

# The Rights of National Minorities in Ukraine: An Introduction

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## INTRODUCTION

The issue of national minorities, and the question as to how to deal with such groups, is of particular importance to Ukraine, a state within which more than 100 nationalities exist. According to a census of the population held in the Ukrainian Soviet Socialist Republic in 1989 (prior to independence), as well as the 37.5 million ethnic Ukrainians, the territory was then inhabited by 11.3 million ethnic Russians; half a million Jews; 400,000 individuals of Belarus extraction; 300,000 ethnic Moldovans; 200,000 each of ethnic Bulgarians and Poles; and numerous other national minorities. The figures are representative of present day statistics. It should consequently come as little surprise that developing an appropriate state policy towards ethnic minorities has been given a high priority by the authorities, in order to deal both with the needs and requirements of the national minority populations, and to remove the potential for intra-ethnic conflict within Ukraine.

## THE HISTORY OF MINORITY RIGHTS IN UKRAINE

Ukraine as a 'nation' has experienced a loss of statehood and independence on several occasions, and for long periods, in its history during which time the Ukrainian people could be considered as having direct experience of being persons belonging to a national minority - that is, they have been a non-dominant 'minority' in a land which they consider their own. This experience, it may be argued, has, presently and traditionally, helped the Ukrainian nation to understand the particular problems and concerns of national minorities,<sup>1</sup> and recognise the need to provide for effective protection of minority rights. Evidence of this may be found in the action of the Ukrainian Central Rada, or Council, the highest political body of Ukraine in 1917-1918. In 1917, the Central Rada issued its Second Universal

(Proclamation),<sup>2</sup> guaranteeing equality to all national minorities in Ukraine, and passed the Act on the Council of Peoples and National-Personal Autonomy,<sup>3</sup> granting the right of persons belonging to a particular ethnic group to organise themselves for the purpose of representation of the group with the state authorities. Further, the Third Universal of the Ukrainian Central Rada, which proclaimed the Ukrainian National Republic on 7 November 1917, guaranteed national minorities the right to use their native language in dealing with all administrative agencies and further granted, *inter alia*, to Russian, Jewish and Polish national minorities living in Ukraine a degree of autonomy and self-government in matters of their national life.<sup>4</sup> At the beginning of the twentieth century, no other European state enjoyed comparable minority protection legislation. Indeed, the first Deputy Secretary on Jewish Affairs in the General Secretariat of Ukraine, Moshe Zilberfarb, argued that whereas the French Revolution had declared human rights, Ukrainian Law 'On National-Personal Autonomy' had declared the rights of minority nations.<sup>5</sup>

Official government policy in the early part of the century was in line with the legislative regime. The Deputy Minister of Foreign Affairs, Arnold Margolin, asserted that the Ukrainian Government was consistent in its opposition to massacres of any part of its population and had neither participated in, nor bore responsibility, for such atrocities.<sup>6</sup> However, weak government meant that the posited laws could not guarantee the protection of minorities during the brief existence of the Ukrainian National Republic; the Jewish population, in particular, was persecuted during the Pogroms and following the seizure of power by the Bolsheviks in Russia, persons belonging to minorities enjoyed no protection from the State.

The early years of Soviet control in the 1920's saw a brief period of national revival for Ukraine and its national minorities who, at this time, constituted one fifth of the total population of the Ukrainian Soviet Socialist Republic. The development of the Ukrainian language and culture was accompanied by the opening of schools for other nationalities, who were also able to produce newspapers and journals in their own languages. However, this all ended with the introduction of a centralised government, a planned economy and the accompanying genocidal policies of the Soviet Communist regime between 1928-1936. These policies resulted in the great famine in Ukraine, from 1932-1933, in which (according to Soviet statistics) five million people died.<sup>7</sup>

Whilst the Constitution of the Ukrainian SSR formally recognised the existence of human rights for nations (including the right to self-determination), these were not observed in practice. The initial enterprise of a Soviet people of nations, merging into a newly created historical

community, rapidly became the forced assimilation of nations, with the resultant decay of national cultures, traditions and customs, and the repression of those who sought to maintain their national character. In Ukraine. Roman Smal-Stocki claims that the systematic pogrom which was organised against Ukrainian language, literature and culture was carried out with such severity that all previous Russian Tsarist persecutions appeared almost insignificant by comparison.<sup>8</sup>

#### LEGISLATION ON MINORITY RIGHTS IN MODERN UKRAINE

Since the 1990 Declaration on State Sovereignty of Ukraine, and the adoption of the Act of Independence on 24th August 1991, much work has been undertaken concerning the provision of human rights to persons belonging to national minorities. For example, the Declaration of the Rights of Nationalities of Ukraine 1991,<sup>9</sup> and the Law On National Minorities in Ukraine 1992,<sup>10</sup> incorporate into Ukrainian law international agreements on the rights of ethnic minorities, with the former guaranteeing all nationalities equal political, economic, social, and cultural rights.

The 1992 Law On National Minorities in Ukraine provides that national minorities will be defined as those citizens of Ukraine who are not ethnic Ukrainians, but who display a sense of national self-identification and unity among themselves (Article 3). Those persons (belonging to the national minority) are entitled, *inter alia*, to use the minority language and to receive an education in that language in state educational institutions, or through national cultural societies; to develop and nurture national cultural traditions; to use national symbols; to the recognition of national holidays; to practise their religion; to satisfy their needs in terms of literature, the arts and mass media; to create national, cultural and educational institutions; and to engage in any other activity that does not contradict legislation in force (Article 6). Whilst the provisions on 'national-cultural autonomy' are encouraging, Buromenskyi notes that the law contains neither a definition of such national-cultural autonomy, nor the procedure and conditions of its existence.<sup>11</sup>

In the parts of the state where the national minority constitutes a majority of the population, the minority language may be used alongside the Ukrainian state language in dealings with public bodies (Article 8). The state budget of Ukraine presupposes special allocations for the development of the cultures of the national minorities (Article 16) and a Ministry of Nationalities and Migration was created with responsibility for dealing with issues relating to inter-ethnic relations (subsequently, in 1996, this was reorganised into the State Committee of Ukraine on Nationalities

and Migration). Moreover, within the Verkhovna Rada (Ukrainian Parliament) there exists a standing committee on human rights, national minorities and inter-ethnic relations.

A new stage in the development of legislation on national minorities began with the adoption of the Constitution of Ukraine on 28 June 1996,<sup>12</sup> which defines the Ukrainian people to include citizens of all nationalities. The *preamble*, adopted by the Verkhovna Rada, notes that the Constitution is based upon Ukraine's centuries-old experience of state-building (i.e. the process of creating a civic society), and on the right to self-determination realised by the Ukrainian nation and all the Ukrainian people. Article 11 of the Constitution provides that the Ukrainian state will promote the consolidation and development of the Ukrainian nation, its historical consciousness, traditions and culture, and also the development of the ethnic, cultural, linguistic and religious identity of all national minorities and indigenous peoples of Ukraine, the later of which include the Crimean Tatars,<sup>13</sup> the Car aims and the Crymchaks.<sup>14</sup>

The state language of Ukraine is, predictably, Ukrainian; the state ensures the comprehensive development and functioning of the Ukrainian language in all spheres of social life throughout the entire territory of Ukraine, although, notably, the free development, use and protection of Russian, and the other national minority languages, is guaranteed under the constitution (Article 10). Moreover, citizens who belong to national minorities are guaranteed, in accordance with the law, the right to receive instruction in their native language, or to study their native language in state and communal educational establishments, and through cultural societies (Article 53).

#### IMPLEMENTATION OF THE RIGHTS OF NATIONAL MINORITIES

As well as the legislative provisions discussed previously, Ukraine has undertaken a number of measures in support of its minority languages and in the provision of education to minority groups. In over five thousand schools, children are taught in their 'Mother tongue', or a combination of Ukrainian and the national minority language; books are available in over 20 minority languages, as are dozens of newspapers; the number of TV and radio programmes in minority languages has also seen a significant increase in recent years.<sup>15</sup> Furthermore, in excess of one hundred and fifty regional and district cultural societies, representing the interests of most ethnic groups, have been formed, including the Russian Pushkin Society in Lviv; the Association of Jewish Organisations and Communities of Ukraine; the Society of Jewish Culture of Ukraine; the Eminescu Society

of Romanian Culture; the Polish Cultural and Educational Society in Ukraine; the Republican Society of Armenian Culture; the Society of Crimean Tatars in Kherson region; the Society of Germans of Ukraine "Yidergeburt"; the Assyrian Organisation of Ukraine; the Republican Society of Greeks in Ukraine; the Slavic Fund of Ukraine; and the Republican Cultural Centre of Turkic Language Peoples of Ukraine.<sup>16</sup>

Whatever advances have been made in Ukraine, a number of urgent problems relating to national minorities remain. The most difficult of these, according to Ukrainian President Leonid Kuchma, is the resettling of citizens deported under the Soviet regime and the guarantee to these 'returnees' of their legal, political, social, cultural rehabilitation.<sup>17</sup> Most prominent amongst these groups are the Crimean Tatars, forcibly deported to Central Asia more than 50 years ago by Stalin who had accused them of disloyalty during the Second World War. In November 1989 the Supreme Soviet of the former USSR adopted a Declaration which declared illegal all acts connected with the 1944 deportations. This was followed by the 1990 Decree of the Presidium of the Supreme Soviet of the USSR, condemning any deportations of the minority peoples of the Soviet Union, although the Decree did not provide for any concrete mechanism which would facilitate the return of deported people to their homeland. However, the issue of the deported peoples remained unresolved upon Ukrainian independence. On the 28th January 1992, the Cabinet of Ministers of the newly independent Ukraine issued the 'Decree On Some Problems Connected with the Returning of Crimean Tatars to the Crimean Autonomous Republic';<sup>18</sup> it provided for special allocations, from the state budget, to finance measures for the return of the Crimean Tatars. At the time of writing proposed legislation on the "Rehabilitation and Guarantee of Rights of Persons from National Minorities who Suffered from Oppression and were Deported from the Territory of Ukraine" is being drafted by the Ministry for Nationalities and Migration for adoption by the Verkhovna Rada.

The proposed legislation recognises that the Crimean Tatars were not the only minority people to suffer oppression and deportation during the Stalinist period: ethnic Bulgarians, Greeks, Armenians, Germans, Poles, Karaims, Romanians, and Hungarians all suffered. In the proposed legislation, the State accepts its responsibility for ensuring the protection of the rights of persons belonging to such minorities. In particular, the legislation proposes that those who suffered oppression and were deported should be "rehabilitated" (Article 2), and compensation would be paid to those who suffered or lost property as a result of the deportation (Article 7). This payment would have to take into account the economic resources of the state, but first priority would be given to those persons who were

disabled as a result of deportation and forced labour, including those who had formed part of the notorious 'working columns' of the NKVD (the Ministry of Internal Security for the former Soviet Union, and the forerunner of the KGB). Compensation would not necessarily be monetary, but could include the provision of accommodation; improvements in living conditions; the granting of vouchers for use in private medical establishments; and priority in obtaining medical treatment in state medical establishments. In excess of one million individuals could be eligible for assistance under the proposed legislation, the adoption of which, it is contended, would promote social justice and equality among all ethnic groups in Ukraine.<sup>19</sup>

The problem of the Crimean Tatars continues to cause particular problems. According to Dzhemilev, the leader of the Crimean Tatar Medzhlis (national assembly), of the 250,000 Crimean Tatars who have returned to Crimea since the break-up of the Soviet Union, half are homeless and unemployed, and the mortality rate amongst members of the group is increasing.<sup>20</sup> It is estimated that a resettlement programme would cost 1.5 billion dollars (US). However, Ukraine, suffering the same financial difficulties as all states of the former Soviet Union, has allocated only 100 million dollars (US), and has received little in the way of support from other states, including those states from which many of the Crimean Tatars are returning, which are also former member states of the Soviet Union, with similar economic and other problems. The OSCE High Commissioner has confirmed that, without outside financial assistance, Ukraine is unlikely to be able to solve the problem of resettling Crimean Tatars.<sup>21</sup>

## CONCLUSION

Despite the difficulties outlined in this chapter, Ukraine has succeeded in its efforts to avoid serious internal conflict between its majority and minority populations, and between the national minority groups themselves. Ukraine has, therefore, been able to avoid a problem which has afflicted most of the other states of the former Soviet Union. This is an achievement in which the Ukrainian government and people may feel a certain degree of pride.

## NOTES

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1. See Z. Kohut. *Russian Centralism and Ukrainian Autonomy. Imperial Absorption of the Hetmanate 1760s-1830s* (1988).
2. *Natsionatni Vidnosyny v Ukrayini u XX st.* (1994), at 48.
3. *Ibid.*, at 51-52.
4. *Ibid.* at 56. The Fourth Universal of the Ukrainian Central Rada reaffirmed the rights to national-personal autonomy of all ethnic groups in Ukraine, *ibid.*, at 71.
5. E. Tsherikover, *Antisemitizm un pogromen in Ukraine, 1917-1918* (1923), at 73.
6. *The Jewish Chronicle* (1919, May 16). See also T. Hunchak (ed.), *The Ukraine, 1917-1921: A Study in Revolution* (1977); *The Annals of the Ukrainian Academy of Arts and Sciences in the U.S.* (1956), at 1167-1168.
7. M. Mishchenko, "My Testimony on the Genocide in Ukraine", VI *Ukrainian Quarterly*.
8. R. Smal-Stocki, *The Nationality Problem of the Soviet Union and Russian Communist Imperialism* (1952), at 104.
9. *Supra* n. 2, at 474-475.
10. *Ibid.*, at 491-493.
11. M. Buromensky, "Is It Possible to Implement the Law 'On National Minorities' in Ukraine?", 6 *Human Rights in Ukraine* (1994) 38.
12. Constitution of Ukraine, adopted at the Fifth Session of the Verkhovna Rada of Ukraine on 28 June 1996, LII *The Ukrainian Quarterly* (1996) 223.
13. See W. Bowring, "New Nations and National Minorities: Ukraine and the Question of Citizenship" (this work).
14. The law on "The Indigenous Peoples of Ukraine" is, at the time of writing, being drafted.
15. "Radiozvernennya Prezydenta Ukrayiny Leonida Kuchmy", 212 *Uryadovi Curyer* (1996), at 2.
16. See Karta respUBLICANSKYKH, regionalnykh, oblasnykh kulturolohichnykh tovarystv natsionalnykh menshyn Ukrayiny (1992).
17. *Supra* n. 15.
18. *Supra* n. 2, at 482-483.
19. "Ukraine" (1996, Seat) 1 EELM.
20. L. Budzhurova, "Special to Intelnews", Intelnews, 23 April 1996.
21. ITAR-TASS reported on 25 January 1996.