the arrest of Pavel Sheremet and a second ORT crew; in October, protesting the assault and threatening of Belarusian Helsinki Committee member, Nadezhda Zhukova; in November, protesting the closure of *Svaboda* newspaper; in December, protesting the trial for contempt of court of independent lawyer, Nadezhda Dudareva; in December, protesting the detention of Alexei Shidlovsky and Vadim Labkovich; in January, protesting the beating of film director Yury Khashcheyevsky; and in March, protesting the sentencing of Alexei Shidlovsky and Vadim Labkovich.

- Publicly call for the reinstatement of those students and lecturers expelled or dismissed for their political activities and hold university deans individually accountable in the event of further such expulsions;
- Rescind Decree No. 12 in order to allow lawyers to work unimpeded by excessive government intervention, free of charge if desired, and to represent their clients regardless of their political affiliation without fear of professional reprisal; and
- Rescind the amendments to the Law on the Press and other Mass Media, in particular those provisions that restrict the right to disseminate and receive information free of interference.

To the Government of the Russian Federation:

- Call on the Belarusian government and president to respect fundamental principles of democracy and human rights as stipulated in the Russia-Belarus Union Charter and other international instruments;
- Integrate into future trade agreements compliance with human rights principles; and
- Support the international community, including the OSCE, Council of Europe and European Union, in their efforts to effect change in Belarus' human rights record.

To the European Union:

- Maintain pressure on the Belarusian government to respect fundamental human rights principles, democracy and the rule of law;
- Increase funding to the non-governmental sector and independent media; and
- Organize training seminars on human rights principles and obligations under international and domestic law for Belarusian government officials, judges and state prosecutors.

To the Government of the United States of America:

- Increase funding for training programs, technical development and human rights awareness for the non-governmental sector; and
- Increase funding for independent distribution infrastructure for the independent media, along with financial support.

To the Council of Europe:

- Increase funding to the non-governmental sector and the independent media; and
- Maintain the suspension of Belarus' application to join the Council of Europe until such time as the people of Belarus are guaranteed respect for fundamental principles of human rights, democracy and the rule of law.

To the Organization for Security and Cooperation in Europe

- Continue to highlight the plight of victims of human rights violations;
- Ensure that the continued presence of the Advisory and Monitoring office in Minsk is contingent on its ability to function free from hindrance from the Belarus authorities; and
- Continue to raise the human rights situation in Belarus at periodic OSCE meetings and maintain pressure on the Belarusian government to respect human rights, democratic principles and the rule of law.

A NOTE ON GEOGRAPHY AND DEMOGRAPHY

When the Soviet Union collapsed in 1991, the Republic of Belarus gained independence for the second time in the twentieth century. Belarus, which is situated to the west of the Russian Federation and borders on Poland, Ukraine and the Baltic States, is closely related to Russia in both language and culture, and continues to maintain strong political and economic ties with that country. Belarus is currently in difficult economic straits: In 1995, annual per capita GNP was U.S.\$2,070 and the average monthly income was below U.S.\$100.² In January 1998, the Council of Ministers issued a resolution setting the minimal monthly salary at 250,000 Belarusian rubles (approximately U.S.\$7).³ Belarus boasts record income growth figures, on paper outpacing reform-orientated Russia in 1997, yet food shortages, ostracism and censure from the World Bank and the International Monetary Fund (IMF) paint a different picture.⁴ Most of the ten and a half million people living in Belarus work in the agricultural sector. Ethnically, Belarus is comprised of 77.9 percent Belarusians, 13.2 percent Russians, 4.1 percent Poles, 2.9 percent Ukrainians with other non-specified ethnicities making up the remaining 1.9 percent.⁵ The capital of Belarus is Minsk. Other main urban centers are Brest, Vitebsk, Mogilev and Gomel. Belarus was the country that was worst of all affected by the Chernobyl nuclear disaster of 1986.

INTRODUCTION

On March 15, 1994, the Supreme Soviet of the Republic of Belarus adopted a new constitution that enshrined democratic values and contained important human rights protections. The 1994 constitution was hailed by the Belarusian government in its fourth periodic report on the implementation of its obligations under the International Covenant on Civil and Political Rights (ICCPR) as proof that "Belarus [had] opted definitively for democracy and respect for human rights."⁶ Four years later, it has become clear that the Belarus government has opted definitively to repress these very civic freedoms. As one consequence of this, while the Baltic States, Russia and Ukraine have all joined the Council of Europe, Belarus stands outside, its application for membership frozen. Yet rather than initiate reforms to gain admission, the Belarusian government under President Aleksandr Lukashenka has purposefully recreated some of the worst aspects of the Soviet era, with many of the hallmarks of Soviet-style repression.

In the pre-perestroika Soviet Union, the right to freedoms of conscience, information and expression were severely restricted. The government used its monopoly on the media to disseminate carefully selected and censored information and propaganda. Attempts to express views that differed from official policy met with harsh repression. Similarly, freedom of association was seriously limited. Indeed, many forms of private initiative were not just actively discouraged but made largely impossible. In the prevailing atmosphere of intimidation and fear, only the most courageous dared publicly to challenge government policies. Discussion of policy matters took place behind closed doors by a small group of the Communist Party elite, while the Supreme Soviet, the parliament, was a rubber stamp

² The World Bank, *World Bank Atlas* (Washington, D.C.: The World Bank), 1997.

³ ITAR-TASS news agency, Moscow, January 3, 1998.

⁴ Belarus has been subject to criticism on innumerable occasions from both the World Bank and the IMF for not carrying out economic reforms to which substantial financial aid has been pegged. The IMF announced in April 1998 that its representative office in Minsk is to close at the end of June, citing differing views on economic reform such as liberalization of the currency market, price formation, increasing barter trade, and the ineffective use of targeted loans.

⁵ Data taken from the *New York Times 1998 Almanac* (New York: Penguin, 1997).

⁶ CCPR/D/84/Add.4, September 3, 1996.

institution where real discussion was not possible. Wherever the authorities thought it necessary, the judiciary administered justice de facto according to Communist Party instructions.

The early 1990s witnessed an improvement in the human rights situation. Independent newspapers began to emerge and open discussion on hitherto forbidden subjects and criticism of government policy became more frequent. Consequently, Belarusian citizens started openly expressing their views and ideas, and founded or joined non-governmental organizations, independent media outlets, and similar institutions of civil society. In government, the Supreme Soviet became a forum for discussion among parties with differing political platforms. The judiciary began to function more independently.

On July 10, 1994, only a few months after the adoption of a new constitution, voters in Belarus elected Lukashenka to the presidency, in quickly organized but relatively free and fair elections. Since his election, Lukashenka has sought to subordinate and control most aspects of public life, both in government and in civil society. This effort began with the media: though he campaigned on a broad anti-corruption platform, in December 1994, President Lukashenka barred from publication a report on corruption that he had commissioned, which reportedly implicated a number of government aides. The year 1995 saw the state media brought to heel with the dismissal of several editors of state newspapers, public warnings were issued to the independent press to be more objective and to refrain from criticizing the president, and printing and distribution contracts with the independent press were annulled.

In July 1996, President Lukashenka set out on a course to institutionalize the broadening of his powers and to weaken parliament.⁷ He demanded that the Thirteenth Supreme Soviet (parliament) extend his term of office from five to seven years and adopt legislation creating a second legislative chamber — whose members he would appoint — and limiting the powers of the Constitutional Court. When the Supreme Soviet refused to meet his demands, President Lukashenka called for a public referendum on this issue and on amending the constitution to broaden the powers of the executive. According to official results, the referendum, held on November 24, 1996, yielded a large majority of votes favoring the presidential proposal for an amended constitution. As a result, the Thirteenth Supreme Soviet was dissolved and the new constitution adopted. The circumstances under which the referendum was held have been widely criticized⁸ and many countries, including the U.S. and E.U. members, have not recognized its results.⁹

The constitution as amended sealed President Lukashenka's quasi-dictatorial powers. Although formally separation of powers still exists in Belarus, under the new constitution the president overwhelmingly dominates other branches of government. Indeed, through a combination of the new constitution's provisions and political strong-arm methods, President Lukashenka was authorized to hand-pick the lower chamber of the National Assembly (the new parliament), gained substantial influence on the upper chamber, and can often bypass the legislature altogether and rule on his own. The president also has broad legislative powers in his own right.¹⁰

⁷ President Lukashenka's scorn for parliament was evident in 1995, when he openly urged Belarusian voters not to vote during the 1995 parliamentary elections, as a turnout of less than 50 percent would have given him legitimate grounds to disband the parliament and rule alone.

⁸ See Lawyers Committee for Human Rights, *Presidential Powers and Human Rights under the Draft Constitution of Belarus* (New York: American Bar Association Central and East European Law Initiative (CEELI), October 1996), and *Analysis of the Draft Constitution of the Republic of Belarus with Alterations and Amendments*, October 15, 1995, Washington.

⁹ The Council of Europe and the OSCE also do not recognize the results of the referendum. The most notable exception is Russia, whose parliament and government does.

¹⁰ Any draft legislation that requires state expenditures can be discussed by parliament only with his consent. Further, in circumstances of "specific urgency and necessity," the president can issue decrees that have the force of law without a parliamentary decision to delegate such powers. President Lukashenka has already done so on numerous occasions, demonstrating a loose interpretation of "specific urgency and necessity." In addition, the constitution provides for only brief parliamentary sessions, a feature likely to cause the legislature to delegate further power to the president.

President Lukashenka sought also to weaken the judiciary. Under the amended constitution, the judiciary, including both the Constitutional Court and the courts of general jurisdiction, are subject to strong presidential pressure and the judiciary does not exercise control over the actions and decisions of the executive. Prior to the referendum, President Lukashenka treated the Constitutional Court as a political opponent rather than an independent judicial body, systematically ignored some of its key rulings declaring presidential decrees unconstitutional,¹¹ and ordered the Cabinet of Ministers and other government institutions to ignore such rulings. The amended constitution ended the independent position of the court and placed it under presidential control.¹² On March 4, 1997, the "new" Constitutional Court justices were sworn in, a majority of whom were presidential appointees.¹³ Unsurprisingly, in its first decision after the November 1996 referendum, the court ruled that the presidential decree declaring the results of the referendum legally binding was issued in accordance with the constitution.¹⁴

Courts of general jurisdiction also fall under presidential influence. The amended constitution does not regulate the tenure of judges, but a general statement in Article 6 enshrines the independence of the judiciary. Article 111, on the appointment and dismissal of judges states that "Grounds for electing (appointing) judges and their dismissal shall be determined by law." Given the highly politicized environment in which judges serve, Articles 6 and 11 taken together do not constitute adequate protection to judges from politically motivated dismissals.¹⁵

Further, the Belarus Law on Judges authorizes local governments to request court qualification commissions to investigate judges for procedural or other violations, which may result in sanctions. If the qualification commission finds merit in charges against a judge, the president can dismiss him or her by decree. Given the country's overburdened court system, procedural violations might be found in the practice of almost any judge in Belarus. In selecting which judges to sanction, therefore, local governments and commissions can easily be swayed by political considerations.

As in other republics of the former Soviet Union, the judiciary in Belarus was never truly independent. Bias is currently evident in cases that have political overtones in ordinary courts, notably in cases involving people accused of participating in unsanctioned demonstrations and disturbing public order in Minsk.

The Lukashenka administration's attempt to weaken parliament and the judiciary was coupled with a concerted campaign to weaken key institutions of civil society — in particular the independent press, non-governmental organizations, and political parties and movements. Beginning in December 1994, the government attacked and sought to control the independent media with the clear aim of driving such outlets out of business. Independent radio and television stations in Belarus were closed by the authorities for political reasons, and independent print media were marginalized and harassed. Russian television stations, which are widely received in Belarus and which are now the

¹¹ "Message from the Constitutional Court of the Republic of Belarus on the State of Constitutional Legality in the Republic of Belarus in 1995," Minsk, 1996, p. 45.

¹² Six of the twelve judges, including the chairperson, are appointed directly by the president; the other half are appointed by the Senate (the president, in turn, appoints one-eighth of the Senate's members). In addition, the number of institutions that can appeal to the court is restricted significantly and the right to initiate a case has been taken away from the court. Immediately after the November referendum, five judges, including the chairperson, Valery Tikhinya, resigned in protest. Judge Mikhail Pastukhov, who refused to resign, was later dismissed by a presidential decree that stated as the reason for his dismissal: "expiry of the term in office as judge of the Constitutional Court." Pastukhov, however, was elected to the court in 1994 for a period of eleven years.

¹³ OMRI, March 5, 1997.

¹⁴ Interfax (Moscow), cited in WNC, April 15, 1997.

¹⁵ Article 84 (10) of the amended Constitution reads, "The President of the Republic of Belarus:....Appoints six judges of the Constitutional Court and other judges of the Republic of Belarus."

principal source of critical information on President Lukashenka and the Belarusian government in the broadcast media, came under focused attack. In 1997, correspondents for Russian television stations were stripped of their accreditation because of their alleged "unobjective reporting." One of these correspondents, Aleksandr Stupnikov, was expelled from Belarus. Finally, numerous journalists were arrested and beaten while covering demonstrations.

Another facet of the government's attack on civil society has been its campaign to control or destroy non-governmental organizations (NGOs). In 1996 and 1997, tax inspectorates conducted questionable audits of some organizations, while others housed in government-owned buildings faced disproportionately high rent hikes. The imposition of a U.S.\$3 million fine on the Belarusian Soros Foundation in 1997 can be interpreted only as an attempt to force the foundation to close its office in Minsk and, in consequence, to deprive numerous NGOs of their main source of financial support.¹⁶

The government's attempts to marginalize or discredit political parties focused on the Belarusian People's Front (BPF). The BPF is the most visible opposition political party in Belarus. It has pursued a policy of taking its protests against the government to the streets in the form of organized and officially sanctioned demonstrations, in part to publicize its concerns but also in response to government restrictions on political expression in the media. Indeed, most demonstrations are organized by the BPF, sometimes together with the Belarusian Social Democratic Party (BDSP) and the United Civic Party (UCP).¹⁷ The BPF's leader, Zenon Pazniak, and a senior member, Sergei Naumchyk, fearing arrest and persecution, fled the country in mid-1996 to the United States, where they received political asylum.

The BPF's organizational committee was established in 1988 and the party held its first congress in 1989. Its charter puts forth two main objectives: "the attainment of democracy and independence through national rebirth and rebirth of civil society."¹⁸ The BPF's political platform advocates democracy, respect for human rights and "traditional conservative values," comparing itself with Western "centrist-conservative and Christian-democratic" parties.¹⁹ The BPF calls itself "a national liberation movement" and vigorously promotes the use of the Belarusian language, which it perceives as threatened — along with Belarus' independence — by President Lukashenka's stated goal of greater integration with Russia.²⁰ The BPF openly attacks what it sees as Russian imperialism and views the Lukashenka administration as a "puppet rule" that represents the "geopolitical, economic and military interests of Russia."²¹ The party sees Belarus' future as part of Europe and seeks greater integration "into its political, legal, economic, civilizational, cultural and defense space."

The party rejects participation in parliamentary elections under the reforms following the November 1996 referendum and has stated that it will participate in such elections only under the auspices of the pre-referendum 1994 constitution. There were no BPF deputies to the Thirteenth Supreme Soviet.

¹⁶ On February 11, 1998, the Minsk region economic court reduced the fine against the Belarusian Soros Foundation to U.S.\$80,000 but upheld the confiscation of the organization's office equipment and property. As of this writing, the Belarusian Soros Foundation remains closed.

¹⁷ The BDSP had between 7 and 8 percent representation in the Thirteenth Supreme Soviet, the UCP, about 10 percent.

¹⁸ From "Introduction to the BPF," at <http://pages.prodigy.com/belarus/bpf.htm>.

¹⁹ Quoted from the BPF's Fifth Congress, June 20-21, 1997. Also at <http://pages.prodigy.com/belarus/bpf.htm>.

²⁰ Ibid. Although Belarusian officially enjoys equal status as a language with Russian, it is rarely, if ever, used by government officials.

²¹ Ibid.

The Youth Front was formed in September 1997 following widespread BPF-led demonstrations in the first quarter of 1996.²² The group brought together various youth organizations of similar political beliefs across Belarus. Although not registered as a separate organization, it maintains a separate leadership structure from the BPF, with chairs in Minsk, Mogilev and Grodno. Pavel Syverinets heads the Minsk section, which is the *de facto* national headquarters of the organization and is based at the BPF's head office. The Youth Front shares the same political platform as the BPF, although membership in the Youth Front does not automatically confer membership in the BPF.

Belarus and the International Community

In response to Belarus' rapidly deteriorating human rights record and the government's continued efforts to undermine the rule of law, the U.S. government, the E.U., and major international lending institutions have limited their ties with the Belarus government. As Belarus grew isolated, it sought to increase political and economic ties with Russia's regions (apart from the Russian federal government) and with Iran and Syria. Relations with Russia remain officially close, yet the crackdowns that have affected Russian and Belarusian citizens working for Russian television stations, along with disagreements over Belarusian debt to Russia, have strained this relationship.

United States Policy

United States policy toward Belarus consists of maintaining pressure on the Lukashenka administration to respect human rights, limiting government contact with it, and funding civil society projects. Through its USIA, USAID and IREX ProMedia programs, the United States is currently the largest funder of the independent media in Belarus.

The U.S. Embassy in Minsk has taken on an active role in highlighting human rights abuses and raising these abuses with the Belarusian government. The embassy sent an observer to the trial of ORT journalists Pavel Sheremet and Dmitri Zavadsky in December/January 1998, as well as to the trial of Alexei Shidlovsky and Vadim Labkovich, two teenagers charged with graffiti-writing, in February 1998. The guilty verdicts handed down in the latter trial prompted the State Department to issue a press statement on February 26, 1998 that severely rebuked the Belarusian government for Shidlovsky and Labkovich's "unwarranted and inhumane pre-trial detention, the criminalization of what should be a minor offense, and the disproportionate nature of the sentences [which] are reminiscent of the worst abuses of the Soviet era."

On March 5, 1998, Congress entertained a resolution sponsored by Representative Christopher H. Smith condemning human rights violations in Belarus and recommending the withdrawal of Belarus' Most-Favored-Nation status "if sufficient improvements are not undertaken." Among other recommendations, the resolution called on the president of Belarus to "follow the principles in the 1994 Constitution both in practice and intent" and "to restore the rights of the Supreme Soviet," and declared its support for the non-governmental organizations that work for the promotion of democracy and "respect for fundamental human rights and freedoms."

European Union Policy

The European Union (E.U.) does not recognize the results of the November 1996 referendum. E.U.-sponsored attempts to mediate between the Belarusian government and the ousted Thirteenth Supreme Soviet, which the E.U. continues to recognize as the sole legitimate parliament in Belarus, ground to a halt in September 1997. Later that month, European Commission ambassador Luis Moreno commented that without radical change in Belarusian policy, "it is unrealistic to consider the question of including the Republic of Belarus in the European community."²³

The United Kingdom embassy in Minsk, which held the rotating presidency of the E.U. from January to July 1998, sent an observer to the Shidlovsky-Labkovich trial. The E.U. subsequently released a declaration expressing concern at the treatment of the teenagers and describing the length of their pre-trial detention, the armed police presence

²² Its predecessor, the *Molodezhnaya Fraktsiya* of the BPR, was formed in 1995.

²³ Belapan news agency, Minsk, cited in WNC, September 25, 1997.

at the trial and sentences as being "disproportionate to their crime," and urged the Belarusian government to show clemency. In February 1998, the European Parliament adopted a resolution condemning arbitrary arrests, which expressed concern at the trial of Shidlovsky and Labkovich (and called for their release), threats of violence against and intimidation of journalists, the beating of film director Yury Khashchevatsky, expulsions of students from universities, and at the number of young people seeking political asylum abroad.

On March 10, 1998, the E.U. announced that five million European Currency Units (ECU, approximately U.S.\$5.5 million) had been earmarked for distribution under the Civil Society Development program. The aim of this project is to provide assistance primarily to the non-state media, human rights non-governmental organizations and higher educational institutions. The distribution of these funds is dependent on approval from the Belarusian government, which, at time of writing, had yet to be given.

The United Nations Human Rights Committee

On November 19, 1997, the United Nations Human Rights Committee (UNHRC) issued its concluding observations on the fourth periodic report of Belarus. The Committee raised a variety of issues and stated that "remnants of the former totalitarian rule persist and that the human rights situation in Belarus has deteriorated significantly since the Committee's consideration of the State party's third periodic report in 1992."²⁴

The report noted "numerous allegations of ill-treatment of persons by police and other law enforcement officials during peaceful demonstrations" and that "investigations of such abuses are not conducted by an independent mechanism....That the number of prosecutions and convictions in these cases is very low...may lead to impunity for members of the police and other security officials." The report called for such abuse to be investigated by an independent body and for the victims to be compensated.

Excessive periods of pre-trial detention came under criticism in the report, as did overcrowding in prisons, the use of "punishment cells," and the fact that the period of pre-trial detention is determined by a prosecutor and not a judge. The report also criticized the judiciary's lack of independence in Belarus and the requirement for lawyers to join government-run bar associations, stating that this system undermines the independence of lawyers. The report detailed concerns over restrictions on freedom of assembly and of expression, including decree 218 restricting the import and export of information deemed damaging to the interests of the country.

²⁴Concluding observations of the Human Rights Committee, Belarus, CCPR/C/79/Add.86, November 19, 1997.

The Council of Europe and the Organization for Security and Cooperation in Europe

The Parliamentary Assembly of the Council of Europe suspended Belarus' special guest status in January 1997 as a result of the November 1996 referendum. There has since been no movement on the issue of Belarus' membership in the pan-European organization.

February 27, 1998, saw the much-delayed opening of the Organization for Security and Cooperation in Europe's (OSCE) Advisory and Monitoring office in Minsk. Foreign Minister Ivan Antanovich reportedly expressed delight at the office's opening, stating that "with good advice we will reach a compromise in our society."²⁵ However, President Lukashenka's reaction to the opening was markedly different: Lukashenka reportedly accused OSCE officials of acting as "opposition defense attorneys," remarking that "when opposition activists are tried, in particular for attending an unauthorized rally or march, OSCE missionaries immediately arrive in Belarus."²⁶

The OSCE has repeatedly stated that neither it nor other Western institutions recognize the legitimacy of the National Assembly of Belarus and that after July 1999, President Lukashenka will no longer be recognized as the legitimate president of Belarus (the November 1996 referendum had extended the presidential term of office from five to seven years).

Russian Federation Policy

Despite public clashes over the arrest and trial of ORT journalists Pavel Sheremet and Dmitri Zavadsky, and despite disputes over Belarus debt to Russian gas monopoly Gazprom, Russia continues to wield extraordinary influence over Belarus. Russia has intervened on behalf of Belarus on a number of occasions, for example, by ensuring Belarus' reinstatement in the Inter-Parliamentary Union (IPU).²⁷ Deputy Chief of the Presidential Administration of Belarus, Ivan Pashkevich, publicly expressed his "profound gratitude" to the leaders of the Russian Duma and Council of the Federation for their intervention, which made Belarus' reinstatement possible.²⁸ President Lukashenka now refers to the IPU's move as recognition of the National Assembly, which he exploits in pressing claims to have Belarus' special guest status in the Council of Europe similarly reinstated.

On a positive note, Russia is widely credited for having persuaded Belarus to permit the opening of the OSCE's Advisory and Monitoring office in Minsk.

DEMONSTRATIONS

As a result of the government's rigid control over the state media, minimal circulation of the independent press and a lack of independent broadcast media that dares to carry programs that criticize the president or government policy, street demonstrations became an increasingly important forum for the public expression of opposition sentiment. However, beginning in 1996 the government has sought to prevent street demonstrations from serving as such a forum by establishing new state controls restricting public gatherings, which invoke excessive bureaucratic hurdles, and by intimidating protesters. To this end, it zealously enforces unduly onerous rules for public gatherings, manipulates their sites and permitted number of participants, and even controls the flags and banners that marchers may use. Further, during opposition gatherings, which are usually led by the BPF, police attack marchers and organizers and arbitrarily

²⁵ Radio Free Europe/Radio Liberty Newswire, vol 2, no. 41, Part II, March 2, 1998.

²⁶ Interfax news agency, Moscow, cited in WNC, March 5, 1998.

²⁷ In September 1997 Belarus was reinstated in the IPU, an international union of parliamentarians that ostensibly requires members to respect democracy and human rights, following its suspension from the organization in April 1997 for establishing the National Assembly "through a process whose legality is questioned."

²⁸ Belapan news agency, Minsk, September 17, 1997.

detain them on a range of false or unfounded charges. Demonstrators and demonstration organizers are jailed and fined for essentially exercising their rights to free assembly and expression. They face other kinds of sanctions as well: Professionals have been disbarred from practicing law and de facto barred from teaching for having either participated in demonstrations or acting on behalf of demonstrators.

These demonstrations are characterized by extensive police presence, including helmeted riot police, and special police officers equipped with video cameras. The purpose of these police-cameramen is to film demonstrators and use the film as evidence in court to prosecute a variety of alleged infractions, most notably of the new Law on Gatherings, Rallies, Street Marches, Demonstrations, and Picketing in the Republic of Belarus.²⁹ Police tactics to intimidate and punish demonstrators have shifted. Whereas in 1997 police brutally and routinely beat demonstrators to disperse them and arrested them at marches, demonstrations in 1998 have passed off peacefully; police now follow demonstrators after marches conclude in order to detain them.

Restricting the Right to Demonstrate

Freedom of assembly is enshrined in the Belarusian constitution under Article 35, which reads:

The freedom to hold assemblies, rallies, street marches, demonstrations, and pickets that do not disturb law and order or violate the rights of other citizens of the Republic of Belarus, shall be guaranteed by the State. The procedure for conducting the above events shall be determined by the law.

On March 5, 1997 President Lukashenka issued Decree No. 5 on Gatherings, Meetings, Street Marches, Demonstrations and Picketing, which severely curtailed the fundamental right to assembly, and outlawed non-registered symbols such as the traditional white-red-white national flag that was replaced in 1995 with the resurrected, Soviet-era red-green flag.³⁰ Under the decree, which was codified into law on December 5, 1997, demonstrators may be prosecuted for participating in an unsanctioned demonstration; obstructing the work of a police officer; using an unregistered symbol; and chanting slogans deemed to defame, dishonor or otherwise insult the honor or dignity of the president. The decree further empowers the authorities to change the time and location of a demonstration, and even the number of authorized participants. On occasion, this provision has served in practice to shift demonstrations from central Minsk to the city outskirts, thus greatly limiting the demonstration's public exposure and literally marginalizing the issue the demonstrators wish to highlight. For example, the Belarusian Peoples Front (BPF) and the Belarusian Social Democratic Party (BSDP) applied to hold a demonstration on April 2, 1998 — the anniversary of the signing of the Union Charter with Russia — with the intention of marching to a central city square, whereupon a rally would be held. The city authorities denied permission to hold the rally at the requested time and place, citing government-sponsored festivities in the center that would take precedent; they ruled that the demonstration be held instead three days later, on the outskirts of the city.³¹ In 1997 and 1998 the regional and city authorities in Gomel, 200 kilometers southwest of Minsk, reportedly engaged in the same tactics by moving United Civic Party (UCP) — and BPF —

²⁹ This legislation, adopted December 5, 1997, codified into law unchanged Presidential Decree No. 5 on Gatherings, Meetings, Street Marches, Demonstrations and Picketing.

³⁰ For a more detailed analysis of Decree No. 5, please see Human Rights Watch, "Crushing Civil Society," *A Human Rights Watch Short Report*, vol. 9 no. 8 (D) August 1997, pp. 32-36. The white-red-white former national flag is effectively banned in Belarus; however, with the prior agreement of the authorities it may be used at demonstrations. For example on March 20, Belapan reported that in reaching agreement with the Minsk city authorities on the route of a March 22 demonstration to mark the eightieth anniversary of the Belarusian National Republic, the two sides agreed on the symbols to be used during the demonstration, including the white-red-white flag. In general, this provision is zealously enforced. For example in February 1997, a demonstrator was sentenced to four days of imprisonment for waving the blue flag with gold stars of the European Union at a demonstration.

³¹ Belapan news agency (Minsk), March 30, 1998.

organized demonstrations to the city outskirts or banning them altogether; these moves drew protests by the UCP and BPF.³²

Arbitrary Arrests and Police Brutality at Demonstrations

While any government is within its rights to take measures guaranteeing public order at demonstrations, with the zealous enforcement of the law on demonstrations, even innocuous gatherings are declared an "unsanctioned demonstration" and are broken up, at times with the violent arrest of participants regardless of their age or infirmity.

Shidlovsky-Labkovich Trial

One such gathering was dispersed during the five-day court hearing — from February 18 - 24, 1998 — of the case of teenagers Alexei Shidlovsky and Vadim Labkovich. Two Human Rights Watch researchers monitored all five days of hearings, and hence much of the documentation below is based on their direct observations. The hearing itself took place in a room that was far too small to accommodate the large number of observers from the general public, including Shidlovsky's and Labkovich's fellow classmates, who wished to attend. Therefore, in the course of the hearing, those who were unable to gain access had taken to waiting on the street outside. Nine of them were arrested under Article 166 of the administrative code (disobeying the orders of a police officer) or under Article 167 of the administrative code (holding an unsanctioned demonstration). Belarus is obliged under domestic and international law to uphold freedom of expression (Articles 33 (3) and 34 (1) of the Constitution of Belarus, Article 8 of the Russia-Belarus Union Charter and Article 19 of the ICCPR on freedom of expression) and freedom of assembly (Article 35 of the Belarusian constitution and Article 21 of the ICCPR on freedom of assembly). Those arrested for exercising freedom of expression and assembly include:

- Yury Maroz, a member of the BPF from the northeastern city of Vitebsk, was arrested by police on February 18 outside the court building. He was sentenced the same day to fifteen days of imprisonment under Article 167 of the administrative code for carrying a placard calling for Shidlovsky and Labkovich to be freed. Maroz was released on March 5, having served his sentence in full.
- On February 23, Belarusian Helsinki Committee observer Vital' Alisyonuk and three sixteen-year-old boys — Maksim Kashinsky, Dmitiri Kasperovich, and Danil Milovanov — were arrested for "holding an unsanctioned demonstration" for reportedly walking in a circle with their hands behind their heads outside the court building. Although Vladimir Yukho, a BPF board member, was also with this group, he was not on this occasion detained (see below). The three juveniles were freed later that day with the expectation that their parents would be fined under Article 162 of the administrative code (holding an unsanctioned demonstration or hooliganism), which applies to juveniles. Alisyonuk was freed that day without charge.

Also, on February 24, the last day of the trial, police arrested Vital' Alisyonuk. Reports attest that police stopped Alisyonuk's companions, BPF members Vadim Kanapatsky and Ales' Sernatsky, as they peaceably attempted to gain access to the court building, and then arrested Alisyonuk for merely asking why Kanapatsky and Sernatsky had been detained. Alisyonuk was fined 1,500,000 BR (U.S.\$35)³³ under Article 166 of the administrative code.³⁴

That same day, a small crowd eagerly awaited the appearance of Labkovich, who had been dramatically released in the court room. A Human Rights Watch researcher viewed the ensuing situation, including the provocative conduct of law-enforcement officials. The crowd had been waiting for Labkovich outside the court building. The Special Task Militia Unit (OMON, or riot police) started to instruct the crowd to move away towards a small square up the hill that overlooked the court entrance. About half of the crowd, which numbered close to seventy persons, had

³² Belapan, March 20, 1998.

³³ In late February 1998, the exchange rate was approximately 43,000 Belarusian rubles to one U.S. dollar.

³⁴ Sernatsky was acquitted on February 24. Kanapatsky was fined 5,000,000 rubles (U.S.\$116) under Article 167.

reached the square when Labkovich appeared. Everyone stopped to look, cheer and applaud, and when Labkovich reached the crowd he was hoisted up onto someone's shoulders. The riot police were still pushing the crowd toward the square when one of them announced through a megaphone that the crowd was holding "an unsanctioned demonstration" and ordered everybody to disperse or face arrest. Two policemen with video cameras filmed sections of the crowd at all times. There was, however, no "demonstration," and no public order problem.

Riot police arrested Valery Shchukin, a journalist and member of the disbanded Thirteenth Supreme Soviet, outside the court building as Labkovich appeared.³⁵ Human Rights Watch researchers witnessed the arrest, and can attest directly that it was unprovoked and arbitrary: Shchukin was walking with a crowd away from the court building when four riot police officers dived into the crowd, forcibly manhandled him into a police jeep and drove him away. He was released later that day. On March 18, Shchukin stood trial for "organizing a demonstration" and "disobeying the orders of a police officer." He was acquitted on both counts the same day.³⁶ Shchukin told Human Rights Watch:

The people were waiting, they released Labkovich, he came out of the court room and the police shouted, "Disperse! This is an unsanctioned gathering" What gathering?! Naturally, I as a journalist approach people to ask their opinions....That was all, they grabbed me, and dragged me away....³⁷

March 22, 1998 Demonstration

On March 22, 1998, the BPF organized a march and rally with official permission to commemorate the eightieth anniversary of the founding of the Belarusian National Republic. The march and rally passed peacefully. However, once the participants began to disperse, riot police and men in plainclothes began a concerted effort to arrest demonstrators in various locations. According to reports, police arrested people as they approached the headquarters of the BPF, including journalists Algerd Nevjarovsky (*Naviny*, formerly called *Svaboda*), Egor Mayorchuk (*Belarusskaya gazeta*), and Ruslan Batenkov. Police cars and jeeps had reportedly been waiting outside the BPF headquarters. Men in plainclothes arrested three observers from the Belarusian Helsinki Committee, Dmitri Marushevsky, Ruslan Guk, and Evgenny Chyrvonny, in the entrance to their student hostel. In addition, two BNF members, Boris Khamaida and Yuri Karpov were arrested outside the presidential administration building, where they reportedly had attempted to deliver paper doves.³⁸ In total, the authorities arrested at least thirty-two people, who were later sentenced to ten days of imprisonment or were fined.³⁹

April 2, 1998 Demonstration

On March 30, 1998, Belapan, a Minsk-based news agency, reported that the BPF's request to hold a demonstration on April 2 to protest the anniversary of the signing of the Russia-Belarus Union Charter had been refused, on the grounds that it would clash with government-sponsored festivities in the city center to celebrate the anniversary. On Yakub Kolas square in central Minsk, the authorities set up a small fair, which included a stage on which dancers and singers performed. The BPF, in announcing that the government had refused them permission to hold their demonstration, which was to have culminated in a rally at Yakub Kolas square at 5:00 p.m., reportedly added

³⁵ Fifty-six-year-old Valery Shchukin has been most vocal and visible in his opposition to President Lukashenka. He is ever present at opposition demonstrations, usually leading from the front, and has been subject to multiple arrests and beatings, at demonstrations and at home together with a reported twelve court appearances, fines totaling eighty million Belarusian rubles (US\$2000). Belapan news agency, Minsk, March 18, 1998. The U.S. dollar equivalent of the fines is an approximate figure based on exchange rates given at the time. The average wage in Belarus continues to be approximately U.S.\$100 per month.

³⁶ Belapan News agency, Minsk, March 18, 1998.

³⁷ Human Rights Watch interview with Valery Shchukin, April 6, 1998.

³⁸ Belarusian Helsinki Committee press release, Minsk, March 23, 1998.

³⁹ For a full listing of those arrested and punishment received, see appendix A.

that members were free to attend the government-sponsored fair if they so wished.⁴⁰ This announcement likely led to large numbers of BPF and Youth Front members attending the fair, including senior BPF member, Vyacheslav Sivchik, and Youth Front leader, Pavel Syverinets. However, at the fair, senior BPF member Yuri Khodyko, using a police megaphone, reportedly urged BPF and Youth Front members present to disperse, urging them instead to participate in the sanctioned demonstration on April 5.⁴¹ The fair itself passed peacefully, although BPF and Youth Front members were reported to have chanted slogans, such as *Zhivye Belarus!* (Belarusian for "Long Live Belarus!"), and to have sung pro-independence songs.⁴²

At approximately 6:30 p.m., a number of men in plainclothes,⁴³ with closely cropped hair and leather jackets, emerged from parked cars and started to beat and detain the BPF and Youth Front members shortly after they had begun to disperse. Approximately forty people were detained and beaten on the street as they left the square, while others were detained near the BPF headquarters or on public transportation. Dmitri Vaskovich, a fifteen-year-old boy from Marina-Gorka (a town forty kilometers southwest of Minsk) told Human Rights Watch what happened to him:

After the meeting had finished, we were already getting ready to go home when people in plainclothes started to grab us, they didn't say who they were, nothing.... They started to grab and beat us and drag us by the hair. They dragged me by the hair. When they had thrown everyone [to the ground], they kicked them. When they grabbed me, they tore my jacket....⁴⁴

Seventeen-year-old Stepan Kulchanka, also from Marina-Gorka, described how he received the black eye that was plainly visible to Human Rights Watch researchers four days after the incident:

I don't exactly remember, but the injury [black eye] occurred in the car, after they had already thrown me in there. There were two others who had been arrested sitting in the car, and one of those men who had been grabbing people. Evidently, the one who punched me had followed us [at the fair] and started to choke me and swore....⁴⁵

Police charged Kulchanka under Article 186 (3) of the criminal code — participation in an unsanctioned demonstration — which carries a maximum sentence of three years of imprisonment or two years of corrective labor or a fine.⁴⁶ Vaskovich was charged under Article 201 (2) — malicious hooliganism — which carries a maximum sentence of five years of imprisonment. However, on May 27, the Commission for Juveniles under the District Executive Committee of Marina-Gorka handed down warnings to Vaskovich and Kulchanka for their alleged actions on April 2.

⁴⁰ Belapan news agency, Minsk, March 30, 1998.

⁴¹ Human Rights Watch interview with Valery Shchukin, Minsk, April 6, 1998.

⁴² Belapan news agency, Minsk, April 6, 1998.

⁴³ The identity of these men remains unknown. That they detained and later interrogated and intimidated detainees demonstrates that they were working in an official capacity, but it is unclear whether they were plainclothes police, KGB or from a different law-enforcement agency or security service. None of the Human Rights Watch interviewees detained or beaten by these men were informed as to their identity. This lack of identification highlights the impunity and lack of accountability with which these men operate.

⁴⁴ Human Rights Watch interview with Dmitri Vaskovich, Minsk, April 6, 1998.

⁴⁵ Human Rights Watch interview with Stepan Kulchanka, Minsk, April 6, 1998.

⁴⁶ Article 167 of the administrative code, which covers the same offense, carries a much lighter punishment — part 1 provides for from three to fifteen days of imprisonment and/or a fine of from twenty to 150 times the minimum monthly wage, while part 2, applicable to repeat offenders or the organizers of a demonstration, provides for from ten to fifteen days of imprisonment and/or a fine of from 150-300 times the minimum wage.

The same men in plainclothes also severely beat and detained Vyacheslav Sivchyk, executive secretary of the BPF. Sivchyk was reportedly beaten and kicked as he lay on the ground. The following day at the Minsk Central District Court, Judge Anatol Barysyonaka sentenced Sivchyk to ten days of imprisonment under Article 167 of the administrative code for holding an unsanctioned demonstration. Following the trial Sivchyk was taken to the Central district remand center, whereupon he reportedly lost consciousness.⁴⁷ An ambulance was called and Sivchyk was taken to hospital, where he was diagnosed as suffering from severe skull and cerebral trauma.⁴⁸ Although not officially released from detention, Sivchyk was discharged from the hospital and allowed home on April 6, having served one day of his sentence.

April 25, 1998 Demonstration

April 26 is the anniversary of the 1986 Chernobyl nuclear catastrophe, which affected Belarus more than any other country. In recent years, the date has been commemorated by demonstrations that protested the state's inadequate response to social and health problems associated with the disaster, and has, more recently, also served as an occasion to protest the authoritarian rule of the president. The occasion has traditionally attracted the largest number of participants of all the demonstrations during the year. The years 1996 and 1997 saw widespread violence between demonstrators and police and credible allegations that police provoked certain incidents. The 1998 march, which was held on April 25, passed off peacefully, along with a rally at which leading opposition figures spoke. But following the rally, police reportedly arrested as many as forty demonstrators, some of whom were beaten.⁴⁹ Police reportedly arrested fourteen-year-old Anton Taras, who had worn a gas mask during the demonstration, and forced him to put on the gas mask in custody; police reportedly then turned off the air supply, chillingly reminiscent of the torture technique now prevalent in Russia known as *slonnik* [the elephant].⁵⁰ Police also arrested a group of Russian students from the Anti-Fascist Youth Action (AFYA) who had taken part in the demonstration. At least fifteen members of this group, including AFYA leader Petr Kaznachev, were held until the evening of April 26, whereupon following diplomatic intervention, they were deported under armed escort by train to the Russian town of Smolensk.

⁴⁷ Belapan news agency, Minsk, cited in WNC, April 4, 1998.

⁴⁸ Human Rights Watch interview with Vyacheslav Sivchyk, Third Minsk City Hospital, April 6, 1998.

⁴⁹ Belarusian Helsinki Committee press release, Minsk, April 27, 1998.

⁵⁰ Ibid. Also reported by Belapan news agency, Minsk, April 26, 1998. For a detailed analysis of this method of torture by law-enforcement agencies in Russia please see Amnesty International, "Torture, This Man-Made Hell," London, April 1997.

State Response to Police Brutality at Demonstrations

The events that took place there [in Riga] are even more regrettable if one considers that the 50th anniversary of the Declaration of Human Rights adopted by the United Nations is being celebrated throughout the world this year. Citizens' rights to "freedom of peaceful gatherings and associations" as well as "freedom of beliefs and their expression" laid down in the U.N. declaration were trampled upon in Riga with the help of police truncheons.⁵¹

Pavel Shypuk, Chair of the Belarusian National Assembly Council of the Republic, March 26, 1998,⁵² commenting on alleged use of police force to disperse elderly demonstrators in Riga, Latvia.

State response to the mass arrest, beating and hospitalization of demonstrators, regardless of age or infirmity, on the streets of Minsk has been wholly inadequate. Indeed, Human Rights Watch is unaware of a single successful action against police officers for brutality at a demonstration. Despite the omnipresent police cameras, footage from these cameras remain curiously absent in court as evidence when demonstrators or bystanders have attempted to bring assault charges against police officers for the police brutality that marred the April 2, 1997 and April 2, 1998 demonstrations (among others).

Irina and Uladzimir Khalip

Irina Khalip is currently the editor of the weekly Belarusian language newspaper *Imya* (The Name). On April 2, 1997 she and her father, Uladzimir, attended a demonstration to protest the signing of the Russia-Belarus Union Charter. Many demonstrators were arrested and severely beaten, including a number of journalists.⁵³ Police beat Khalip and beat her father unconscious. She told Human Rights Watch:

He was hospitalized for a long time. They beat him so badly that I didn't even know that we were taken in the same [police] car. When they dragged him to the police car, they beat his face into the ground until he lost consciousness...they threw someone else on top of him — that is, I didn't know that he was lying there in the foot-well of the car. There were some metal objects in the foot-well that lacerated his face. The wounds on his face required stitches: he was beaten on the kidneys and he suffered a severe concussion. They treated him [in the hospital] then my mother took him to Israel to convalesce, but in September he suffered a relapse and was hospitalized again, whereupon they said that [the effects resulting from] his head injury are irreversible.⁵⁴

⁵¹ *Narodnaya hazeta* (The People's Newspaper) (Minsk), cited in World News Connection (WNC), March 26, 1998.

⁵² On March 3, 1998, Latvian police allegedly used force in the capital, Riga, to disperse approximately 1,000 Russian-speaking pensioners protesting low living standards. Radio Free Europe/Radio Liberty Newswire, an electronically distributed news service, vol. 2, no. 43, Part II, March 4, 1998. The incident also provoked condemnation from the Russian government, which threatened to reroute oil exports, currently running through Latvia, while Moscow Mayor Yury Luzhkov announced a partial boycott of Latvian goods in Moscow stores. The dispute centers on some 700,000 ethnic Russians in Latvia who, due to the impending expiry of their Soviet-era passports, their reluctance or inability to pass Latvian language exams necessary in order to gain Latvian citizenship, are faced with the prospect of becoming stateless. Some 100,000 ethnic Belarusians are reported to be similarly affected.

⁵³ See Human Rights Watch, "Crushing Civil Society," pp. 18-21.

⁵⁴ Human Rights Watch interview, Minsk, February 20, 1998.

Irina told Human Rights Watch how she herself was dragged from the crowd and beaten:

[They beat me] with batons on the back, then they pulled me out from the bundle of people by the hair, and then dragged me by the hair through the lines of the riot police. For me that was worst of all: through the police lines, that was really awful. Each riot policeman considered it his duty to hit me and they said, "You've jostled your way through the demonstrators, now it's our turn." They beat me with their fists, batons and kicked me.⁵⁵

Afterwards, Khalip and her father were taken to the local police station, where they were held, along with other demonstrators, for several hours. Khalip describes how upon recognizing her name as the editor of *Imya*, a senior policeman offered to release her:

He said "I apologize for your detention...you are free to go." I said that I wasn't leaving until they called an ambulance for my father. We waited for a long time for the ambulance. My father had lost a lot of blood: blood was spurting from him like tears from a clown at the circus....⁵⁶

Khalip lodged an official complaint with the Minsk city procurator (prosecutor) on behalf of herself and her father following the demonstration, asking that a criminal investigation be launched. She received notification from the Minsk city procurator that her complaint, and those of other citizens, had been registered and that a criminal investigation had been initiated on police exceeding their authority. Senior investigator Valentin Mogovil of the Central district procuracy was tasked with the investigation.

Both Irina and her father, once he had been discharged from hospital, actively tried to assist the investigation by gathering medical documents that attested to Uladzimir Khalip's injuries and video and photographic evidence of the beatings. However, Khalip told Human Rights Watch that Mogovil declined to review this evidence, stating that it "wasn't necessary." The procuracy dropped the investigation in June 1997; Khalip, however, was not informed of this until October. Widely published photographs of Khalip and her father and others being beaten clearly show the identity of some of the police officers; one photograph depicts Irina lying on the ground with her father, and a police officer, baton in hand, whose face is clearly visible, attempting to drag him away.

Khalip pursued the matter further and attempted to get a copy of the notification of the investigation's closure. On November 17, she went to see investigator Mogovil, who gave Khalip a document stating that police actions involved "no criminal activity" at the April 2 demonstration. Khalip told Human Rights Watch:

I was expecting something different and asked, "Is that all?" He said "Yes, you mean you want something else as well?" I said that I want the investigation to be resumed, carried to a logical conclusion in order that specific people are identified and punished. The investigator said to me "You know, Irina Vladimirovna, leave me in peace, I have nothing further to say to you, you can turn to some other authority but it is better to acknowledge that you've lost."⁵⁷

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Human Rights Watch interview, Minsk, February 20, 1998. Khalip told Human Rights Watch that at that moment she realized that further appeals would be fruitless, and, sensing her helplessness and angry at the fact that her father had just been hospitalized for the second time as a direct consequence from the injuries he sustained on April 2, she slapped Mogovil in the face. Khalip was initially charged under Article 189 (2) of the criminal code — violence against an official in the course of his duties — which carries a maximum sentence of three years of imprisonment. However, the charge was later changed to Article 156 (1) — premeditated infliction of bodily injury — which carries a maximum sentence of fifteen days of imprisonment and/or a fine. On February 11, Khalip was found guilty and fined 200,000 Belarusian rubles (approximately U.S. \$5).

Because a large number of journalists were beaten during the April 2, 1997 demonstration, the Belarusian Association of Journalists (BAJ) also lodged an official complaint demanding a criminal investigation. On October 7, 1997, city procurator Kupriyanov wrote to Zhanna Litvina, the president of BAJ, in response to their complaint:

During the clash, actions by police officers caused slight bodily harm to some journalists....During the investigation, it proved impossible to gain a perfect understanding of each instance of bodily injuries, as specific persons who caused them were not identified. However, the use of strong-arm methods by police officers should not be regarded as obviously exceeding the limits of their authority, as the use of special means by them in that situation was generally in compliance with the demands of the Law on the Police...the investigation into the case has been dropped.⁵⁸

As of this writing, the investigation into police brutality at the April 2, 1997 demonstration remains closed.

Vladimir Yukho

Fifty-two-year-old senior BPF member, Vladimir Yukho, was arrested during the court hearing of Shidlovsky and Labkovich. On February 24, 1998, riot police outside the court building arrested Yukho, who had been denied entrance to the hearing. He was choked and manhandled after arrest. Tatiana Vanina, a correspondent for *Belarusskaya Molodezhnaya* (Belarusian Youth) newspaper, witnessed the arrest:

We were standing on the front steps [of the court building] and the OMON would not let us in. [The OMON] started to push journalists and all those present off the steps. Two riot police officers started to push a woman off the steps and Yukho held off the arm of the riot policeman from the woman and said, "Don't touch her." The OMON then grabbed him and dragged him to the RAF [police minibus with sliding doors], which was parked nearby. When they were putting him in the RAF, his hand fell between the doors, they pulled back the door, in order to open it — his hand was jammed there — they mutilated his hand, and forcibly shoved him [in]...He really screamed!⁵⁹

On the way to the police station in the police car, a man Yukho later identified as senior police officer Gennady Miklush, a major and deputy head of the Minsk Leninsky District Police Department, choked Yukho so severely that he bruised the man's neck. A Human Rights Watch researcher observed Yukho's bruises in the hospital shortly afterwards, and noted that he was in a state of shock. The injury to Yukho's hand was severe enough to warrant the use of a plaster cast. Yukho was charged with breaching Articles 166 and 167 of the administrative code. On February 24, Yukho filed an official complaint with the regional prosecutor against Miklush for illegal detention and causing bodily harm.

On April 9, Judge Yelena Tereshkova of the Minsk Leninsky District Court fined Yukho five million rubles (approximately U.S.\$116) for participating in an unauthorized demonstration on February 23 along with Vital' Alisyonuk, Maksim Kashinsky, Dmitiri Kasperovich and Danil Milovanov, and for resisting arrest. Judge Tereshkova refused to take into account witness testimony that confirmed Miklush's assault on Yukho, reportedly stating that the court was examining the defendant's actions alone.⁶⁰ As of this writing, Yukho's complaint against Miklush was still pending. Human Rights Watch is unaware of any disciplinary action taken against Miklush since the incident, and he has since been observed on duty at a March 22 demonstration.⁶¹

⁵⁸ Letter reprinted in the BAJ journal *Chatsverta Vlada* (The Fourth Power), no. 9, Minsk, November 1997.

⁵⁹ Human Rights Watch interview with Tatiana Vanina, Minsk, February 25, 1998.

⁶⁰ Belapan news agency, Minsk, April 10, 1998.

⁶¹ Telephone interview with Vladimir Yukho, March 27, 1998.

CONTINUED HARASSMENT OF THE MEDIA

[T]he agreement will favor the exercise of people's right to freedom of speech and to receive information, the formation of the [Russia-Belarus] union's single information space, and the cultural enrichment of the two nations.

Aleksandr Kozyr, deputy chairman of the House of Representatives Committee on International Affairs and Relations with CIS Countries, on the creation of a joint Belarusian-Russian television and radio company.⁶²

The independent media in Belarus operate in the face of a concerted government campaign that has sought to control their content, distribution, and personnel. The government's informal information blockade against the independent media emerged as a policy in a confidential government memorandum leaked to the press in April. Domestic independent alternatives to state television and radio, which are rigidly controlled, no longer carry news programs for fear of punitive inspections and fines. The government rigorously enforced legislation that unduly restricts freedom of speech, closing outright one independent newspaper and threatening to close another. State-owned newspapers' content is also tightly controlled, with recalcitrant editors facing dismissal.⁶³

Accordingly, the independent print media has become a vital, yet diminishing resource for Belarusian citizens who seek an alternative viewpoint to that prescribed by the government. Meanwhile the Russian television networks that are received in Belarus, such as ORT, NTV and RTR,⁶⁴ have become the sole source of alternative television news coverage in the country. Despite the Russian television networks' relative stature, this has not prevented their correspondents from being subjected to harassment, censure, denial of accreditation, and expulsion.⁶⁵ Independent Belarusian radio, such as *Radio Roks*, feature only brief, strictly neutral and non-controversial news bulletins in order to avoid harassment or closure. The Internet remains the sole source of information generally unhindered by the authorities, despite one recorded case of suspicious interference with an independent news web site during the November 1996 referendum.⁶⁶ Indeed, the newspaper *Svaboda* freely used its web site to continue publication after the government banned it in print (see below). However, unofficial estimates suggest that only a few thousand citizens in Belarus have access to the Internet.

⁶² Belapan news agency, Minsk, April 10, 1998.

⁶³ See, Human Rights Watch, "Crushing Civil Society," pp. 11-26.

⁶⁴ ORT is Russian Public Television, and RTR is Russian Television and Radio.

⁶⁵ Human Rights Watch, "Crushing Civil Society," pp. 21-22.

⁶⁶ Human Rights Watch, "Crushing Civil Society," pp. 26-27.

Depriving Information to the Non-state Media

The government continues to attack fundamental rights to freedom of expression in the print media through a two-pronged strategy: first, by issuing warnings to newspapers following the publication of an article critical of the government or calling for civic protest,⁶⁷ and second, by depriving the print media of virtually any official information pertaining to the government. Journalists and observers had long believed the Belarusian government was wilfully withholding important unclassified information from the media. This perception was confirmed on April 7, 1998, when a memorandum, marked "for official use," was leaked to the press in Minsk. The memorandum, entitled "On Strengthening Countermeasures [Against] Articles in the Opposition Press," outlined three main points of action to counter anti-government media coverage:

- To ban the passing of any official documents (orders, decisions, resolutions etc.) to the non-state media by ministries, state committees and other organs of state administration;
- To inform state officials that commentary on official documents to the opposition mass-media is not permitted;
- To forbid state establishments and enterprises to place advertisements in opposition newspapers [as these] are a major source of income for these newspapers.⁶⁸

The memorandum was undated and signed by B. N. Bolozhinski, the Chief Advisor to the Social and Cultural Policy Department of the Presidential Administration, and made reference to a March 17, 1998 letter from President Lukashenka and a "Presidential Order on the Need to Strengthen Countermeasures against Articles in the Opposition Press." Points 1 and 2 of the memorandum clearly violate Article 34 of the Belarusian constitution, which states:

Citizens of the Republic of Belarus shall be guaranteed the right to receive, store and disseminate complete, reliable and timely information on the activities of state bodies and public associations, on political, economic and international life, and on the state of the environment.

Similarly, points 1 and 2 violate Article 19 (2) of the ICCPR, which reads:

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

President Lukashenka confirmed the memorandum's authenticity on May 5 in a speech addressing a C.I.S. journalist's forum. Belapan news agency reported that the president had said the letter's author should have given the directives orally and not in written form. He reportedly then added that the instruction "...was done rudely: it was correct in content but rude in form."⁶⁹

Although the memorandum has no legal force, government agencies apparently comply with it. Moreover, information to independent media outlets had been informally banned prior to the memorandum. Two months before

⁶⁷ See, for example, the case of Evgeny Lobanovich's article on tactics for the opposition movement entitled "What is to be done?" printed in *Belarusskaya Molodezhnaya* (Belarusian Youth), Minsk, a weekly independent newspaper, on February 21, 1997. The newspaper received an official warning from the government on March 6, 1997. For a fuller account see Human Rights Watch, "Crushing Civil Society," pp. 14-16.

⁶⁸ Letter reprinted in appendix B.

⁶⁹ Belapan news agency, May 5, 1998.

memorandum was leaked, Ales' Lipau, director of the Minsk-based Belapan news agency described how the informal ban worked:

In principle, it happens all the time....[W]e are not invited to large press conferences or to official functions — for us those are “no entry.” Belapan and a few other independent publications are not allowed into those kinds of functions. This happens every week, at any kind of official occasion, especially when the president is taking part.⁷⁰

Amendments to the Law on the Press and Other Mass Media

On December 20, the Council of the Republic adopted amendments to the Law on the Press and Other Mass Media with minor alterations. In “Crushing Civil Society,” Human Rights Watch had criticized earlier drafts of these amendments because they grant authority to ban and censor independent media reporting that is critical of the government, or that exposes vaguely defined state “secrets” or material that could harm the state’s political, economic, or security interests or the health and morality of its citizens. In particular, provisions punishing publications that “insult the honor and dignity” of government officials are open to use against those who put forward legitimate criticism of state officials that is fully protected political comment and opinion under international human rights law, including Article 19 of the ICCPR. The amendments also codified a prior presidential decree restricting the import and export of information deemed to threaten “the national security, rights and freedoms of individuals, health and morals of the population and environmental protection.” Such sweeping power to restrict information also runs contrary to Article 19(2) of the ICCPR and Article 34(1) of the Belarusian constitution. The law provides as amended for administrative prosecution of all distributors of a newspaper found to have violated these vague standards, the banning of such publications, and suspension of an individual’s right to engage in media activities should he violate the law. The alterations to the draft amendments were of a minor nature that did not mitigate its potential for silencing all critical reportage.⁷¹

Warnings have been handed down to newspapers perceived by the state to be violating this law, even before the amendments were adopted. The ban importing ‘harmful’ information has been enforced against a variety of different publications, including in, 1996, the newspaper *Svaboda* (Freedom), and in April 1997, against *Belarusskaya Molodezhnaya* (Belarusian Youth).⁷² In yet another enforcement of this restriction, on May 2, 1998, Belarusian authorities confiscated from Acting BPF Chair Levon Barshchevsky and his Deputy Sergei Papkov 900 copies of the *Belarusskaya Vedemosti* (Belarusian News, which is published in Poland), along with several hundred copies of political articles, at the Belarus-Ukraine border because of their political content.⁷³

⁷⁰ Human Rights Watch interview with Ales' Lipau, Minsk, February 18, 1998.

⁷¹ The alterations included exempting publications with a print-run of less than 300 issues from registering with the State Committee on the Press; in the ban on defamation, substitution of a general reference to high officials for a specific reference to the president; and reducing the maximum period of suspension of media outlets in breach of the law from twelve to three months.

⁷² For further details on these cases please see “Crushing Civil Society,” pp 23-25.

⁷³ Belapan news agency, Minsk, May 4, 1998.

Sanctions and Warnings against Newspapers: *Svaboda* and *Imya*

Svaboda, an independent daily newspaper, had the dubious honor being the first independent newspaper to be closed under the Law on the Press and Other Mass Media.⁷⁴ On November 19, 1997, *Svaboda* received two warnings from the State Committee on the Press that it was in violation of Article 5 of the Law on the Press for inciting "social intolerance" and "hostility between society and the authorities." In the past two years, *Svaboda* had received more than ten warnings for publishing controversial articles. One of these warnings stemmed from a 1996 article criticizing judges who presided over trials, conducted in prison, of individuals arrested at demonstrations. The article was deemed to "discredit the Belarusian judicial system and insult the honor and dignity of the judges." Two articles published in 1997 allegedly "disclosed secrets" of two criminal investigations: the first related to the arrest on embezzlement charges of Tamara Vinnikova, head of the Belarusian Central Bank; the second covered a gas pipeline explosion with which the so-called Belarusian Liberation Army has been linked.

The November 19 warnings related to two articles published in *Svaboda* earlier in November. One article, entitled "Impeachment — The Second Attempt," drew parallels between Belarus today and 1937; the other, entitled "Belarus — Remembrance Day," accused the president of incompetence and criminal activity. In accordance with the Law on the Press, publications that receive "multiple" warnings are in danger of closure. In this instance, the Higher Economic Court ruled *Svaboda* to be in breach of Article 5 of the law and annulled its registration, thereby closing the newspaper. The two articles, and the three articles which previously drew warnings, were within the internationally accepted boundaries of free speech. Further, the closure of *Svaboda* for the expression of such opinions constitutes a clear violation of domestic and international instruments, such as Articles 33 (3) and 34 (1) of the Constitution of Belarus, Article 3 of the Law on the Press and other Mass Media, Article 8 of the Russia-Belarus Union Charter, and Article 19 of the ICCPR.

The Law on the Press leaves unclear what, if any, recourse exists to appeal a court decision closing a media outlet. Previously, newspapers that received warnings were not subsequently closed.

The closure of *Svaboda* culminated a systematic government-sponsored campaign to silence criticism of the president and of the government. Human Rights Watch has documented other methods — short of closure — employed by the Belarusian government to attack and silence the independent media. With specific regard to *Svaboda*, in 1996 these included: a huge fine at the end of 1996 (U.S.\$3,000) for non-payment of taxes on copies of the newspaper that had been distributed free of charge; an attempt to evict *Svaboda* from its premises by raising the rent for their offices threefold; forcing *Svaboda* to print in neighboring Lithuania temporarily; and periodic bans on the newspaper's distribution.

On November 11, 1997, *Imya* (The Name), an independent weekly newspaper, received an official warning from Deputy General Procurator M.V. Snegir after the publication of a series of satirical photo-collages that featured President Lukashenka. The collages variously depicted the head of the president along with the heads of other Belarusian and Russian government officials, including Russian President Boris Yeltsin, superimposed on the bodies of other people, and political captions. The warning stated that the collages were of "an insulting character to the president," that they expressed the "obvious aim of the political and personal discreditation of the state leaders" and that they represented the president "in a manner not in accordance with genuine reality that degrades the honor and dignity of his person and a political figure of his scale."

⁷⁴ Following *Svaboda*'s closure, the newspaper continued to appear on the Internet — <http://www.belarus.net/MassMedia/Newspaper/Svaboda/> — without evident government interference. On January 16, 1998, a new newspaper, entitled *Naviny* (The News), was launched by the same staff and funders of *Svaboda*. The Belarusian Association of Journalists reported in the January edition of their periodical, *The Fourth Estate*, that *Naviny* received a warning from the State Committee on the Press on January 23, 1998 for reprinting the *Svaboda* logo on the front page.

Since November 1995, *Imya* was forced, through the cancellation of its contract with a Gomel printing house, to print in neighboring Lithuania. As of February 1998, *Imya* has resumed printing in Minsk at the private "Magic" printing press. *Imya* has also resumed distribution via the state postal distribution company, Soyuzpechat, which had also been suspended in November 1995. However, Soyuzpechat will only take 2,000 copies for state distribution through kiosks, claiming, according to *Imya* editor, Irina Khalip, that there is no demand for more copies. Yet, as Khalip told Human Rights Watch, the message from the newspaper vendors themselves suggests otherwise:

I spoke with the vendors in the kiosks and they complained, they said that they are given five copies and that they don't even display those copies on the counter...they put them aside for themselves, their friends, their neighbors....⁷⁵

Sanctions against ORT: The Cases of Pavel Sheremet and Dmitri Zavadsky

Twice in 1997, the Belarus authorities revoked the accreditation of journalists employed by NTV and ORT⁷⁶ to censure them for their critical reports. The specter of stripping Russian journalists of their accreditation rose again on March 13, 1998 when foreign minister Ivan Antanovich accused parts of the Russian media of "misinformation, fabrications, and libel" against President Lukashenka. Antanovich reportedly stated that there had been "a wave of innuendoes, inventions, and fabrications" against the president, and threatened to strip journalists from these media outlets of their accreditation if these stories continued. Antanovich's statement was apparently linked to widely reported comments by Belarusian businessman Aleksandr Pupeyko — who had just received political asylum in Poland — claiming that he had documentary evidence that President Lukashenka held large sums of money in foreign bank accounts.⁷⁷

On July 7, 1997, Minsk ORT bureau chief Pavel Sheremet was stripped of his accreditation as a journalist in Belarus. This followed the removal of his special events accreditation on July 2.⁷⁸ The Belarus Foreign Ministry made the following statement:

...since reports by ORT correspondent in Minsk Pavel Sheremet systematically contain intentional distortions of information about events in the Republic of Belarus, which insult the feelings of all Belarusian people, since the dissemination of these biased materials leads to the misinformation of public opinion both in Belarus and Russia, and pursuant to Article 42 of the Law of the Republic of Belarus on the Press and other Mass Media, the chief of the ORT Belarusian bureau, Pavel Sheremet, has been deprived of his accreditation.⁷⁹

This loss of accreditation in practice meant that Sheremet, a Belarus citizen, was no longer granted a press pass to official press conferences or allowed access to the Minsk television center, the only facility in Belarus from which video materials can be transmitted abroad.⁸⁰ However, he was still able to work for ORT and it was in this capacity that he applied to the authorities on July 18, 1997 for permission to film a piece on the Belarusian-Lithuanian border.

⁷⁵ Human Rights Watch interview with Irina Khalip, Minsk, February 20, 1998.

⁷⁶ The Ministry of Foreign Affairs revoked NTV correspondent Aleksander Stupnikov's accreditation on March 24, 1997. Human Rights Watch, "Crushing Civil Society," *A Human Rights Watch Report*, pp. 21-23.

⁷⁷ Belapan news agency, Minsk, March 13, 1998, and Interfax news agency, Moscow, March 17, 1998, both cited in WNC.

⁷⁸ Human Rights Watch, "Crushing Civil Society," pp. 22-23.

⁷⁹ ITAR-TASS news agency, Moscow, cited in WNC, July 9, 1997. See also, Human Rights Watch, "Crushing Civil Society," pp. 11-17.

⁸⁰ Interview with Pavel Sheremet, radio station *Ekho Moskvy* (Moscow), cited in WNC, July 11, 1997.

Unconfirmed reports state that Sheremet was in fact granted permission to film in the border region, but only in September of that year. Sheremet, his cameraman Dmitry Zavadsky and driver Yaroslav Ovchinnikov set off on July 22 to the Belarusian-Lithuanian border, not far from the border town of Oshmyany.⁸¹ There they filmed on and around the border zone and were detained by Belarusian border guards at the Kammeny Log crossing point. The guards fined the television crew for violating the border zone entrance regulations and then released them. On July 23, the ORT television news program *Vremya* (Time), featured a piece on smuggling along the Belarus-Lithuanian border, which included footage from Sheremet's trip. On July 26, Sheremet, Zavadsky, and Ovchinnikov were detained in Minsk and on July 28 were transferred to a KGB detention facility in Grodno region. On July 30, Sheremet and Zavadsky were charged under Article 80 of the criminal code — premeditated violation of the border by a group — which carries a maximum sentence of five years of imprisonment.⁸² The following day, Interfax reported that President Lukashenka alleged that Sheremet "has received remuneration from foreign special services."⁸³

Ovchinnikov was freed on August 6 without charge, while Zavadsky was held until September 4. That day, the Belarusian KGB published a letter that, it claimed, Zavadsky wrote from prison to President Lukashenka. The letter reportedly contained a plea asking for mercy, a "confession" that his actions were not conducive to friendly relations between Belarus and Russia, and a request that he be allowed to leave prison pending trial.⁸⁴ However, on September 5, Zavadsky reportedly stated in an interview with journalists in Grodno that the text of the letter he wrote and that which was published "significantly differed." Zavadsky added that "rather than asking for mercy, I requested my release from custody."⁸⁵ Sheremet was finally released on October 8.

Meanwhile, on August 15, a film crew comprised of four ORT journalists — three Russian citizens (Anatoly Adamchuk, Aleksandr Oganov and Valeriy Astashkin) and Belarusian citizen Uladzimir Kostin — traveled to the Oshmyany district in order to show that the demarcation of the border between Belarus and Lithuania is unclear and that it is poorly guarded.⁸⁶ Before reaching the border, however, the Belarusian State Border Guards detained them, allegedly for being in a border zone without the correct identifying documentation. While their identity was being established, the border guards placed them in the custody of the Interior Ministry. The journalists were fined 450,000 rubles each; however, the Interior Ministry detained the crew again on August 16 and the procuracy on August 18 charged them under Article 15 (2) and Article 80 (2) of the Belarusian criminal code with "attempted border violations."

In a televised statement on August 19 made while he was still in custody, Adamchuk "confessed" to a premeditated attempt to "violate the border," which he said he had carried out, under threat of dismissal from his superiors at ORT, and entreated the authorities "not to expel me from the republic...but let me work in Belarus to make amends for my evil deeds."⁸⁷

⁸¹ Mikhail Pastukhov, "Sheremet and Zavadsky on Trial: Shame on Belarusian Justice," reprinted in *The Fourth Estate*, the bulletin of the Belarusian Association of Journalists, January 1998. Pastukhov is a former constitutional court judge who resigned in protest at the November 1996 referendum that amended the constitution. During the trial of Sheremet, Pastukhov acted as Sheremet's public defender. Pastukhov is currently the director of the Center for Media Law and Practice at the Belarusian Association of Journalists based in Minsk.

⁸² Interfax news agency, Moscow, cited in WNC, July 30, 1997.

⁸³ Interfax news agency, Moscow, cited in WNC, July 31, 1997.

⁸⁴ Minsk radio, Minsk, cited in WNC, September 4, 1997.

⁸⁵ Interfax news agency, Moscow, cited in WNC, September 5, 1997.

⁸⁶ This is a matter of great official sensitivity not only because it facilitates smuggling, but because there is no border between Belarus and Russia. Hence, if Belarus' border are transparent, so then is Russia's western border.

⁸⁷ Interfax news agency, Moscow, cited in WNC, August 19, 1997.

Authorities released Adamchuk, Ostashkin, and Oganov on August 22, while Kostin was released on August 25. On August 18, Belarusian authorities forcibly took ORT journalist Vladimir Foshenko to the town of Lida for questioning.⁸⁸ He was reportedly held incommunicado in a hotel until August 22, whereupon authorities deported him to Russia. However, on September 24, Foshenko returned to work in Belarus as an ORT correspondent, reportedly after having reached an agreement with President Lukashenka.⁸⁹

Pavel Sheremet and Dmitri Zavadsky were tried for violations of Article 17 of the criminal code (conspiring with a group of people to commit a crime) and Article 80 (premeditated violation of the border by a group). Sheremet was additionally charged under Article 167 — exceeding his authority as a journalist resulting in damage to the public interest. He was released on October 8 on his own recognizance, pending trial.

The trial began on December 17, 1997 in the border town of Oshmyany. The choice of location for the trial, which had generated enormous interest in Belarus and Russia and had prompted the personal intervention of Russian President Boris Yeltsin, greatly limited coverage. First, the court room itself was clearly too small to hold all the interested parties, prompting the defense to apply, without success, to have the hearing moved to more spacious premises.⁹⁰ Second, travel to the town of Oshmyany necessitated special permission from the authorities, as it is located in a designated border zone.

On January 28, 1998, the court pronounced Sheremet and Zavadsky guilty as charged and sentenced them to two and one and a half years of imprisonment respectively, suspended for one year.

The state chose to prosecute Sheremet and Zavadsky apparently because of the role they played in exposing the lack border demarcation,⁹¹ a subject of official sensitivity. This notion is supported by the timing of their arrest: whereas they were merely fined when caught in the border area, they were arrested and charged only after their film clips aired on television. Human Rights Watch further believes that the prior public accusations by the government of bias in Sheremet's reporting and the stripping of his accreditation, also indicate the political nature of the case.

⁸⁸ Interfax news agency, Moscow, cited in WNC, August 22, 1997.

⁸⁹ Belapan news agency, Minsk, cited in WNC, September 25, 1997.

⁹⁰ Radio Rossiya, Moscow, cited in WNC, December 22, 1997. One Western observer, who attended the trial and requested anonymity, commented that they suspected the authorities of filling the court room with local residents in order to reduce yet further space for journalists and other observers of note. This supposition is supported by Foreign Minister Antanovich's "recommendation," reported by Radio Rossiya also on December 22, that Belarusian and foreign journalists not attend the trial to avoid putting pressure on the court.

⁹¹ One Oshmyany resident explained local confusion over the trial, "We can't understand what they're being tried for... [Locals cross the border] all the time. We're all criminals." *Moscow Times* (Moscow), pp. 1-2, January 29, 1998.

ASSAULT AND HARASSMENT BY PLAINCLOTHES STATE AGENTS

This is undoubtedly an outstanding date, even though the history of both the state security bodies and our Motherland has a lot of bright and sad periods. I do not want to mention difficult moments on this holiday; one would like to erase them from memory, but we should remember them in order to not repeat terrible mistakes.

Belarusian KGB (State Security Committee) Chief Uladzimir Matskevich, on the occasion of the eightieth anniversary of the founding of the KGB.⁹²

Under Lukashenka's presidency, a number of journalists, members of non-governmental organizations and those connected with the opposition have been beaten, kidnaped, or threatened in circumstances that strongly suggest the responsibility of state security forces. These assaults were usually carried out by men in plainclothes who did not identify themselves. Human Rights Watch is not aware of a single instance in which these assaults has resulted in a prosecution. This failure by Belarus law-enforcement agencies to bring perpetrators of such crimes to justice reinforces the perception that they are carried out by state agents operating undercover with complete impunity.

In addition to these attacks, an April 16, 1998 statement by KGB chief Uladzimir Matskevich announced the institution of a system of official warnings to citizens engaged in "unlawful actions." According to the report, the directive states that a citizen may be summoned for questioning to the KGB's offices on the basis of information of "criminal activity." A file will then be kept on the individual "if he continues to engage in illegal activities." Maskevitch's announcement is problematic because Belarus law enforcement essentially criminalizes many expressions of free speech and assembly.

Yury Khashchevatsky

Yury Khashchevatsky is an internationally renowned documentary film director based in Minsk and is also a board member of Charter 97, a pro-democracy movement. On the night of December 23, 1997 two unidentified men broke into Khashchevatsky's film studio and beat him unconscious, breaking his nose, his foot in three places, and giving him a concussion and multiple bruises and abrasions. No valuables or equipment were stolen or damaged, strongly indicating the intimidatory nature of the assault.⁹³

In November 1996, Khashchevatsky completed a documentary film, *An Ordinary President*, which is an openly critical, satirical portrait President Lukashenka. The film drew international acclaim and, in 1997, was awarded a prize from the Berlin Film Festival and the prestigious Russian Sakharov Prize. In Belarus, the film's reception was markedly different. On the night of January 22, 1997, a local cable television station in the town of Karelichy, in Grodno region, broadcast the film. The local police and the State Security Committee (KGB) arrived at the station just as the film was ending, broke down the door, confiscated the film and detained nineteen-year-old Maksim Svyrid, the video operator at the station who had broadcast the film. Svyrid was held until 1:00 a.m. and ordered to report to the KGB the next day, whereupon after questioning, he was released.⁹⁴ On November 19, 1997, Belarusian Video Center Director Sergei Lukyanchikov fired resident engineer, Viktor Chernomorets, and fined the center's chief engineer, Vladimir Tomashevsky, for reportedly having made a copy of the film.⁹⁵ As a result of this intimidation, *An Ordinary President* is effectively banned from public viewing in Belarus.

⁹² *Vo Slavu Rodiny* (To the Glory of the Motherland) newspaper, Minsk, cited in WNC, December 20, 1997.

⁹³ Human Rights Watch telephone interview with Yury Khashchevatsky, January 19, 1998.

⁹⁴ *Svaboda*, Minsk, January 23, 1997.

⁹⁵ Human Rights Watch telephone interview with a film maker, January 20, 1998. Name withheld to protect the identity of the interviewee.

On December 21, just two days before the assault on Khashchevatsky, *An Ordinary President* was shown on the French/German channel ARTE. Although this channel is not received in Belarus, Human Rights Watch believes that there is a direct correlation between the timing of the assault and the broadcasting of the film. In addition, Khashchevatsky's political affiliations may well have contributed to the attackers' motives, which appear overwhelmingly to have been to intimidate Khashchevatsky and deter him from future political activity or film-making. Shortly after the assault, Khashchevatsky reported the incident to the police. As of this writing there have been no further developments in the investigation.

The arrest of Belarusian businessman Aleksandr Pupeyko may well have been connected, at least in part, to the government's aim to punish or intimidate those who supported Khashchevatsky's work. On December 12, 1997, Pupeyko was arrested by Polish authorities in Warsaw following a request by the Belarusian government to Interpol. The official reason for the request was allegations of fraud under Article 90 (4) of the Belarusian criminal code — "Fraud committed by an organized group, or by an especially dangerous recidivist or causing particularly large damage." Human Rights Watch takes no position on the allegations of fraud against Pupeyko, however, we note that Pupeyko was a major funder of *An Ordinary President*.⁹⁶ Human Rights Watch therefore suspects that the Belarusian government's order to Interpol to arrest Pupeyko was motivated by political reprisal. On March 28, 1998, Polish authorities granted Pupeyko political asylum, and on June 1 formally refused the Belarusian government's extradition request citing insufficient evidence and Pupeyko's status as an asylum-seeker as the reason.

Oleg Bebenin

Oleg Bebenin is currently the editor of the Charter 97 press center bulletin. In October 1997, he was working as the news department editor at the weekly independent newspaper, *Imya*. On October 31, government security service agents abducted and threatened Bebenin. He gave Human Rights Watch the following account:

On October 31, 1997, at around 1:00 p.m., I was standing on Skorina Avenue near the GUM department store [and] was trying to flag down a car.⁹⁷ Suddenly, from the far lane, a claret-colored 1987 Volkswagen, with the state license plate 1128 MJ, sharply pulled to a halt beside me, two men [got out], without a word or introduction, forcibly sat me in the car.⁹⁸

Bebenin described his abductors as being quite young, with the elder man being approximately thirty years of age. Here he describes how the men identified themselves:

When I asked them... "where are we going?" they cursorily showed me some ID, on which was written "Security Service" [and]...answered, "You'll soon find out." After that, all conversation finished, they no longer answered my questions and I accordingly fell silent. To be honest, I first thought that they were criminals, because I had come across information about the criminal world. I came to the conclusion that these people had already decided what they were going to do, and I decided to wait until the end.

They took me on the fifteen-kilometer road to Zaslavl' (which is near Zaslavl' itself), which is where we stopped. They took me about fifty meters into the woods. There, the man who sat in the front and was the elder [spoke] for half an hour...the sense of which was that I had chosen myself the wrong

⁹⁶ Pupeyko also contributed to the now-closed independent newspaper, *Svaboda* (reopened as *Naviny*), and donated money to BPF deputy chair Yuri Khodyko.

⁹⁷ In Belarus, as in most of the former Soviet Union, it is standard practice to hail private cars on the street and negotiate a fee with the driver to take you to your destination, in the same manner in which one would hail a taxi.

⁹⁸ Human Rights Watch interview with Oleg Bebenin, Minsk, April 6, 1998.

profession. They threatened not just me with physical violence, they passed on their distinct greetings to my colleagues. They said things like... "there is only so much you can fight against the authorities," that "the authorities have their strike force, which will soon start to be employed." The elder man said this, the second stood behind me and occasionally added retorts, which were directed directly at me and which were of a threatening character, he said "we can leave you here, buried underground."⁹⁹

Bebenin told Human Rights Watch that after half an hour, the men searched him and confiscated his money and telephone card, he believes, in order to delay his return to the city and alert anyone. Bebenin filed a report the following day at the Leninsky District Police Station, whereupon a criminal investigation was launched into his kidnaping. At the time of writing, the investigation has yet to result in a prosecution.

Nadezhda Zhukova

On October 13, 1997, Nadezhda Zhukova, a twenty-one-year-old woman who was working at the time as a trial and demonstration observer for the Belarusian Helsinki Committee (BHC), left the Leninsky District Court, in Minsk. She had tried to obtain information on the trial of two demonstrators, Pavel Syverinets and Yevgeny Skochka, who were arrested following an October 12 demonstration in Minsk. Zhukova told Human Rights Watch what happened:

I had my ID on, and everybody could see it. A tall man wearing a leather jacket...walked up to me. He told me that if I was interested in studying arrests, I should step outside the court and that they had cars waiting outside.

I left and there, about ten or twenty meters away, were two cars. The first one had licence plates, which seemed to me to be like the plates on police cars (white numbers on a red background), but... the car could also have been from the prosecutor's office, the presidential security service, the KGB, or the court.

As I walked by the first car, two men quickly jumped out and grabbed me. One punched me in the stomach, held my mouth shut and dragged me to the courtyard of the building next door, where they stood me up against the wall...one of them was holding me and the second had a knife that he was playing with in front of me....They said that my face had been seen on all of the video tapes of demonstrations, and they threatened that I would have to be careful if I wanted to keep living a normal life. It was clear that it wasn't connected with some criminal group, since the conversation was entirely about the demonstrations. [They] said that I should be concerned for my life.¹⁰⁰

As the men turned to leave, Zhukova asked them who they were, to which, she told Human Rights Watch, they replied "Young Belarusian patriots." Although clearly acting as agents of the state, they may be members of the Belarusian Patriotic Union of Youth (BPSM in Russian), a quasi-governmental, pro-presidential youth organization, which declared in an October 1996 pamphlet and mission statement that it would "suppress opponents ruthlessly."

Zhukova filed a complaint with the Leninsky district prosecutor, and on October 17 met with him. He was dismissive of her story, in particular that her assailants were affiliated in some way with the government. Zhukova told Human Rights Watch:

I was able to speak with the deputy prosecutor for the Leninsky district, who told me that the [licence] plates weren't governmental plates and that the men weren't wearing uniforms. He said that I "had

⁹⁹ Ibid.

¹⁰⁰ Human Rights Watch interview with Nadezhda Zhukova, Minsk, April 6, 1998.

no basis for my accusations" and that the prosecutor's office investigates only the activities of governmental agencies, so he said that I should just take my statement to the police.¹⁰¹

Zhukova decided at that point to drop the matter; however, on October 21, 1997, her mother received a threatening phone call, which made her change her mind:

[T]he phone rang in the morning. My mother answered the phone and they told her to "get Nadezhda," then [on learning that I wasn't home] they said that "your daughter's going to run into trouble."¹⁰²

Zhukova filed a report of her assault with her local police station, however, as of this writing, the case has been closed and reopened several times and has yet to bring forth a prosecution. Two facts support the notion that Zhukova's assailants were acting on behalf of a state security agency: first, during Zhukova's assault, her assailants made reference to seeing her on police videos of opposition demonstrations and second; the police demonstrated a patent lack of commitment to investigating her assault.

Ina Pimenava

On October 13, 1997, Ina Pimenava, a nineteen-year-old student and the wife of Alexei Shidlovsky, delivered a letter addressed to Zenon Pazniak, the leader of the BPF, in which she accused Vyacheslav Sivchik, the secretary of the BPF, of raping her. However, on October 21, the now banned newspaper, *Svaboda*, published a letter from Pimenava in which she asserted that the KGB had coerced her into making the allegation in order to discredit Sivchik. Pimenava told Human Rights Watch that the KGB visited her on several occasions, at home and at her university, and threatened her, saying that if she did not make this allegation her husband would never be freed from prison, she would never see him again alive, and that she may herself be imprisoned. Pimenava wrote in her retraction of the rape allegation that she hoped that by publicly exposing KGB coercion she could avoid worse harassment in the future.¹⁰³

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Human Rights Watch and Memorial interview with Ina Pimenava, Minsk, December 6, 1997.

GOVERNMENT CRITICS AND OPPOSITION UNDER FIRE

The Lukashenka administration has systematically intimidated and punished individuals for their affiliation with opposition political groups. Affected people include Youth Front members, prominent and active demonstrators, lawyers who defend demonstrators or work on politically sensitive cases, and deputies to the disbanded Thirteenth Supreme Soviet. The government has employed against them disproportionate criminal and administrative prosecution and non-criminal sanctions, including disbarment from the legal profession, dismissal from teaching jobs and expulsion from school or university. This pattern had hitherto affected the BPF, however, in the past twelve months it has shifted to the Youth Front. Young people — including one fifteen-year-old — have been beaten, arrested, threatened, intimidated and expelled from university, mostly on charges relating to political graffiti or participation in unsanctioned demonstrations. Their membership of, and openly expressed support for the Youth Front most likely also contributed to the government's motives for prosecuting. Police and security service employees have beaten and ill-treated members as young as fifteen years-of-age.

Criminal Sanctions

The Trial of Vadim Labkovich and Alexei Shidlovsky

"Thank God you have been behind bars since August"

Presiding Judge Lavrev to Alexei Shidlovsky, Minsk, February 18, 1998.

The grotesque treatment of Vadim Labkovich Alexei Shidlovsky, two teenagers prosecuted for graffiti-writing in February 1998, clearly illustrates this emerging pattern of intimidation and punishment. Sixteen-year-old Labkovich and eighteen-year-old Shidlovsky were held without bail for six months prior to trial, during which prison guards allegedly beat Shidlovsky, and Labkovich, a minor, was held together with adult detainees. When their case was heard, the conduct of the court and the prosecution turned the hearings into a virtual show-trial, and the court sentenced them out of proportion to the alleged offense.

In the early hours of August 3, 1997, in the town of Stolbtsy, some seventy kilometers southwest of Minsk, a small group of Youth Front members, including sixteen-year-old Vadim Labkovich and eighteen-year-old Alexei Shidlovsky, wrote anti-presidential graffiti of varying degrees of profanity on the walls of various buildings, including government administration buildings, a library, the local stadium, a public toilet and also on monuments to Lenin and Felix Dzerzhinsky, the founder of the KGB's predecessor. The national red-green flag of Belarus — reinstated in 1995 from Soviet times as the state flag — was replaced above the town administration building with the banned, former national white-red-white flag that has come to symbolize the opposition movement and the BPF in particular.¹⁰⁴ Police arrested and detained Shidlovsky on August 25 and Labkovich two days later. During a search of Labkovich's home on August 28, police found and confiscated two white-red-white flags.

Despite the non-violent nature of the crime and the youth of the accused, a motion by Labkovich and Shidlovsky's lawyers to have them released on their own recognizance was denied. Prior to the court hearing, which began on February 18, 1998, Labkovich and Shidlovsky were held for almost six months in a detention facility and were thus exposed to unsanitary, overcrowded, abusive and at times violent conditions. With specific regard to Labkovich — who at sixteen was, under Belarus and international law, a juvenile — such a period of pre-trial detention violates Article 10 (2b) of the International Covenant on Civil and Political Rights (ICCPR)¹⁰⁵ to which Belarus is a

¹⁰⁴ The white-red-white horizontally striped flag is the pre-Soviet national flag of Belarus. As part of the Soviet Union, Belarus was represented by a red-green flag. Following the break-up of the Soviet Union, the Twelfth Supreme Soviet in September 1991 reinstated the white-red-white flag as the national flag of the country, however, in 1995, President Lukashenka replaced it with the Soviet-era red-green flag.

¹⁰⁵ Belarus has been a state party to the ICCPR since 1973.

state party, which requires that juvenile cases be brought "as speedily as possible for adjudication." This period of pre-trial detention also violated Article 37 (b) of the Convention on the Rights of the Child, to which Belarus is a signatory, which stipulates that the detention of children "shall be used *only as a measure of last resort and for the shortest appropriate period of time* (emphasis added)."

On September 11, prison guards allegedly beat Shidlovsky, after which he spent more than one month in a prison clinic.¹⁰⁶ Under Belarus law, pre-trial juvenile detainees are permitted family visits only at the discretion of the investigator. Labkovich was permitted just three visits from his mother during his nearly six months of incarceration, which contradicts the spirit of Article 37 (c) of the Convention on the Rights of the Child, which stipulates that every child detainee "shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances."

On February 9, 1998, more than six months after the offenses occurred, Labkovich and Shidlovsky received notification of the formal charges against them from the State Security Committee (KGB), which had been tasked with the investigation. They were charged under Article 201 (2) of the Belarus criminal code for malicious hooliganism (*zlostnoe khuliganstvo*, in Russian), which carries a sentence of up to five years of imprisonment, and under Article 186 (2), for abuse of state symbols, which carries a two-year term of corrective labor or a fine.

On February 24, 1998, Labkovich and Shidlovsky were convicted on charges of "malicious hooliganism" rather than the minor offense normally applied to graffiti. The Minsk Regional Court sentenced Labkovich to a one and a half years in prison, suspended for two years, and Shidlovsky to one and a half years imprisonment in a strict-regime labor camp.

Human Rights Watch researchers monitored the five-day hearing in Minsk. During the proceedings, police detained nine people outside the court building for various offenses, including one person for holding a banner calling for Labkovich and Shidlovsky to be freed. The Human Rights Watch researchers found that the conditions under which the hearings were held gave the impression that the court was trying dangerous recidivists, rather than two teenagers accused of writing graffiti. On each day of the proceedings, Labkovich and Shidlovsky were brought to the courtroom in handcuffs and placed in an iron cage,¹⁰⁷ surrounded at all times by at least six armed policemen in blue/gray camouflage military-style uniforms and an attack dog; dozens of special riot police lined the entrance hall and corridors leading to the courtroom. Moreover, on the first day of the proceedings, before any evidence had been heard, presiding Judge Lavrev abandoned any pretense to objectivity when he stated to Shidlovsky, "Thank God that you have been behind bars since August."

Following a six-month KGB investigation, the prosecution presented three witnesses, of whom only one, Valery Ilyushin, claimed to have seen Shidlovsky with a group of young people writing on the wall of the Stolbtsy library as he drove by. Shidlovsky questioned the credibility of this testimony, alleging in court that Ilyushin had attempted to blackmail him, demanding payment in return for silence. The prosecution also called as a witness

¹⁰⁶ Although Shidlovsky's beating was confirmed to Human Rights Watch researchers in an interview with his wife, Ina Pimenava, on December 6, 1997 — an allegation that Shidlovsky himself repeated in court — presiding Judge Lavrev dismissed the allegation, citing Shidlovsky's failure to lodge a formal complaint at the time the beating was alleged to have taken place. Human Rights Watch regards as negligent Judge Lavrev's failure to consult prison treatment ward records to seek corroboration of this allegation.

¹⁰⁷ This is a standard practice in criminal trials in C.I.S. countries.

Ilyushin's front seat passenger, Alexei Zhendik, who did not corroborate Ilyushin's testimony.¹⁰⁸ The prosecution's case was based only on this evidence and on Labkovich's and Shidlovsky's partial confessions.¹⁰⁹

The treatment, trial, and sentencing of Labkovich and Shidlovsky were disproportionate to the offense allegedly committed, which strongly suggests the political nature of the prosecution's motives. Graffiti, which Human Rights Watch researchers found to be in evidence throughout the city of Minsk, is defined by the Belarusian criminal code as a petty crime (*melkoe khuliganstvo* in Russian) and carries a much lighter sentence than "malicious hooliganism." Indeed, as a minor, Labkovich could have been prosecuted under Article 162 of the administrative code, which applies to juveniles and which entails a maximum penalty of a fine levied against the parents of the offender. In this case, it is abundantly clear that the state decided to punish Labkovich and Shidlovsky for the content of the graffiti written and for their political affiliations, in violation of domestic and international instruments to which Belarus is a state party, notably the guarantees of freedom of expression set out in Articles 33 (3) and 34 (1) of the Constitution of Belarus, Article 8 of the Russia-Belarus Union Charter, and Articles 19 and 26 of the ICCPR.¹¹⁰

At the appeal hearing on April 21, the Belarusian Supreme Court upheld the original verdict and sentences. Alexei Shidlovsky is currently serving a prison term. Labkovich may face re-arrest for the slightest administrative infraction. Such an infraction would therefore be considered a breach of his suspended sentence and would likely result in the imposition of a one-and-a-half-year prison term. Hence, Labkovich faces undue pressure to curtail his legitimate political activity; Human Rights Watch calls for the verdicts against both Shidlovsky and Labkovich to be expunged.

On September 26, 1997, the KGB called in for questioning eighteen-year-old Alina Belskaya, a Youth Front member who was with Shidlovsky and Labkovich on August 3. In light of the arrests of Shidlovsky and Labkovich and the harassment of her fellow Youth Front members, she fled the country prior to that meeting and subsequently sought political asylum in Finland.

Pavel Syverinets and Dmitri Vaskovich

Pavel Syverinets is the leader of the Youth Front. On April 2, 1998, Syverinets, along with a group of approximately fifty members of the Youth Front and the BPF, attended a government-sponsored fair at the central Yakub Kolas square in Minsk to mark the signing of the Belarus-Russia Union Charter in 1997. Independent reports state that this group collectively sang pro-independence songs and later peacefully dispersed.¹¹¹ Men in plainclothes subsequently emerged from parked cars and beat and detained up to forty BPF and Youth Front members, including Syverinets and fifteen-year-old Vaskovich. Police charged Syverinets and Dmitri Vaskovich with "malicious hooliganism," under Article 201 (2) of the criminal code, which carries a maximum sentence of five years of imprisonment.

As of this writing, Syverinets is awaiting trial after his release on his own recognizance on June 3, while Vaskovich was released after seventy-two hours of detention. The charges against Syverinets and Vaskovich stem from allegations that during the April 2 commemorative fair, a group of protesters led by Syverinets forced artists off the stage, sang songs, shouted slogans and broke a microphone. On the basis of eyewitness interviews and television

¹⁰⁸ For example, Zhendik stated that he did not see anyone writing on the library wall, whereas Ilyushin claimed he saw Shidlovsky in the act of writing. Judge Lavrev ignored defense attempts to explore this contradiction.

¹⁰⁹ Labkovich admitted in court that he had written some slogans, such as *Svaboda* [Freedom] and *Zhivye Belarus* [Long Live Belarus]; Shidlovsky denied writing any slogans at all, but said he pointed out government administration buildings to the others.

¹¹⁰ Article 26 of the ICCPR forbids discrimination on the grounds of, among other things, "political or other opinion."

¹¹¹ Television coverage by the Russian NTV network on April 2 depicted a group, including Syverinets, singing, but showed no evidence of violence at the fair. One eyewitness, who declined to be identified, told Human Rights Watch that Syverinets attempted to sing using a microphone but that it had been switched off.

footage, these allegations appear to be unfounded. Moreover, such offenses are amply covered either under Article 201 (1) of the criminal code ("petty hooliganism") which carries a much less severe penalty (a maximum one-year prison term) or under Article 186 (3) (organization or active participation in group actions violating public order), which carries a maximum three-year prison term or two years of corrective labor or a fine. On May 27, the Commission for Juveniles under the District Executive Committee of Marina-Gorka handed down a warning to Vaskovich. Human Rights Watch fears that there is every likelihood that a political show-trial like that of Shidlovsky and Labkovich will be repeated in the case of Syverinets.

Police treatment of Vaskovich during his arrest and in custody violated Vaskovich's rights as a minor, which are guaranteed in the Convention on the Rights of the Child.¹¹² Police beat and threatened him, denied him food, access to counsel and to his parents, and held him with adult prisoners. Interviewed the day after his release from custody following the April 2 incident, Vaskovich told Human Rights Watch that the abuse started from the moment of his violent detention:

When they grabbed us, they immediately started to threaten us. They started to pull us by the hair. They threatened that they would beat our heels. They said that my parents had abandoned me, that they didn't want me anymore.¹¹³

At the police station, Vaskovich was denied food and physically and verbally abused:

I was held in a cell and was fed once in three days...only once, no more. That was on the second day. They put me in handcuffs when they moved me from cell to cell, like a criminal. On the last day [of detention] a policeman stood me against the wall with my legs spread and hands apart, closed the door and started to kick me around and said "I'm going to bash your head in, because you don't like Russia!"¹¹⁴

Such treatment is a clear violation of the Convention, on the Rights of Child, which prohibits the arbitrary arrest of children and requires that the detention of children be limited to the shortest possible time. Article 37 (b) of the Convention states:

No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be used *only as a measure of last resort and for the shortest appropriate period of time* (emphasis added).

Article 37 (c) of the Convention requires states to treat minors in custody with respect and "in a manner which takes into account the needs of persons of their age." Vaskovich was held with adult prisoners on the second day of his detention. Article 37 (c) further states that children in detention must be separated from adults and that they have the right to "maintain contact with his or her family through correspondence and visits, save in exceptional circumstances." Clearly, the way in which the police and men in plainclothes abused Vaskovich can in no way be construed as respectful or fitting for an adult, let alone a fifteen-year-old boy. Vaskovich gave Human Rights Watch this example of his wilfully negligent treatment in custody by police:

I said to them several times that my stomach hurt and that I needed something to eat. The policeman said to me "If your stomach hurts, how come you went to the demonstration?! So sit down!"

¹¹² Belarus signed and ratified the Convention in 1990. Under international law, a child is a person who has not reached the age of majority according to domestic legislation. In Belarus the age of majority is eighteen.

¹¹³ Human Rights Watch interview with Dmitri Vaskovich, Minsk, April 6, 1998.

¹¹⁴ Ibid.

In violation of the Convention's Article 37 (d),¹¹⁵ Vaskovich was not granted access to legal counsel and was granted no opportunity to contest his detention, as stipulated under Article 220 (2) of the Belarusian code of criminal procedure.

Article 40 b (4) of the convention stipulates that all children alleged to have infringed penal law "not... be compelled to give testimony or to confess guilt." Vaskovich told Human Rights Watch that unidentified police officers attempted to extract a compromising statement from him against Syverinets:

When I was in the cell, they called me for questioning and took me to an office. There were four young men in leather jackets with closely cropped hair. The first time, they said "If you help us, we'll help you." They wanted me to say something against Pavel Syverinets. They threatened me, that if I didn't say something against him, I would be sentenced to seven years in jail. They wanted to put something else of a criminal nature on Pavel Syverinets. [T]hey questioned me at night, on the first day...on Thursday night at 4:00 a.m.

Human Rights Watch fears that arbitrary arrests at demonstrations, in particular the targeting of the Youth Front, will lead to repeated violations of children's rights.¹¹⁶ We consider the actions by the authorities, in particular the arbitrary arrests during and following demonstrations, to put the juvenile participants, legitimately exercising their right to freedom of assembly and association, in danger of physical and verbal abuse and intimidation. Further, such minors who are members of the Youth Front and who run afoul of the law face unduly punitive treatment at the hands of the law-enforcement agencies and the courts.

Viktor Gonchar and Andrei Klimov

On January 29, 1997 (shortly after the November 1996 referendum), a group of deputies to the disbanded Thirteenth Supreme Soviet established a special investigation "commission" to examine alleged constitutional violations by President Lukashenka. The commission set out to assess whether there were legal grounds to impeach President Lukashenka. As an unofficial body, its findings, decisions and resolutions had no legal force, yet Belarusian law enforcement brought criminal charges against all of the commission's members including Viktor Gonchar, its leader, and Andrei Klimov.

The commission reportedly analyzed 156 decrees that were allegedly illegal or that violated the constitution,¹¹⁷ characterized the November 1996 referendum as a "seizure of state power," and concluded that the president would be impeached. These findings were widely distributed to state agencies and foreign embassies.¹¹⁸

In July 1997 the Belarusian procuracy brought criminal charges against Viktor Gonchar and all the other commission members under Article 128 (2) of the criminal code — slander linked with accusations of an especially grave crime — which carries a maximum sentence of five years of imprisonment. After the criminal proceedings were announced, the investigation began. Gonchar told Human Rights Watch:

¹¹⁵ Article 37 (d) states: Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority and to a prompt decision on any such action.

¹¹⁶ See Appendix A for a list of Youth Front members detained at demonstrations.

¹¹⁷ Human Rights Watch interview with Viktor Gonchar, April 7, 1998.

¹¹⁸ An excerpt of a letter on the commissions findings, written by Andrei Klimov, reads: "In the first half of 1998, the President of the Republic of Belarus, A. G. Lukashenka will be dismissed from his post and the state power structure that he created will be declared illegal. Taking into account that President Lukashenka's implementation of powers, according to the constitution adopted in the November 1996 referendum, represents a direct seizure of state power, all officials are obliged to refrain from fulfilling decrees and orders of the president and laws of the National Assembly." Letter reprinted in *Naviny* (The News) newspaper, Minsk, February 18, 1998.

Bearing in mind my status as a Supreme Soviet deputy [sic], I naturally informed the procuracy of the Republic of Belarus I would only give an account of the commission's activities to the Supreme Soviet....A decree was then issued compelling me to come for questioning after this refusal...and the police forcibly took me to the Belarusian prosecutor for questioning. The same day the prosecutor's office conducted a search of my apartment under the pretext of searching for documents related to the work of the commission.¹¹⁹

The search failed to produce any incriminating materials, and, although according to Gonchar the case remains open, there have since been no arrests or prosecutions of commission members under this article.

Andrei Klimov is a successful entrepreneur. Through profits from his housing construction business, he founded a bank and a newspaper, both of which carried his name. On February 10, 1998, Klimov began distributing a letter under his signature — summarizing the commission's findings — to the procurator, the head of the police department, the head of the tax inspectorate, and the head of the local government in every district of Belarus.

The day after the letter was distributed, on February 11 — just after Klimov and his wife, Tatiana Klimova, had left their home — three men in plainclothes who identified themselves as Interior Ministry employees emerged from a parked car and detained them both.¹²⁰ Tatiana was later released without charge. Klimov was charged under Article 91 of the criminal code — embezzlement on an especially large scale — and Article 151 — carrying out entrepreneurial activities without a licence.

While Human Rights Watch is not in a position to comment on the allegations,¹²¹ three factors point to the political nature of the case. First, and most obvious is the timing of the arrest. Second, the commission met mostly at Klimov's business office, triggering regular reviews of the company throughout 1997 by "the security service control committee, and other investigative organs."¹²² Finally, law enforcement authorities refuse to release Klimov on bail — as of this writing he is entering his fourth month in pre-trial detention — despite provisions in law for conditional pre-trial release.

Non-Criminal Sanctions

The Belarusian government has effected non-criminal sanctions — in the form of dismissals from teaching posts and expulsions from university — against activists for their role in demonstrations and for political graffiti. It has also disbarred two attorneys who defended people charged with graffiti, and for participating in an unsanctioned demonstration or other possibly politically motivated charges.

Repercussions at University and Schools

Human Rights Watch has documented seven cases of politically motivated dismissals, warnings and expulsions. Such actions violate basic rights and chill intellectual inquiry. Experience has repeatedly demonstrated that academic freedom — and the spirit of critical inquiry it embodies — cannot flourish where members of the academic community fear censorship and politically motivated reprisals for expression of their views. Such conduct violates Article 26 of the ICCPR, which bans discrimination on any ground, including political opinion.

¹¹⁹ Human Rights Watch interview with Viktor Gonchar, April 7, 1998.

¹²⁰ Human Rights Watch interview with Tatiana Klimova, Minsk, February 19, 1998.

¹²¹ Klimov's lawyer, Vera Stremkovskaya, a well-known defense lawyer, claims that, with regard to the charge of building without a licence, Klimov did in fact obtain a licence, but two months after the commencement of that particular construction project.

¹²² Human Rights Watch interview with Viktor Gonchar, Minsk, April 7, 1998.

Liubov Lunyova works for Minsk Spring 96, a non-governmental human rights organization, and had since 1992 been a lecturer on a fixed-term contract in the ancient history and middle ages history department of the Belarusian State University (BGU) in Minsk. She lost her job there and has essentially been barred from teaching, most likely for her activism, in particular, for organizing demonstrations.

In early January 1998, worried that her contract was soon to expire, Lunyova approached the dean of the university, who reassured her that her contract would be renewed. However, within weeks Lunyova lost her job, and subsequently was unable to gain employment in the education sector. She explained what she believes were the political motives behind this to Human Rights Watch:

[T]he history department is very politically active and a large number of [the history faculty] students go to demonstrations. [Since I am] a human rights activist, all the students who are summoned to the dean's office came to me in the history department for advice. I also attend all of these demonstrations and walk in the front row, and moreover, I organized a couple of demonstrations, for example on December 10 — International Human Rights Day — which was shown on TV, and naturally when I went to work [following the demonstration] everyone commented that I was so open in expressing myself and that I have no fear. A journalist from the *Times [of London]* said to me "Strange that you are involved in such actions and you haven't been fired." I said, "well yes," and a month later they did.¹²³

Lunyova said she believed President Lukashenka is directly involved in pressuring university heads, including through a warning to university leaders at a January 14, 1998 meeting:

On Belarusian TV they showed a clip from a meeting at which Lukashenka said, pointing his finger at our rector, "Incidentally, your lecturers are using the auditorium for promoting their views, instead of to teach." After that many rectors thought that they could lose their jobs. Following that meeting of the [BGU] rectors, [President Lukashenka] summoned the deans and evidently gave them some kind of order. He warned the rectors, "Whoever's students are most often present at demonstrations will be the first to be fired."¹²⁴

While Lunyova was not present at this meeting, she discussed in detail the security provisions for the president surrounding the meeting, noting that the entire area around the university had been cordoned off, and that students had been sent away for the day.

Shortly afterward, Lunyova learned that her contract was not, after all, going to be renewed. When she approached the dean of BGU to demand an explanation, Lunyova told Human Rights Watch that:

He said that he couldn't do anything [there was no money for my salary] although he had a good relationship with me. The personnel department told me that there was money to fund two positions. Many lecturers came to me when I said that I was leaving, took me by the hand and said that they sympathized. The men said that they admired me but they were afraid themselves, they have families, children.¹²⁵

¹²³ Human Rights Watch interview with Liubov Lunyova, Minsk, April 7, 1998.

¹²⁴ Ibid.

¹²⁵ Ibid.

Lunyova later learned that despite being told there was no money to keep her on, the department has since hired a number of new lecturers. She explained that her dismissal was not just the end of her employment at BGU, but that in effect her career in education could be over.

Our female students were working in school number 156 on Yanki-Mavra street and they called and asked me to come. I went to the school and they said to me "We'll take you first thing tomorrow, we need someone." I went to meet the director of the school. The director said "If I give you a job, then I'll be fired within half an hour." He apologized for a long time and said that he has no political opinion and...said that he would call me, but didn't, because I think he is afraid. I understood that the education system is a closed road for me.¹²⁶

Following the dissolution of the Thirteenth Supreme Soviet in November 1996, *Myacheslav Grib*, former chair of that body, worked as a lawyer until he was banned from doing so by the government in July 1997. He is currently head of the international relations department and secretary of the central committee of the social-democratic party, *Narodny Hramada* (People's Assembly). On October 1, 1997, he started work as a lecturer in law at the Institute of Law, teaching criminal law and criminal procedure to second- and third-year students. A semester passed without incident, but at the end of 1997 the rector of the Institute of Law called Grib to his office and told him, "We need to decide something, because they are making my life impossible." Grib told Human Rights Watch:

In the beginning there were no problems, because I hadn't advertised the fact that I was teaching at an institute, but it was impossible to keep that secret because the students studying there talked about who was teaching them etc. Then there was talk and this reached the presidential administration. [The Institute] received inspection after inspection, from the tax inspectorate, from the Ministry of Education...In the end they [the government] said to the rectorate "If you continue to employ [Grib] we will close down the institute." I didn't want to put my interests above the interests of the institute, so that the students and lecturers [would] suffer. I said that I understood, gathered my papers...and left.¹²⁷

The education sector is closed to Grib, who is now unemployed:

I am not working at the moment, because I can't find a job....In principle I could work as a lecturer...when I started to teach, other institutes found out, and I received three or four invitations to work in my spare time...But as soon as I started to teach — inspections, inspections and blunt conversation...As soon as I was dismissed, all the invitations evaporated.¹²⁸

Leonarda Mukhina is the mother of Aleksandr Mukhin and is politically active in the BPF. She is also a teacher at high school number 37, the last remaining Belarusian language school in Minsk's Central district. On March 13, just under two weeks following the arrest of her son for writing political graffiti, Mukhina became aware of a letter, allegedly from the parents of the pupils she taught, complaining that she was using her lessons to indoctrinate their children with her political viewpoints. Shortly thereafter, Mukhina was told by the school's director and by the director of studies that "the parents" no longer wanted her to teach their children. Mukhina explained to Human Rights Watch what happened later:

¹²⁶ Ibid.

¹²⁷ Human Rights Watch interview with Myacheslav Grib, Minsk, April 6, 1998.

¹²⁸ Ibid.

[I]t later transpired that parents amicably came to my defense and said that I was absolutely satisfactory, that they were happy with the level of education that their children were getting, therefore they are categorically against my being fired.¹²⁹

The parents reportedly demanded a meeting with representatives of the school's administration, which took place on April 6. Liubov Lunyova attended the meeting:

[A] journalist from the Belapan news agency, Gennady Barbarich, came in order to take part in the meeting, and similarly a journalist from Radio Liberty, Eduard Tarlevsky also came. When [Tarlevsky] took out his microphone, they saw that there was an outsider and the administration became indignant and said that there would be no meeting with journalists present. He then took out his recorder and said "Please just tell me your surname and I'll leave. I am here at the editor's request, I need to report that you wouldn't allow me in here." Then the head (of the regional education department of the Minsk central region) [Yury E. Kanzas] went up to this journalist, grabbed him and with all his strength threw him over the table. He fell and hit the ground heavily, the microphone hit the floor and was damaged. This took place in front of the parents at the parents' meeting, it was yesterday right at the beginning of the meeting. One of the mothers started to feel ill, the scene was of course awful. The parents were sitting in a half circle and the head of the regional educational department, the educational system, leaped on him...that's how he treated the journalist.¹³⁰

At the meeting, the parents reportedly demanded that Yury E. Kanzas show them the letter they had purportedly written complaining about Mukhina's teaching, which he failed to do. Mukhina subsequently brought a civil suit against the school's directors for slander and in defense of her professional honor and dignity. On April 23, 1998, Judge Zlobich rejected her claim, and on May 28 the Minsk City Court upheld his decision. As of this writing, Mukhina continues to teach at school number 37 and reportedly intends to appeal the city court's decision to the Supreme Court.

Ales' Mukhin and *Andrei Gilevich*, both aged eighteen, and *Sergei Murashko*, aged seventeen, are all first-year students at the Minsk Information and Radio-Technical Institute and are members of Youth Front. On February 28, 1998, police arrested the three teenagers for allegedly spray-painting *Zhiyvie Belarus* and other slogans, including phrases of a political nature, along with painting a picture of a white-red-white flag on a bus-stop shelter after attending a rock concert. The three had allegedly been drinking beer. Police released Murashko soon after, but held Mukhin and Gilevich until March 3, for seventy-two hours. All three were charged with hooliganism under Article 201 (1) of the criminal code, which carries a maximum sentence of one year of imprisonment or one year in a labor camp and/or a fine.

On March 23, Mukhin and Gilevich received a letter from the rector of the university, V. M. Ilyin, explaining that they were being expelled, before their trial had even begun. The letter cited information received from the Central Region Police Station on the pair's alleged activities. An activist with Minsk Spring 96, Liubov Lunyova has been working on the case. She told Human Rights Watch what happened when she went to the university to complain:

[I]t turned out that [the rector] was ill and the deputy rector was in some kind of conference. We went to the deputy rector of student administration, Nikolai Kolinkovich. He said to us that yes, we expelled them, because they disgraced the Belarusian people and the honor of our university. I said that there hadn't yet been the court hearing and that the court could acquit them. He replied "They won't be acquitted. They'll be sentenced to jail. They are criminals, and there is no place here for criminals." Then we asked how did they know that they had done something. "You don't know that they are guilty, the investigation is still ongoing." He said to us that the dean went to the police, the

¹²⁹ Human Rights Watch interview with Leonarda Mukhina, Minsk, April 7, 1998.

¹³⁰ Ibid.

investigator showed him all the documents [related to the case], showed him the accusation sheet, showed him the evidence....A lawyer wouldn't be allowed to see any of that! It's a so-called "secret of the investigation."...The investigator grossly violated the law, he revealed confidential information; moreover that they have now been expelled from university, [it's] none other than pressure on the investigation, and pressure on the court. They have already named them criminals....¹³¹

Mukhin and Gilevich were expelled before their guilt has been proven in a court of law. Further, their membership in the Youth Front and the fact that some of the slogans they were alleged to have written were political in nature appear to have been the primary motivating factors in their expulsion. Under the institute's charter, students may be expelled for "violating norms of conduct in a public place." It is unclear, however, how often this point is enforced, in particular with reference to graffiti. Deputy rector Kolinkovich told Human Rights Watch merely that students were expelled "all the time" for infractions in student dormitories or for poor academic performance.¹³²

On May 27, 1998, Judge Brogin at the Central district court sentenced Mukhin, Gilevich and Murashko to one year of imprisonment suspended for one year under Article 201 (1) of the criminal code.

Ina Pimenava is a nineteen-year-old student and the wife of Alexei Shidlovsky. Following her husband's arrest on August 25, 1997, Pimenava was subject to numerous "visits" at home and at the university by KGB officials who repeatedly questioned her and coerced her into making a false rape allegations against a leading opposition figure.

Pimenava told Human Rights Watch that on December 5, she was summoned to her university, the BGU journalism faculty, where she was told that she was "one step away" from being expelled, ostensibly for missing class. The real motive, however, appears to have been for her husband's political activity and the harassment of the KGB.¹³³ As of this writing, Pimenava has continued her studies without further hindrance or harassment.

Disbarments

In 1998 and 1998, the Ministry of Justice disbarred at least three attorneys who themselves are politically active or who defend politically sensitive cases. A presidential decree placing the bar association under much tighter Ministry of Justice control has served to facilitate these disbarments. In "Crushing Civil Society," Human Rights Watch expressed alarm that the decree (Presidential Decree No. 12 on Several Measures on Improving the Practice of Lawyers and Notaries in the Republic of Belarus) could lead to the exclusion of independent lawyers from practicing law in Belarus. This decree has served to perform precisely that function.

One Belarusian lawyer described a statement on lawyers by the deputy minister of justice, broadcast in a radio address, in the following way:

[L]egal assistance on the territory of Belarus can only be given by lawyers [who are members of] Belarusian bar associations, no other lawyers can undertake legal practice on the territory of the Republic of Belarus. During this [address] he quoted a famous presidential decree, and after that [cited] our renewed law on the bar in the Belarusian republic...in which private lawyers were abolished in the republic. All lawyers were driven into the bar associations...which are strictly subordinate to the Ministry of Justice. The Ministry of Justice will now determine the membership [of the associations] because the ministry is now carrying out the issuing of licences and the taking of qualifying exams....Entrance into the profession will be determined by the Ministry of Justice. The Ministry of Justice has the right to discipline lawyers, all the way up to the removal of their licence

¹³¹ Human Rights Watch interview with Liubov Lunyova, Minsk, April 7, 1998.

¹³² Human Rights Watch telephone interview with Nikolai Kolinkovich, June 26, 1998.

¹³³ Human Rights Watch and Memorial interview with Ina Pimenava, Minsk, December 6, 1997.

to practice law. There are no fines, no warnings whatsoever. They can immediately strip you of your licence for any misdemeanor, [and] defining the degree of a misdemeanor — flagrant or otherwise — is extremely subjective.¹³⁴

Garry Pogonyailo is a leading defense lawyer in Belarus. In recent years he has defended some of the highest-profile political cases in the country. He told Human Rights Watch:

Linked with my professional activities on a range of issues [such as] cases of a clearly political character: e.g. the case of poet Slavomir Adamovich, the case of Pavel Sheremet and the group of ORT journalists, the case of [Tamara] Vinnikova, the ex-chair of the National Bank of Belarus, and a range of other cases, I started to be openly persecuted....¹³⁵

In 1997, Pogonyailo received two reprimands from the Minsk city bar association. The first, which he received on May 20, related to comments Pogonyailo made to the press concerning the heavy-handed treatment of former National Bank chair, Tamara Vinnikova, who was arrested on January 14, 1997 on charges of embezzlement and at the time was being held in the Minsk KGB pre-trial detention facility. Pogonyailo protested the fact that Vinnikova, a woman who was suffering from poor health, was forced to undergo a medical examination in the presence of male prison guards and a female investigator. Pogonyailo told Human Rights Watch that in response to the examining doctor's request that the male guards leave the room, investigator Pesenko stated that Vinnikova "is not a human being, she is a prisoner." Pogonyailo protested that Vinnikova's treatment was unduly harsh and degrading.

Pogonyailo received a second reprimand in September for protesting procedural violations in the case of ORT journalist Pavel Sheremet. Sensing that he was about to be expelled from the ranks of the Minsk city bar association, and thus prevented from practicing law, Pogonyailo decided to leave the bar association voluntarily before such a decision could be made. The Ministry of Justice intervened and issued an antedated decree repealing Pogonyailo's departure, thus reinstating him in the Minsk city bar association. Pogonyailo told Human Rights Watch that the Ministry of Justice was no doubt keenly aware of the enormous amount of publicity the Sheremet affair had generated, and therefore feared the outcry that would ensue if Pogonyailo were effectively barred from legal practice. However, on March 24, 1998, following the rejection of Sheremet's and Zavadsky's appeal, the Ministry of Justice rescinded its decision to reinstate Pogonyailo, effectively barring him from practicing law.

Pogonyailo decided to join a Russian bar association in order to continue practicing law. He told Human Rights Watch:

[A]s soon as I left the Minsk city bar association, I took steps toward joining one of the Russian Federation bar associations and was accepted. I passed a qualifying examination and the Presidium of the Inter-territorial Collegia of Lawyers [of the *Kollegia Advokatov Rossiskoy Federatsii* (The Bar Association of Lawyers of the Russian Federation)] in Moscow passed a decision accepting me. This association is in the ranks of the guild of Russian lawyers and I became a member of the international association of the lawyers' union, attained the status of a Russian lawyer and became a member of the international union of lawyers. This means that according to the law, according to international agreements, which Belarus has ratified, I have the right to undertake legal practice [in Belarus], but as a Russian lawyer.

¹³⁴ Human Rights Watch interview with Garry Pogonyailo, Minsk, April 6, 1998.

¹³⁵ Ibid.

I see no legal basis for obstructing [my giving] professional legal assistance here in Belarus, but considering the authorities' attitude toward me, I understand that anyway they will not allow me to take part in a range of cases and that they will hinder me.¹³⁶

Pogonyailo's fears proved to be well-founded. On April 15, 1998, Belarus authorities barred him from representing Youth Front leader, Pavel Syverinets.¹³⁷ On June 2, 1998, following a recommendation by the Qualification Commission, the Ministry of Justice stripped Pogonyailo of his licence to practice law on the grounds that by representing Pavel Syverinets, he violated presidential Decree No. 12. Under the decree only members of the officially sanctioned lawyers' bar associations may practice law.

Nadezhda Dudareva is a prominent defense lawyer in Belarus and is noted for having represented numerous clients connected with the opposition movement and for her outspoken criticism of the government. On February 25, 1998, the Ministry of Justice revoked her licence to practice law. Human Rights Watch believes that there is a link between the types of cases Dudareva chooses to defend, in particular those of a political nature, and the ministry's decision to revoke her licence. Most recently, Dudareva had defended teenagers Vadim Labkovich and Alexei Shidlovsky, in a politically-charged case involving graffiti and the hanging of the white-red-white flag. The official reason for her disbarment was that she violated lawyer's ethics, by allegedly putting pressure on a judge. The claim stems from an incident that took place in the town of Orsha in August 1997, when Dudareva told a judge she would turn to the press to highlight what she felt was an unjust decision.¹³⁸ The timing of the Ministry of Justice's decision to revoke Dudareva's licence, however, points to a political motive, as it occurred the day after the Labkovich-Shidlovsky trial concluded. Human Rights Watch also considers that Dudareva's clientele and her outspoken criticism of the judicial process also contributed to the Ministry of Justice's decision.¹³⁹

Dudareva further believes that the fact that she undertook such political cases free of charge — something that the Minsk city bar association forbids its members to do — contributed to the removal of her licence:

I undertook such [political] cases free of charge, and this was quite well known...it's my right to charge for my work or not. Members of the city lawyers' bar association are not allowed to work free of charge — it's forbidden. This was one of the ways to deprive these people of the services of a

¹³⁶ Ibid.

¹³⁷ RFE/RL Newsline vol 2, no. 73 Part II, April 16, 1998.

¹³⁸ Human Rights Watch interview with Nadezhda Dudareva, Minsk, April 7, 1998. Dudareva was first charged with violating article 172 (1) of the criminal code in relation to this incident. The charge was later reduced to that of violating lawyer's ethics.

¹³⁹ On December 18, 1997, Dudareva was charged with contempt of court following comments she made to Judge Nikolai Samoseiko during the November 15, 1997 trial of five BPF members: Aleksandr Bondarev, Grigory Kiyko, Anatol' Sorokin, Aleksandr Kovel', and Vladimir Liysko. The five were arrested following a March 23, 1997 demonstration at which demonstrators and police clashed.

In his ruling, Judge Samoseiko reportedly refused to acknowledge the existence of defense witness testimony that might otherwise have contributed to an acquittal. Dudareva subsequently confronted Judge Samoseiko with her doubts concerning his objectivity. Dudareva allegedly argued that Judge Samoseiko's objectivity was weakened by the fact that he was appointed directly by the president — as are all judges in Belarus. She later repeated that charge in an interview with the independent Russian television network, NTV.

Dudareva was charged with contempt of court under Article 166 (3) of the administrative code of Belarus, which carries a maximum sentence of fifteen days of imprisonment and/or a fine. On December 23, Dudareva was found guilty and fined 200,000 Belarusian rubles (U.S.\$5).

lawyer and thus they dismissed me to prevent me from working anymore. That's the main reason. It was also done to eradicate independent lawyers from the Republic of Belarus.¹⁴⁰

*Myacheslav Grib*¹⁴¹ is, by education, a lawyer and received a licence to practice law in 1996. After the dissolution of the Thirteenth Supreme Soviet, he registered as a lawyer with the *Minskaya Gorodskaya Kollegiya Advokatov* (Minsk City Lawyers' Bar Association); after Presidential Decree No. 12 came into force, Grib was compelled to retake the legal practice examination on July 1, 1997 in order to retain his licence to practice law. He passed the exam, but his licence was not renewed. Grib explained to Human Rights Watch:

The Minister of Justice issued a ruling, refusing to issue me a licence because on March 15, 1997, I took part in a demonstration and rally marking the third anniversary of the adoption of the 1994 constitution, which I personally signed as commissioned by the Supreme Soviet.¹⁴²

According to reports, authorities granted permission for the rally but not the march.¹⁴³ Further, according to Article 9 of Decree No. 5 on Gatherings, Meetings, Street Marches, Demonstrations and Pickets, demonstrations must not interfere with traffic and the demonstrators must march only on the sidewalk. On March 15, Grib explained that due to the number of participants, the demonstrators were unable to walk on the sidewalk alone:

[I]t was simply not possible to walk on the sidewalk, even if we had wanted to, because there were around 4 to 5,000 people and to accommodate them on two narrow sidewalks on the Yakub Kolas square was simply impossible, therefore we walked on the sidewalk and on the road.¹⁴⁴

This technically represents a violation of Article 9, however given the circumstances it may have been unavoidable. Moreover, the size of the fine levied against Grib suggests a political motive. On March 20, under Decree No. 5, the Partisan District Court fined Grib 20,000,000 Belarusian rubles [then approximately U.S.\$800], which, he told Human Rights Watch, was at the time the largest fine levied against a Belarusian citizen.¹⁴⁵

The court held Grib responsible for organizing and actively participating in an unauthorized march that violated public order and disrupted traffic. Grib contests the allegation that he was the demonstration organizer, claiming that he signed the original application to hold the demonstration that was denied and did not organize the demonstration that actually took place.

Human Rights Watch views the Ministry of Justice's refusal to renew Grib's licence to practice law as motivated chiefly by political reprisal and against the spirit of the United Nations Basic Principles on the Role of Lawyers, which guarantees the rights of lawyers to "freedom of expression, belief, association and assembly."

The Anti-terrorism Decree

On October 24, 1997, Presidential Decree No. 21 on Urgent Measures Against Terrorism and Other Especially Dangerous Violent Offences entered into force. The passing of the decree followed a rash of shootings and explosions

¹⁴⁰ Ibid.

¹⁴¹ For an account of Grib's dismissal from academia, see above.

¹⁴² Human Rights Watch interview with Myacheslav Grib, Minsk, April 6, 1998.

¹⁴³ Interfax news agency, Moscow, cited in WNC, March 20, 1997.

¹⁴⁴ Human Rights Watch interview, Minsk, April 6, 1998.

¹⁴⁵ An appeal court later reduced the fine to 6,000,000 Belarusian rubles [approximately U.S.\$240].

in 1997.¹⁴⁶ On May 3, 1997 the head of the presidential press service stated that the opposition, in the form of the BPF, was capable of forming terrorist groups whose aim is to destabilize the situation in the republic.¹⁴⁷

Human Rights Watch recognizes the state's need to take measures to guarantee public security but notes that these measures must be clearly articulated in law and must not come at the expense of internationally recognized civil rights. Human Rights Watch is concerned that Decree No. 21 is vaguely worded and that, given current circumstances, could for political reasons lead to prejudiced prosecutions against persons associated with the opposition movement.

Human Rights Watch is concerned that the decree could facilitate the prosecution of opposition figures on the extremely serious charge of "terrorism" for what are either activities protected by international human rights law or minor public order infractions. The decree provides a sweeping definition of "terrorism" under Article 1:

Terrorism is understood as the use of violence or threats of violence with the aim of violating public security, destabilizing social order, intimidating the population, affecting decision-making by state bodies, or hampering political or other public activities.

Malleable terms, such as "threats" of violence with the aim of "destabilizing the social order" or "affecting decision-making by state bodies" or "hampering political or other public activities" appear tailored to elevate street gatherings or protests into grave criminal acts, depending on the authorities' subjective perception of "threat." The examples of "manifestations of terrorism" given elsewhere in Article 1 appear to bear this out:

[V]iolence or threat of violence with regard to an official, a policeman, a volunteer civilian policeman, a serviceman, or other person, in connection with his/her performance of official activity or fulfillment of public duty.

International definitions of terrorism, for example, would not embrace resisting arrest or talking back to the police, or even violent or threatening efforts to obstruct an officer performing in the line of duty.¹⁴⁸ Given the frequent scuffles at political demonstrations, often initiated by the police themselves, the potential for political abuse of such a law is great. Article 8 of the decree, which permits an investigative officer and the prosecutor to authorize detention of

¹⁴⁶ These incidents included: on April 1, submachine gun fire on the Russian embassy (Interfax News agency, Moscow, cited in WNC, April 2, 1997); on April 4, a minor explosion at a private residence in Minsk (Itar-Tass news agency, Moscow, cited in WNC, September 5, 1997); on April 28, an explosion at a gas compressor station in Minsk region (Interfax news agency, Moscow, cited in WNC April 28, 1997); on April 30, an explosion on the Torzhok-Minsk-Ivantsevichi gas pipeline (Interfax news agency, cited in WNC, April 30, 1997); on September 10, an explosion in the Sovetsky and Minsk District People's Court building (Minsk Radio, Minsk, cited in WNC, April 30, 1997); and on October 1 the murder by radio-controlled explosion of Yevgeny Mikolutsky, head of the Mogilev State Control Committee, in the stairwell of his apartment block (Interfax news agency, Moscow, cited in WNC, October 7, 1997. Mikolutsky's wife also suffered serious injuries in the attack.) The so-called Belarusian Liberation Army claimed responsibility for the gas pipeline and compressor station attacks and the shooting at the embassy; a group calling itself "New Order" claimed responsibility for the private residence explosion. Although no group has claimed responsibility for the murder of Mikolutsky, Lukashenka has publicly accused Vasily Leonov, the former Agriculture Minister, and collective farm manager Vasily Starovoitov of being behind the attack (both were arrested in November 1997 on corruption and embezzlement charges).

¹⁴⁷ Russian NTV television, Moscow, cited in WNC, May 3, 1997.

¹⁴⁸ Terrorism is generally defined in the context of hijacking or attacks against aircraft, ships, or diplomats, or hostage-taking where the purpose is to compel a third party to perform or abstain from an act. See, e.g. the 1970 Convention for the Suppression of Unlawful Seizure of Aircraft, the 1971 Convention for the Suppression of Unlawful Acts Against Safety of Civil Aviation, the 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, or the 1979 International Convention Against the Taking of Hostages.

terrorism suspects for up to thirty days without charge or access to a lawyer is also cause for concern. Article 9 (4) of the ICCPR stipulates that [a]nyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful." The term "without delay" has been interpreted as entailing a matter of days, not a month. Article 220 of the Belarusian criminal procedure code also entitles an accused to challenge the legality of detention.¹⁴⁹ An extended period of detention without judicial supervision in terrorism cases, such as thirty days, increases the likelihood of coerced testimony and physical or psychological abuse, which is already a problem in ordinary criminal cases involving political protesters, as described earlier. Derogation from the protection of ICCPR Article 9 is permitted "in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed,"¹⁵⁰ but no such emergency has been proclaimed in Belarus, nor would the sporadic incidents that led to the adoption of the decree warrant such a step.

Article 7 of the decree requires "as a rule" the detention of terrorism suspects before trial "to secure their appearance in court." Human Rights Watch is concerned that this provision, particularly when applied to political protesters, would be a direct violation of Article 9(3) of the ICCPR which states "It shall not be the general rule that persons awaiting trial shall be detained in custody...."

The decree at Article 2 also provides for the death penalty for those convicted of terrorism. Human Rights Watch opposes the use of the death penalty without reservation in all cases because it is inherently cruel punishment, because it is susceptible to discriminatory application, and because all legal systems are capable of error and miscarriages of justice which cannot be remedied once this extreme penalty is executed.

¹⁴⁹ This right is delineated under Article 220 (1) of the Criminal Procedure Code — The procedure to appeal an arrest or extension of the period of detention to court — and Article 220 (2) — The judicial verification of the legality and basis for arrest or extension of the period of detention.

¹⁵⁰ ICCPR Article 4(1) and (2).

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Human Rights Watch assumes sole responsibility for the contents of the report.

*Human Rights Watch
Europe and Central Asia Division*

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APPENDIX A

Arrested or Detained March 22, 1998

Article 166 of the administrative code = disobeying the orders of a police officer

Article 167 of the administrative code = holding an unsanctioned demonstration

N/A = Not Available

No.	Name	Affiliation	Charge	Sentence
1.	Algerd Nevjarovksy	Journalist, <i>Naviny</i> newspaper	No charges pressed	held for two hours
2.	Igor Mayorchik	Journalist, <i>Belarusskaya Gazeta</i>	No charges pressed	held for two hours
3.	Ruslan Batsyankov	Freelance Journalist	No charges pressed	held for two hours
4.	Dmitri Marushevsky	Belarusian Helsinki Committee (BHC) member	N/A	N/A
5.	Igor Guk	BHC member	N/A	N/A
6.	Evgenny Chirvoni	BHC member	N/A	N/A
7.	Boris Khamaida	Editor of <i>Vybar</i> newspaper, BPF member	Articles 166 & 167	10 days of imprisonment
8.	Vladimir Pleshchanka	Senior member of the Vitebsk branch of the BPF	Articles 166 & 167	10 days of imprisonment
9.	Yury Maroz	BPF member	Articles 166 & 167	10 days of imprisonment
10.	Palina Panasyuk	Student and BPF member	N/A	held overnight at the police station
11.	Nadia Yarmishina	Student and BPF member	N/A	held overnight at the police station
12.	Anna Tsipkaila	Student and Youth Front/BPF member	N/A	held overnight at the police station
13.	Sergei Bakhun	Youth Front/BPF member	N/A	held overnight at the police station and fined 5,000 000 rubles (US\$122)
14.	Viktor Vagnin	Youth Front/BPF member	N/A	held overnight at the police station and fined 500,000 rubles (US\$12)
15.	Valery Kisel	Youth Front/BPF member	N/A	held overnight at the police station

No.	Name	Affiliation	Charge	Sentence
16.	Serzhuk Grin'	Youth Front/BPF member	N/A	held overnight at the police station
17.	Yas' Abadovsky	Youth Front/BPF member	N/A	held overnight at the police station
18.	Dmitry Anatsel'	Youth Front/BPF member	N/A	held overnight at the police station
19.	Vasil Glavatskikh	Youth Front/BPF member	No charges pressed	held overnight at the police station
20.	Leonid Vitkovsky	Youth Front/BPF member	No charges pressed	held for five hours
21.	Yury Golubev	Youth Front/BPF member	No charges pressed	held for five hours
22.	Andrei Matsuk	Youth Front/BPF member	No charges pressed	held for five hours
23.	Vital' Kuplevich	Youth Front/BPF member	No charges pressed	held for five hours
24.	Dmitri Toikachev	Youth Front/BPF member	No charges pressed	held for five hours
25.	Andrei Nikolaev	Youth Front/BPF member	No charges pressed	held for five hours
26.	Pavel Rakhmanov	Fifteen-year-old Youth Front member	N/A	N/A
27.	Yury Astrovsky	Fourteen-year-old Youth Front member	N/A	N/A
Arrested or Detained on March 23, 1998				
28.	Yavgen Skochka	Senior Youth Front member/BPF member	N/A	3 days of imprisonment
29.	Timofei Dranchuk	Youth Front member	N/A	N/A

APPENDIX B

For Official Use

No. 49/5

On strengthening countermeasures [against] articles in the opposition press.

In accordance with the letter of the Presidential administration of the Republic of Belarus of March 17, 1998 no. 10/89 and order of the President of the Republic of Belarus on the need to strengthen countermeasures against articles in the opposition press and concerning the presidentially-approved conceptual approaches on the perfecting the work of the state mass-media, we consider it necessary to take the following measures:

- To ban the passing of any official documents (orders, decisions, resolutions etc.) to the non-state media by ministries, state committees and other organs of state management;
- To inform state officials that commentary on official documents to the opposition mass-media is not permitted;
- To forbid state establishments and enterprises to place advertisements in opposition newspapers [as these] are a major source of income for these newspapers.

The fulfillment of these recommendations lies under the control of the president.

Signed

B. N. Bolozhinski
Chief Advisor
Social and Cultural Policy Department

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