

SUBMISSION ON UKRAINE BY THE UKRAINIAN WORLD CONGRESS (UWC), A NON GOVERNMENTAL ORGANIZATION IN SPECIAL CONSULTATIVE STATUS WITH THE UNITED NATIONS' ECONOMIC AND SOCIAL COUNCIL TO THE 14th SESSION OF THE UNIVERSAL PERIODIC REVIEW WORKING GROUP OF THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

The UWC is an international coordinating body for Ukrainian communities outside Ukraine representing the interest of some twenty (20) million Ukrainians, with member organizations in more than thirty (30) countries. Founded in 1967, it was incorporated in 2000 in Canada. The aims and purposes of the organization are to establish and maintain an international network of member organizations who have an interest in supporting and promoting Ukrainian nationality, spirit, language, culture and achievements of Ukrainians throughout the world, to coordinate the activities of member organizations, to promote the civic development of Ukrainians in countries of their settlement for the purpose of strengthening their commitment towards democracy and freedom for all nations in the world, to uphold the rights of every Ukrainian person based on the Universal Declaration on Human Rights and to intervene with governments and/or non-governmental institutions to protect the rights of Ukrainians throughout the world. It was accepted for membership with the United Nations as indicated in the heading in 2003.

Ukraine proclaimed independence on August 24, 1991 and began a process distancing itself from the Soviet authoritarian past, promoting democracy through a civil society predicated on universally accepted values and undertakings. Certainly, setbacks were experienced particularly in the area of government corruption which included an uneven transition to capitalism allowing for the accumulation of wealth by government officials and their friends

without regard to rules. Nevertheless, from 1991 through 2004 elections were becoming more transparent and fair, civil society was expanding, the press was becoming more relevant as the fourth estate and even the judiciary was becoming more independent.

The second tour (runoff) of the presidential election in November 2004 was a major step backward marred by widespread fraud and voter intimidation. As a result Victor Yanukovich was declared the newly elected president by a Central Elections Commission controlled by him. What followed was the “Orange revolution” a spontaneous outpouring of indignation by the electorate both young and old. The revolution forced a further election in December 2004 which brought to power seemingly a reformer as president, Victor Yushenko. It also highlighted the incontrovertible fraud of the November electoral process.

The tenure of President Yushenko brought about further democratization but was marred by a benign neglect allowing for the rehabilitation of those responsible for the prior election fraud. In the economic sphere it did little to establish rules for the acquisition of property, thus allowing the rich to become richer with the resultant effect on the poor and the dearth of a middle class. As a result the already notorious Victor Yanukovich came to power in a presidential election in February 2010 which was accepted by the international community, even though voter intimidation and influence peddling were rampant.

Under the tenure of President Victor Yanukovich the situation in Ukraine has deteriorated severely to a point where the rule of law and the impact of a civil society have been rendered meaningless. Mr. Yanukovich has intensified efforts to strengthen his position and power. In this regard he has harnessed complete control of all branches of government including the judiciary. He has manipulated and bribed members of a Parliament (Verkhovna Rada Ukrainy) that had been elected in 2006 and which his party did not control until he became

president.. Parliament is now nothing more than a rubber stamp for his policies. He has used methods of intimidation, bribery and extortion to make the judiciary subservient to him.

Yanukovich has arrested, incarcerated and convicted leading members of the opposition (former Prime minister Yulia Tymoshenko and Interior Minister Yuriy Lutsenko and almost 30 others) to prevent their participation in the electoral process and to intimidate others in the opposition. Aside from the specious charges, bias of the presiding judges and excessive sentences handed down, the conditions under which prisoners are held have been equally alarming. For your information we should like to submit a November 21, 2011 BBC report:

“Ms Karpacheva, a human rights ombudsman nominated by the Ukrainian parliament, said she made an unannounced visit to Lukyanivska prison where Ms Tymoshenko is being held in a cell along with two other women. Ms Karpacheva told Ukrainian radio: ‘Her condition is extremely grave, she could not get out of bed when talking to me. She needs examination and treatment outside the detention centre’. However, she did not say what was wrong with Ms Tymoshenko. Ms Karpacheva also said it was unacceptable that Ms Tymoshenko was now being interrogated by investigators in her prison cell - a practice the human rights envoy said had not occurred in Ukraine since the fall of the Soviet Union.”

Since then Yulia Tymoshenko has been relocated to a penal colony in Ukraine’s northeastern city of Kharkiv. The conditions have remained the same or worsened. The same applies to Yuriy Lutsenko and the other political opponents imprisoned by the Yanukovich government.

In October 2010 the government of Victor Yanukovich presided over local and regional elections. No Western observer team approved of these elections. The Organization for Security and Cooperation in Europe international observer mission concluded:

“Nevertheless one should stress that the 31 October 2010 local and regional elections in Ukraine did not create a new positive standard. Although there were only minor shortcomings during the vote, the elections caused many concerns at international level because of the late adoption of the Election Code which seems to favour the ruling party. Most of the irregularities were noted during the preparatory phase of the elections. The most disturbing fact is that the opposition parties like, for example, Batkivschyna could not effectively take part in the election in three oblasts.”

The “Batkivschyna” party was and is chaired by the incarcerated Yulia Tymoshenko. The elections and appointments resulted in the Yanukovich people now controlling the great majority of local and regional administrations.

In January of this year the Parliamentary Assembly of the Council of Europe passed a resolution addressing some of the main human rights issues:

“The Assembly expresses its concern with regard to the criminal proceedings initiated under Articles 364 (abuse of office) and 365(exceeding official powers) of the Criminal Code of Ukraine against a number of former government members...The Assembly considers that Articles 364 and 365 of the Ukrainian Criminal Code are overly broad in application and effectively allow of post facto criminalization of normal political decision-making. This runs counter to the principle of the rule of law and is unacceptable...The Assembly regrets the numerous shortcomings noted in the trials against former government members and considers that they may have undermined the possibility for the defendants to obtain a fair trial within the meaning of Article 6 of the European Convention of Human Rights...the Assembly takes note of the fact that the European Court of Human Rights decided to fast track an application of Ms. Tymoshenko concerning her detention in which she alleges violations of Articles 3,5 and 18 of the Convention...the Assembly reaffirms its deep concern about the lack of independence of the judiciary...the Assembly regrets that the reform of the Prosecutor’s office in line with Council of Europe standards, which is one of Ukraine’s accession commitments, has yet to be carried out. As a result, the Prokuratura remains an excessive centralized institution with excessive powers...The Assembly welcomes the systematic requests by the authorities for the opinion of the Venice Commission on draft laws which they prepare. However, it notes that, on several occasions, the draft

laws on which opinions have been asked are subsequently withdrawn and that the recommendations of the Venice Commission are not taken into account in the laws ultimately adopted by the Verkhovna Rada...the Assembly regrets that its main recommendations, namely the adoption of a Unified Electoral Code, and the adoption of a regional proportional election system, were not implemented..."

Only a few weeks ago the European Union initialed an Association Agreement for a Deep and Comprehensive Free Trade Area with Ukraine, but refused to identify Ukraine as a European country, a confirmation of eligibility to one day becoming an EU member. The EU cautioned Ukraine that any further process is conditioned upon Ukraine's return to the rule of law.

Our purpose is not only to bring to your attention the conditions and violations of human rights mentioned heretofore, but also to stem what we feel may be a process that if not reversed, may become significantly worse in the future. Several weeks ago two students from the City of Kherson in southern Ukraine posted leaflets ridiculing the President of Ukraine as a former convicted criminal. They were arrested for this activity even though there was clearly no crime committed. They were detained for several hours, their residences searched and only then released because their acts did not constitute a crime. They still face administrative fines.

International institutions such as the OSCE, the PACE and the EU have expressed concern over the human rights record of the Yanukovich regime in Ukraine. To date the OHCHR and the UN itself have remained silent. It is our opinion that based on how human rights conditions have worsened under Victor Yanukovich since he took office, the lack of admonishment by an office as august as the OHCHR, may embolden Victor Yanukovich to further experimentation, seemingly with impunity. We hope that the UPR will forestall any further slide of Ukraine into totalitarianism.

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