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U.S. Department of State

Ukraine Country Report on Human Rights Practices for 1996

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UKRAINE

Under the new Constitution adopted in June, the President, elected for a 5-year term, and a one-chamber Parliament (the Rada), elected for a 4-year term, share responsibility for governance. (Transitional provisions continue the current President's and Parliament's terms until October 1999, and March 1998, respectively.) President Leonid Kuchma was elected in 1994. The President appoints the Cabinet and controls government operations. Under the new Constitution, the judiciary is funded independently, instead of through the Ministry of Justice. However, the court system remains subject to political interference.

The Security Service of Ukraine (SBU), the Ministry of Internal Affairs, and the Ministry of Defense all have equal status and report to the President through the Cabinet. The heads of these three institutions sit in the Cabinet of Ministers. The armed forces have largely remained outside politics. Although the SBU has not interfered in the political process, it can affect it through criminal investigations against politicians and influential businessmen. The SBU, police, and prosecutor's office have drawn public criticism for their failure to take adequate action to curb institutional corruption and abuse in the Government. Members of the security forces committed human rights abuses.

Ukraine is making a difficult transition from central planning to a market-based economy. According to official statistics, about half of the work force is formally employed in manufacturing, with the balance divided between services and agriculture, although in reality many industrial enterprises have reduced or stopped production. Exports are diversified and include metals, chemicals, sugar, and semi-finished goods. Annual per capita gross domestic product is approximately \$800. President Kuchma's economic

reform program has achieved partial macroeconomic stabilization and curtailed inflation, allowing the Government to introduce the new currency, the hryvna, in September. The private sector has grown significantly and now represents a substantial portion of the economy, although that growth which is in the unofficial shadow economy is not fully reflected in official government statistics. Nevertheless, the country remains in a serious economic crisis. Industrial output continues to decline, and shrinking revenue has left millions of employees unpaid for several months.

Overall, Ukraine continued to make significant progress toward building a law-based civil society. Reports of human rights violations remained at the same low level as last year. Problems remain in the unreformed legal and prison systems. Police and prison officials regularly beat detainees and prisoners, and the Government rarely punishes officials who commit such abuses. Prison conditions remain poor, and lengthy pretrial detention under poor conditions is a problem. The judiciary is overburdened and lacks sufficient funding and staff. Long delays in trials are a problem. While progress has been made toward ensuring the independence of the judiciary, political interference continues to affect the judicial process. There are occasional government attempts to control the press, and significant limits on freedom of association and on nonnative religious organizations. Significant societal anti-Semitism, violence against women, as well as discrimination against women, and both ethnic and religious minorities, persists.

The new Constitution provides safeguards for human rights and strengthens the courts by establishing the principle of judicial review. It establishes a Constitutional Court with the power to determine the constitutionality of acts and decisions by all branches of government. The new Constitution also provides for a human rights ombudsman, to be appointed by Parliament, who is to be responsible for assisting citizens in defending their rights. The efficacy of the new Constitution, however, depends on enabling legislation, most of which had not been passed by year's end.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no known political killings by government agents, but in some instances the line between politically motivated killing and criminal activities was difficult to distinguish. The Government's inability to stem economic decline and check the growth of violent, organized criminal activity had major repercussions. Politicians continued to be the victims--whether through killing or kidnaping--of organized criminal groups, aided in a few cases, either actively or passively, by corrupt officials. In July the Prime Minister narrowly escaped an alleged assassination attempt in Kiev when a bomb reportedly exploded near his car. No suspects have so far been identified. In November a Rada Deputy and business magnate was killed at Donetsk Airport by unknown persons. It was the first known killing of a deputy since independence. The number of contract killings of members of the business community, often managers of state-owned enterprises, remained high. Three senior officials of an important steel plant, Azov-Stal, were killed in a suspicious car crash. The heads of two major natural gas importing companies, one in Kiev and one in Donetsk, were murdered in March and April during a period of fundamental changes in the Government's gas supply policy. Politicians were also targeted because of their influence over state-owned enterprises.

The undermining of governmental authority was particularly serious in Crimea. The central Government in Kiev lacks institutional control over the peninsula, and the Crimean authorities are widely alleged to be compromised by ties to organized criminal elements. Early this year the central Government replaced

the Crimean prosecutor and the leadership of the local police for their inability to curb violent crime, including their failure to solve any of the 35 alleged contract murders committed in 1995. The new Crimean police leadership claims to have solved 13 of 21 contract murders on the peninsula to date this year and to have detained some local criminal leaders. Officials of the Party of Economic Renaissance of the Crimea were the targets of a spate of shootings and bombings in April. A Simferopol municipal council deputy was wounded by automatic gunfire in his car in January, and another was killed in his apartment in September. The Mayor of Sevastopol was the victim of a bombing in October.

b. Disappearance

In August the Speaker of the Crimean Legislature claimed that he had been kidnaped and beaten by unidentified assailants. The January 1994 disappearance of Myhailo Boichyshyn, a prominent leader of the Popular Movement of Ukraine (RUKH), remains unsolved.

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

The Constitution prohibits torture; however, police and prison officials regularly beat detainees and prisoners. There is no effective mechanism for registering complaints about mistreatment or for obtaining redress, although the human rights ombudsman required by the new Constitution may provide such a mechanism. With the single exception of a police officer jailed for torturing detainees, the Government made no known efforts during the year to end the practice or to punish officials who committed such abuses.

A member of Parliament from Kiev, Myroslav Gorbatiuk (who was placed in an intensive care unit after a brutal assault), and a former parliamentarian from Zaporizhzhia, Victor Slesarenko (whose car was blown up), claimed that violent attacks against them were linked to their investigations into high-level corruption in the Government. The Government has not yet announced the results of its investigations of these allegations.

There were no reported cases of political abuse of psychiatry. However, human rights groups claim that there are isolated cases of abuse of psychiatric diagnosis for economic reasons, relating to property, inheritance, or divorce-related disputes. The disputes often entail the corruption of psychiatric experts and court officials. The Ukrainian Psychiatric Association submitted to the Rada a new draft law on psychiatry designed to curb such abuses. The government-owned media have begun reporting instances of psychiatric abuse.

Conditions in pretrial detention facilities routinely fail to meet basic human rights standards. Inmates are sometimes held in "investigative isolation" for extended periods and subjected to intimidation and mistreatment by jail guards. Overcrowding is common in blocks for prisoners who have been charged with a crime and are awaiting trial or are in investigative detention.

Prison conditions are poor. Despite government efforts to maintain minimum international standards in the prisons for convicted prisoners, the worsening economic crisis has led to a further deterioration of these facilities. Overcrowding, poor sanitation, and inadequate medical care are all problems in the prisons.

The Government generally permits visits by human rights monitors, although human rights groups have complained of being refused access to some prisons.

d. Arbitrary Arrest, Detention, or Exile

The law provides that authorities may detain a person suspected of a crime for 3 days without a warrant. The new Constitution provides that only the courts may issue arrest warrants, but under its "transitional provisions" the prosecutor's office retains the authority to issue arrest and search warrants for 5 more years. An arrest order must be issued if the period of detention exceeds 3 days. The maximum period of detention after charges have been filed is 18 months, but the law does not limit the aggregate time of detention before and during the trial. The law permits citizens to contest an arrest in court or appeal to the prosecutor.

By law a trial must begin no later than 3 weeks after the defendant is indicted. This requirement is frequently not met by the overburdened court system, where months may pass before a defendant is finally brought to trial.

The law stipulates that a defense attorney be provided without charge to the indigent from the moment of detention or the filing of charges, whichever comes first. However, it has been credibly alleged that individuals held under preventive detention frequently have been denied timely access to counsel. In addition there are insufficient numbers of defense attorneys to protect suspects from unlawful, lengthy imprisonment under extremely poor conditions. Although the concept of providing attorneys from the state system remains in principle, public attorneys often refuse to defend indigents for the low government fee. Once a suspect is taken into detention, the prisoner may talk to a lawyer only in the presence of a prison official or an investigator. To protect the defendant, each investigative file must contain a document signed by the defendant attesting that his right to have a defender was explained as were the charges against him. An appeals court may dismiss a conviction or order a new trial if this document is missing. As defendants became aware of their rights, they increasingly insisted on observance of these procedures. However, many still were not aware and hence did not make use of these safeguards.

Exile as a punishment no longer exists in the law, and the Government observes this prohibition.

e. Denial of Fair Public Trial

The new Constitution provides for the establishment of an independent judiciary; however, the judiciary remains subject to political interference.

The existing court system is divided into courts of general jurisdiction and arbitration, or commercial, courts. The courts of general jurisdiction are divided into criminal and civil sections. The courts are organized on three levels: rayon (district) courts (also known as peoples' courts), oblast (regional) courts, and the Supreme Court. There are 742 district and city courts, 27 regional courts, 26 military courts, and an interregional court. All may act as a court of first instance depending on the nature and seriousness of the crime. A case heard in the first instance by the Supreme Court, therefore, may not be appealed or overruled. Military courts only handle cases involving military personnel. Cases are decided by judges who sit singly (in principle with two public assessors), or in groups of three for more serious cases. As it has become increasingly difficult to find unpaid public assessors willing to attend a trial, most cases are tried by a single judge. There are no clear rules to determine which court first hears a case.

Under the new Constitution, justice is to be administered by the Constitutional Court and general jurisdiction courts with the Supreme Court at their head. The judicial system is also to include local and appeals courts, as well as special courts to be established by future legislation, headed by their respective highest courts. Pending formation of the new judicial system, the old system remains in place, including the present Supreme and Supreme Arbitration Court, for a maximum period of 5 years.

The Parliament, the President, and the Congress of Judges each appoint 6 of the 18 members for 9-year terms to the Constitutional Court. The Court Chairman is elected for a 3-year term by the 18 justices from among their own ranks. On October 18, 16 of the 18 justices were sworn in. The new Constitution strengthens the courts by establishing the principle of judicial review. The Constitutional Court is to be the ultimate interpreter of legislation and the Constitution. It will determine the constitutionality of legislation, of Presidential edicts, of Cabinet acts, and of acts of the Crimean Autonomy.

Prosecutors, like the courts, are also organized into offices at the rayon, oblast, and republic levels. They are ultimately responsible to the Prosecutor General, who is appointed by the President and confirmed by the Parliament for a 5-year term. Regional and district prosecutors are appointed by the Prosecutor General. Prosecutors and defense attorneys by law have equal status before the courts. In practice, however, prosecutors still are very influential because court proceedings are not conducted in an adversarial manner and the procuracy, in its pretrial investigative function, often acts in effect as a grand jury. The prosecutor directs all investigations of the Ministry of Internal Affairs and SBU, or he may use the investigative resources of his office. The new Constitution considerably curtails the prosecutor's authority, limiting it to prosecution, representing the public interest in court, oversight of investigations, and implementation of court decisions. However, the new Constitution allows the prosecutor's office to continue to conduct investigations and oversee general observance of the law.

Judges are appointed by the President for an initial 5-year term, after which they are subject to parliamentary approval for lifetime tenure. Judges are selected for nomination or dismissed by the Supreme Judicial Council, which is also authorized to discipline judges--including judges of the Supreme Court and supreme special courts--and prosecutors for violations of the law. The Supreme Judicial Council consists of 20 members nominated by the 3 branches of government and by professional associations from the law and procuracy sectors. It also includes the Chairman of the Supreme Court, the Minister of Justice, and the Prosecutor General of Ukraine.

Many serving judges and prosecutors were appointed during the Soviet era, when political influence pervaded the criminal justice system. Human rights lawyers claim that the judiciary is not free from government influence, particularly at the regional and local levels. Judges, prosecutors, and other court officials appear to remain closely attuned to local government interests. Organized crime elements are also widely alleged to influence court decisions. According to the Justice Ministry, in 1995 38 judges were several prosecuted on criminal charges, mostly for bribery. No higher court judge has been disciplined to date. Although statistics are not available, the Justice Ministry reports that some judges have been prosecuted and disciplined this year. Criminal elements routinely use intimidation to induce victims and witnesses to withdraw or change their testimony. Human rights groups contend that judicial processes are sometimes affected by the biases of expert advisers, who answer to government investigative and prosecutorial bodies.

The judiciary is inefficient and lacks sufficient staff and funds. Although the workload per judge is now only half that of the 1980's, the judiciary continues to draw criticism for its slowness and inefficiency. By October the judiciary had received only 36 percent of the funds earmarked for it in the budget; barely enough to pay the judges and staff the courts. According to the Justice Ministry, some 37 percent of the courts are inadequately housed. The authority of the judicial system is also undermined by a poor record of compliance with court decisions in civil and economic cases.

The new Constitution includes procedural provisions to ensure a fair trial, including the right of a suspect or witness to refuse to testify against himself or his relatives. However, pending passage of legislation implementing the Constitution, a largely Soviet-era criminal justice system remains in place. While the defendant is presumed innocent, conviction rates have not changed since the Soviet era. Nearly 99 per cent of completed cases result in convictions. Judges frequently send cases unlikely to end

in convictions back to the prosecutor's office for "additional investigation." Such cases may then be dropped or closed, occasionally without informing the court or the defendant. It is commonly believed that suspects frequently bribe court officials to drop charges before cases go to trial. Consequently, conviction rates are a somewhat misleading statistic. According to the Justice Ministry, in the first half of the year 35.2 per cent of convicted defendants tried on criminal charges were sent to jail. The rest received suspended sentences. Complicated cases can take years to go to trial. In the interim, defendants wait in pretrial detention. Bail does not exist.

Present and former members of the Parliament, members of local councils, and judges enjoy immunity from criminal prosecution unless the Parliament or the respective council gives its consent to criminal proceedings. Consent is rarely given in practice.

There were no reports of political prisoners. A human rights group in Zaporizhzhia claims that its leader, currently serving a 1-year term in jail for insulting a judge, was framed for exposing corruption in the local courts. It alleges that he was denied a proper defense. A group of parliamentarians who appealed to the Prosecutor General's Office demanding a retrial has not yet received an answer.

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

Although the new Constitution requires that courts issue search warrants, its provisions have not yet been implemented. Prosecutors are issuing search warrants during the transition period. The SBU, for reasons of national security, may conduct intrusive surveillance and searches without a warrant. Human rights groups report receiving no complaints of invasion of privacy by the SBU. The Prosecutor General's Office oversees the SBU, but the extent to which it utilizes that authority to monitor SBU activities and to curb excesses by security officials is unknown. The new Constitution provides citizens with the right to examine any dossier the SBU has on them and to sue for physical or emotional damages incurred by an investigation.

The remnants of Soviet control mechanisms survive in many guises. Militia personnel have the right to stop vehicles arbitrarily and need no probable cause to initiate extensive document checks and inspection of all parts of the vehicle. Citizens who have committed no violation, or only a minor one, often prefer to pay a bribe to avoid a time-consuming inspection.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution and a 1991 law provide for freedom of speech and the press; however, the Government occasionally attempts to control the press. Criticism of the Government is tolerated; however, some journalists practice self-censorship, and the Government largely controls the broadcast media.

The print media, both independent and government-supported, demonstrate a tendency towards self-censorship on matters sensitive to the Government. The executive branch, through the Ministry of Press and Information, subsidizes the operations of some large-scale publications. The Ministry has warned some periodicals against fomenting ethnic tensions and conducting antistate propaganda and has applied to the prosecutor's office to open investigations into those newspapers. However, no newspapers are known to have been prosecuted as a result. Private newspapers have also been established and are free to function on a purely commercial basis. However, they practice self-censorship and are subject to various pressures such as control of access to affordable state-subsidized newsprint; dependence on political patrons who may facilitate financial support from the State Press Support Fund; close scrutiny from

government officials, especially at the local level; and politically motivated visits by tax inspectors. Foreign-owned newspapers are permitted.

The broadcast media remain largely under state ownership. They are managed by the State Committee on Television and Radio ("Derzhteleradio"), whose head, according to the new Constitution, is appointed by the President and confirmed by Parliament. The President and the Parliament each appoint half of the members of the regulatory board for broadcasting, the National Council for Television and Radio Broadcasting. Under current legislation, private and foreign companies are entitled to establish and operate their own transmission facilities, provided that they obtain a license from the National Council. News programs that cover domestic political developments, notably "Vikna" ("Windows") and "Pislamova" ("Epilogue"), have fended off attempts by Derzhteleradio to preview and revise the content of their programs. Derzhteleradio denied the independent news program "Vikna" its time slot. However, with widespread popular and official support, Vikna fought its way back on the air. Derzhteleradio suspended without warning the broadcast contract of "Pislamova," an investigative news show, which was unable to broadcast on a state channel for 8 months. During that time Pislamova was broadcast on a less widely received private channel. It returned to the state channel on September 6. In Kharkiv a television correspondent was fired and his editor reprimanded for criticizing the presidential draft of the Constitution. The Government disavowed any connection with the incident. Most local observers believe that it was the doing of an independent, overzealous local bureaucrat.

In 1994 President Kuchma abolished the State Committee for the Protection of State Secrets that had enjoyed broadly defined powers over all media. The Committee was absorbed into the Ministry of Press and Information, where it is now the Main Directorate for the Protection of State Secrets. According to journalists, this Department has not interfered with the practice of their craft. In 1996 the State Committee for State Secrets and Technical Protection of Information was reestablished. State secrets are prohibited from publication. An editor of the newspaper "Opositsiya" ("Opposition"), Ivan Makar, was sentenced by a metropolitan court to a suspended prison term of 2 years for libeling the President and staff. The newspaper was closed by order of a Kiev court for publishing caricatures of the President and his staff. Its equipment was confiscated. In June more than 70 prominent journalists issued an appeal protesting increasing political and commercial pressure on the media.

Reporting on organized crime and corruption in the Government, including misconduct by high-ranking cabinet and administration officials, is becoming increasingly bold. Journalists contend that they have been subject to threats, including the threat of arrest, and violent assaults for aggressively reporting on crime and official corruption. The journalistic community links the suspicious death of an investigative reporter in Cherkasy to the corrupt elements he was investigating.

While the major universities are state owned, they now ostensibly operate under full autonomy. Academic freedom within universities, however, is an underdeveloped and poorly understood concept. University administrators are traditionally conservative establishment figures and possess the power to silence professors with whom they disagree by denying them the possibility to publish or more directly by withholding pay or housing benefits. This atmosphere tends to limit the spirit of free inquiry. Human rights groups report the restoration of special censorship offices in scientific and research institutes, including those not conducting classified research. Restrictions by the Communications Ministry on the mailing of scientific documents have also caused concern. Several private and religiously affiliated universities have been founded (or reestablished) since independence; all operate without any reported interference or harassment by the State.

b. Freedom of Peaceful Assembly and Association

The law provides for the right of assembly, and the Government generally respects this right in practice.

The Law on Public Assembly of 1989 stipulates that organizations must apply for permission to the respective local administration 10 days before a planned event or demonstration. The new Constitution requires that demonstrators merely inform the authorities of a planned demonstration in advance. Under the 1989 law, participants in demonstrations are prohibited from inciting violence or ethnic conflict and from calling for the violent overthrow of the constitutional order. Demonstrators may not interfere with traffic, obstruct the work of government bodies or enterprises, or otherwise hinder public order. Unlicensed demonstrations are common and have occurred without police interference. There were isolated cases of criminal prosecution of demonstrators for unauthorized demonstrations in Kharkiv and Dnipropetrovsk. In the most high profile case, a leader of the small People's Party in Dnipropetrovsk, Leopold Taburiansky, spent several months in jail pending trial on charges of repeatedly demonstrating without a permit on behalf of duped clients of pyramid schemes.

The Constitution, law, and government regulations impose significant limits on freedom of association, and the Government uses onerous registration requirements to circumscribe this right. The Constitution prohibits the establishment of parties and organizations that advocate the elimination of Ukrainian independence or the violent overthrow of the Government and of the constitutional order; that jeopardize Ukraine's sovereignty or territorial integrity; that undermine its security; that foment ethnic, racial or religious hatred; that violate individual rights and liberties; or that jeopardize public health. The Constitution also forbids political parties to form paramilitary branches. The Government enacted a regulation imposing limitations on the establishment of regional political parties through restrictive registration requirements. Informed international observers noted that the requirement to have representatives in at least half the oblasts of the country as a prerequisite for registration as a political party negatively affects primarily Russian and Tatar organizations in Crimea.

The 1992 Law on Public Organizations prohibits the State from financing political parties and other public organizations. According to the law, political parties may not receive funds from abroad or maintain accounts in foreign banks. It bars political parties from having administrative or organizational structures abroad. The law prohibits police authorities, members of the SBU, and armed forces personnel from joining political parties. The Constitution also prohibits establishment of political party organizations in the executive and judicial branches, military units, state-owned enterprises, educational, and other public institutions. Many members of such bodies nonetheless publicly associate themselves with specific parties.

By law the Ministry of Justice has the authority to warn or fine a political party for illegal activities or to temporarily suspend its activities for up to 3 months, provided that the prosecutor's office determined that the party violated the Law on Public Organizations. The Ministry used this authority to issue a warning to the Communist Party for collecting signatures calling for a referendum in support of socialism and reintegration of the former Soviet Republics.

Freedom of association is circumscribed by an onerous registration requirement that lends itself to abuse and bureaucratic manipulation. Groups must be registered with the Government to pursue almost any purpose, whether commercial, political, or philanthropic. The Ministries of Justice, Economy, and Foreign Economic Relations as well as the Committees on Religion and Broadcasting among others all have registration functions, which they have used at one time or another to prevent citizens from exercising their right of free association.

Not being registered has several important disadvantages. For example unregistered groups are prohibited from having bank accounts, acquiring property, or entering into contracts. Furthermore, the registration law gives the Government an unlimited right to inspect the activities of all registered groups. According to this law a registered group must: 1) keep the Government apprised of all its activities, including notification of any meetings; 2) make its meetings open to all persons at all times, regardless

of whether or not they are members; and 3) upon request, present its registration documents to any government official, including the prosecutor's office, and be ready to prove that it is in compliance with the purposes of the group as set out in its registration documents. A change in the group's purposes necessitates reregistration. A registered group may not duplicate any function or service that the Government is supposed to provide. For example human rights lawyers who wish to represent prisoners are prohibited from establishing an association to do so because the Government is supposed to provide lawyers for the accused.

The Ministry of Justice revoked the registration of one of two rival Social Democratic Parties of Ukraine after a party split. One party leader, a former Justice Minister, is accused of using manipulation and fraud to register the parallel party. The Ministry alleges that the rosters of the party he sought to register were falsified.

c. Freedom of Religion

The new Constitution and the 1991 Law on Freedom of Conscience and Religion provide for separation of church and state and permit religious organizations to establish places of worship and to train clergy. The Government respects these rights in practice. However, the law restricts the activities of nonnative religious organizations. There is no official state religion. Religious organizations are required to register with local authorities and with the Government's Committee for Religious Affairs, a process that generally takes about 1 month.

The Government initiated an attempt to mediate the ongoing dispute among competing churches claiming to be "the Ukrainian Orthodox Church." The Government proposed establishing a committee, the National Council of Churches, for interconfessional consultations to be headed by a deputy Prime Minister, which would hold an interreligious forum in 1997. This initiative is now under discussion by the churches. The Government moved to reduce church utility fees and rental payments, to exempt churches from the land tax, and to expedite the return of religious buildings to their former owners. However, implementation of a 1992 decree on restitution of religious community property seized during the Soviet era remains stalled. Jewish congregations in 33 towns and cities have negotiated successfully with local authorities for worship space. A Kiev arbitration court in September decided in favor of transferring title of the former Kiev Central Synagogue, which in Soviet times was used as a puppet theater, to a Chabad Hasidic congregation. While the theater directorship plans to appeal, the decision sets an important precedent for the judiciary's role in religious property restitution. The Government expanded already significant efforts to ensure that pilgrims of the Bratslav Hasidic sect were able to visit the tomb of their founding rabbi in the city of Uman on the occasion of the Jewish New Year. A breakthrough agreement was signed between representatives of the sect, a local Jewish community organization, and the local government to build a religious center and museum at the site.

A 1993 amendment to the 1991 law restricts the activities of nonnative religious organizations. It requires that members of the clergy, preachers, teachers, and other foreign citizen representatives of foreign organizations preach, administer religious ordinances, or practice other canonical activities "only in those religious organizations which invited them to Ukraine and with official approval of the governmental body that registered the statutes and the articles of the pertinent religious organization."

In addition local officials have occasionally impeded the activities of foreign religious workers. All regional administrations have departments responsible for registration of various denominations and religious groups, and for supervision of compliance with the Law on the Freedom of Conscience and Religion. Neither the State Committee on Religious Affairs, nor its regional departments have the authority to deregister religious groups; they can be deregistered only by court decision.

On February 12 a Kiev court sentenced three leaders of the "White Brotherhood" religious cult to jail terms ranging from 4 to 7 years (on charges of staging mass disorder and resisting authorities) for their involvement in the 1993 seizure of St. Sophia's Cathedral in Kiev, which resulted in a violent clash with police. A leader of the cult was granted early release under a mass amnesty, but the Supreme Court moved to prevent her release pending further consideration, apparently alarmed by her claims to be a living goddess.

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

Freedom of movement within the country is not restricted by law. However, regulations impose a nationwide requirement to register at the workplace and place of residence in order to be eligible for social benefits, thereby complicating freedom of movement by limiting access to certain social benefits to the place where one is registered. People who move to other regions for work in the private sector, for instance, may not be eligible for registration and therefore may be denied formal access to free medical care and other services guaranteed by the State.

While Ukraine continues to assure the right of return for all those it considers citizens, in practice this assurance does not include the right of return for all Ukrainian "nationals." The ambiguity of the citizenship law regarding the acquisition of Ukrainian citizenship allows authorities to deny repatriation to nationals it considers undesirable. Persons born in Ukraine and living in Ukraine at the time of independence are considered citizens. Dual citizenship is not recognized.

Citizens who wish to travel abroad are able to do so freely, although exit visas are still required for most Ukrainian citizens. The Government may deny passports to individuals with access to state secrets, but a denial can be appealed. In two instances, exit visas for the purpose of emigration were denied on grounds that the requesting individuals had had access to state secrets. However, both subsequently left Ukraine on tourist visas.

The Government has not supported a foreign-funded program to facilitate the travel of some emigrants who qualify for resettlement as refugees. Some 260,000 Tatars have returned from exile to Crimea, mainly from Central Asia. The Crimean Tatar leadership has complained that their community has not received adequate assistance in resettling and that an onerous process of acquiring citizenship has excluded many of them from participating in elections and from the right to take part in privatization of land and state assets. The Crimean election law provides Crimean Tatars with a quota of seats in the Crimean legislature.

Ukraine is not a party to the 1951 United Nations Convention on the Status of Refugees or its 1967 Protocol. Its treatment of refugees is governed by the 1993 Law on Refugees, which entitles refugees to all the benefits accorded to citizens. According to international observers, the Government demonstrated a positive attitude toward those claiming refugee status. A total of 823 Afghans were given refugee status during 1996, and a commitment has been made to award refugee status to all Afghans who arrived in Ukraine before 1995. In cooperation with the U.N. High Commissioner for Refugees (UNHCR), the Government is in the process of establishing refugee receiving centers in Vinnitsa and Luhansk. Instances of police harassment of certain categories of refugees appear to have diminished during the year. The Government has not established a policy on first asylum.

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

Citizens exercised this right in 1994, when they elected a new President, Leonid Kuchma, who replaced incumbent, Leonid Kravchuk, and elected a new Parliament representing a wide range of parties and

ideologies. Because the current election law requires a minimum of a 50 percent voter turnout for elections to be valid, over 30 seats of the 450 seat legislature remain unfilled. The Parliament decided to hold no more by-elections for a year in the 24 constituencies where voter turnout has failed to reach the minimum threshold on two or more occasions. During several parliamentary by-elections, human rights groups received complaints of irregularities, especially in rural constituencies. The Central Election Commission invalidated the results in only one case, a by-election in Lviv. The winner, Olga Kolinko, Deputy Prosecutor General and an anticorruption campaigner, alleged that the decision was politically motivated and appealed to the Supreme Court. The Supreme Court was still hearing the case at year's end. According to the new Constitution, the Central Election Commission, not the Parliament, will decide the ultimate validity of future election results.

Women are active in political life but hold a disproportionately small percentage of offices. Women hold 16 of the 450 seats in Parliament. Only four women hold cabinet-rank posts. The 18-member Constitutional Court has 2 female members. The provincial governors are all men. There are more women in local and oblast governments than at higher levels of government.

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

The Government allowed local and international human rights groups to operate freely, although some groups have been denied formal government registration, making it harder for them to obtain accreditation to official events and more difficult to register bank accounts and other financial aspects of their organizations. The Union of Councils for Soviet Jewry and Amnesty International have active offices in Kiev. The Government also welcomed visits by foreign human rights organizations.

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

The new Constitution prohibits discrimination on the basis of race, sex, and other grounds; however, due in part to the absence of an effective judicial system, the Government has not been able effectively to enforce many of these provisions. Societal anti-Semitism exists, and the Government has not prosecuted anti-Semitic acts under the law forbidding the sowing of interethnic hatred. It also has not prosecuted those responsible for sexual harassment or discrimination. Human rights experts also note that the authorities' frequent harassment of dark-skinned young men is based on stereotypes that people from the Caucasus are involved in criminal activity.

Women

While comprehensive information measuring the extent of violence against women is not readily available, survey results suggest that the problem is pervasive. The number of reported rapes and attempted rapes has increased by 80 percent over recent years. Surveys indicate that most women who have been subjected to physical abuse or rape never report it to the police. A 1995 poll of 600 women conducted by a women's organization in Kharkiv indicated that 10 to 15 percent had been raped and over 25 percent subjected to physical abuse over the course of their lifetimes. Hot lines, shelters, and other practical support for victims of domestic violence do not exist.

Separate statistics on prosecutions for wife beating or on average sentences are not available. Government representatives have acknowledged that when violence occurs the authorities often exert pressure on women to drop charges against their husbands in order to preserve the family. The low official incidence of reported crimes against women is mirrored by the lack of media attention to the subject. Many women's groups place a high priority on the issue but find it a difficult problem to

combat.

Sexual trafficking in women to Western Europe, Turkey, and the Middle East is reputedly common. The problem has not been addressed by the Government. The authorities do not prosecute men for engaging women in the explosively growing sector of sexually exploitative work.

Labor law provides for equal rights for men and women, including equal pay for equal work, a principle that is generally observed. A controversial provision in the new Constitution bars women from hard labor and hazardous industries. Many women's advocates fear that it may be used to bar women from the best paying blue-collar jobs. Women are much more likely to be laid off than men. Government statistics report that over 70 percent of all registered unemployed are women, and it is estimated that women represent up to 90 percent of all newly unemployed persons.

Few women attain top managerial positions in government or in state and private industry. According to government statistics, 69.2 percent of Ukraine's 213,000 state administration jobs are held by women, including 45.2 per cent of the managerial positions. However, of the highest "first" and "second" category offices, only 5.6 percent in central or local governments are filled by women. (These numbers do not include the "power ministries"--the Ministries of Defense, Internal Affairs, Foreign Affairs, and the SBU.) Educational opportunities for women have generally been equal to those enjoyed by men, and they remain so. By law pregnant women and mothers with small children enjoy paid maternity leave until their children reach the age of 3, a privilege women value but one which is used as a justification to exclude women from responsible or career track jobs.

Children

The Government is publicly committed to the defense of children's rights. Because of the deepening economic crisis, however, it has struggled to implement its agenda. The Government provides public education for children, which is compulsory to the age of 15 years. In principle there is free health care for children with special benefits for children affected by the Chornobil nuclear accident.

There is no societal pattern of abuse of children. Public concern over the fate of children adopted by foreigners triggered an amendment to the adoption law providing for thorough court examination of each case and followup monitoring of the children's well-being.

People with Disabilities

The law prohibits discrimination against the disabled, but, especially with the economic crisis, the Government has been unable to support programs targeted at increasing opportunities for the disabled. The law mandates access to buildings for the disabled, but it is poorly enforced.

Religious Minorities

Jews, the second largest religious minority in the country, have expanded opportunities to pursue their religious and cultural activities, but anti-Semitic incidents continue to occur. The Government has protected the rights of the Jewish community and speaks out against anti-Semitism. There are freely operating Jewish cultural centers and educational institutions, including several colleges. However, some ultranationalist Ukrainian groups, like UNA-UNSO and DSU ("National Independence of Ukraine"), circulate anti-Semitic tracts. Anti-Semitic articles continue to appear in a few local newspapers, especially in western Ukraine and Kiev. The Lviv newspaper "For a Free Ukraine" and the Kiev-based "Evening Kiev" regularly publish anti-Semitic diatribes, but have not been prosecuted under

the law forbidding the sowing of interethnic hatred. The National Conference on Soviet Jewry and Union of Councils reported that anti-Semitic incidents continued in some regions. Union of Councils monitors have reported that death threats were made against Jews in Kharkiv.

Some Jewish cemeteries have been vandalized. On the eve of Hitler's birthday, the grave of a famous rabbi from Berdichev was desecrated. The problem of post-1940 demolition of or construction on Jewish cemeteries, both by Nazi occupiers and by the Soviet government, manifested itself during the year. In many instances Ukrainian officials inherited cases of Jewish cemetery land having been appropriated for other uses in the intervening years, as Soviet law permitted reuse of cemetery land 25 years after the final burial in the cemetery. The most problematic case, that of the historic Jewish cemetery in Lviv, saw its last burial in the 19th century, total ruin by Nazi forces in 1942, and construction of a market on the land by Soviet authorities in 1947-1964. Similarly, in Berdichev private garages had been constructed atop burial grounds; and in Mliniv a hotel and parking lot encroach on a cemetery site. Local government officials have responded with varying degrees of concern and immediacy. The Government quickly addressed the issue at the presidential level, issuing an order that all construction or privatization on the land of Jewish cemeteries be immediately frozen. Negotiations began late in the year to reach an ultimate resolution of the problem.

National/Racial/Ethnic Minorities

With some important exceptions, there are only isolated cases of ethnic discrimination in Ukraine. The new Constitution provides for "the free development, use and protection of the Russian language and other minority languages in Ukraine." This compromise builds on a 1991 Law on National Minorities, which played an instrumental role in preventing ethnic strife by allowing individual citizens to use their respective national languages in conducting personal business and by allowing minority groups to establish their own schools. Russian speakers, who predominate in eastern Ukraine, complained about the increased use of Ukrainian in schools and in the media. They claim that their children are disadvantaged when taking academic entrance examinations, since all applicants are required to take a Ukrainian language test.

With the exception of two regions, there is no evidence of serious ethnic tension. In some parts of western Ukraine, small Russian, Jewish, and other minority groups credibly accuse some local Ukrainian ultranationalists of fostering ethnic hatred and printing anti-Semitic tracts. They also charge that local authorities have not taken action against those who foment ethnic hatred. In Crimea, Ukrainian and Tatar minorities credibly complain of discrimination by the Russian majority and demand that the Ukrainian and Tatar languages be given equal treatment to Russian. The Ukrainian community in Crimea has criticized the national Government for tolerating radical anti-Ukrainian and Russian chauvinistic groups on the peninsula. An investigation into the 1995 riots after the killing of two Tatar market vendors, which left four Tatars dead, ended inconclusively. While the Crimean Government, pleading insufficient funds, did not assent to requests from the Tatar community for assistance in reestablishing its cultural heritage through Tatar language publications and educational institutions, the central Government is working with the UNHCR, the Organization for Security and Cooperation in Europe, and the International Organization for Migration on support for the Tatar community.

Section 6 Worker Rights

a. The Right of Association

The new Constitution provides for the right to join trade unions to defend "professional, social and economic interests." Under the new Constitution, all trade unions have equal status, and no government

permission is required to establish a trade union. The 1992 Law on Citizens' Organizations (which includes trade unions) stipulates noninterference by public authorities in the activities of these organizations, which have the right to establish and join federations on a voluntary basis. In principle all workers and civil servants (including members of the armed forces) are free to form unions. In practice the Government discourages certain categories of workers (e.g., nuclear power plant employees) from doing so.

The successor to the Soviet trade unions, known as the Federation of Trade Unions (FPU), has begun to work independently of the Government and has been vocal in opposing draft legislation that would restrict the right to strike. The FPU urged Parliament to adopt a new trade union law to replace old Soviet-era legislation. It has defended strike organizers from the Donbass coal mines who were charged with provoking civil disorder during strikes in July. As during the Soviet era, most FPU affiliates work closely with management. Enterprise managers are free to join the FPU. The FPU has no official or legal relationship with any political party.

Independent unions now provide an alternative to the official unions in most sectors of the economy. Some, such as the Independent Miners' Union of Ukraine (NPGU), and unions representing pilots, civil air traffic controllers, locomotive engineers, and aviation ground crews have formed an umbrella organization, the National Federation of Trade Unions of Ukraine.

The new Constitution provides for the right to strike "to defend one's economic and social interests." The Constitution says that strikes must not jeopardize national security, public health, or the rights and liberties of others. The Law on Labor Conflict Resolution does not extend this right to members of the armed forces, civil and security services, and employees of "continuing process plants" (e.g., metallurgical factories). The law prohibits strikes that "may infringe on the basic needs of the population" (e.g., rail and air transportation). Strikes based on political demands are also illegal. The Government has relied on the prosecutors and courts to deal with strikes it considers illegal.

Following a protracted miners' protest over unpaid wages, several leaders were detained pending trial on criminal charges of disrupting public order by blocking roads and railways during the Donbass strike in July. The headquarters of the "Workers' Strike Committee," a loose labor organization in the coal sector in Donetsk, was searched and forcibly closed. On August 20 the oblast arbitration court ordered it disbanded. The leader of the strike committee, Mikhail Krylov, was arrested and later released on parole. The strike committee leaders have since defied the banning order. The NPGU leaders in the coal mining town of Krasnodon were found guilty of promoting public disorder and released with suspended sentences. In April a leader of the Independent Miners' Trade Union (NPG) of the Donbass coal mining region, Nykolay Volynko, was assaulted by unidentified assailants. The NPG of Donbass blamed opponents of the union for the assault.

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

b. The Right to Organize and Bargain Collectively

The law on enterprises states that joint worker-management commissions should resolve issues concerning wages, working conditions, and the rights and duties of management at the enterprise level. Overlapping spheres of responsibility frequently impede the collective bargaining process. The Government, in agreement with trade unions, establishes wages in each industrial sector and invites all unions to participate in the negotiations.

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

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits compulsory labor, and it is not known to exist.

d. Minimum Age for Employment of Children

The minimum employment age is 17 years. In certain nonhazardous industries, however, enterprises may negotiate with the Government to hire employees between 14 and 17 years of age, with the consent of one parent. The new Constitution provides for general secondary education. School attendance is compulsory to the age of 15, a regulation vigorously enforced by the Ministry of Education.

e. Acceptable Conditions of Work

During the year the Government raised the minimum monthly wage and pension in stages from \$0.30 to \$8.80 (15 hryvnas), which does not provide a decent standard of living for a worker and family. The official poverty line is now about \$40 (68.1 Hryvnas) per month. It is estimated that some 50 per cent of the population officially lives below that line, although the practice of underreporting sources of income is widespread. Inflation was reduced significantly to an annual rate of around 47 per cent (down from 182 per cent in 1995) and is declining further.

The Labor Code provides for a maximum 40-hour workweek, a 24-hour day of rest per week, and at least 15 days of paid vacation per year. Stagnation in some industries (e.g., defense) significantly reduced the workweek for some categories of workers.

The Constitution and other laws contain occupational safety and health standards, but these are frequently ignored in practice. Lax safety standards caused many serious mine accidents, resulting in 243 deaths over the first 8 months of the year. This compares with 358 deaths for all of 1995, representing a considerable increase in the ratio of fatalities per ton of coal extracted in light of decreasing coal output. In theory workers have a legal right to remove themselves from dangerous work situations without jeopardizing continued employment. In reality, however, independent trade unionists report that asserting this right would result in retaliation or perhaps dismissal by management.

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