

IHF FOCUS: good governance; national human rights protection; elections and referenda; freedom of expression, free media and information; peaceful assembly; freedom of association; independence of the judiciary and lawyers; right to a fair trial and effective remedies; torture, ill-treatment and police misconduct; arbitrary arrest and detention; right to life (death penalty); freedom of religion and religious tolerance; conscientious objection to military service; freedom of movement and human contacts; respect of private life; national minorities and ethnicity; equal rights of women and men.

Belarus' poor human rights situation continued to deteriorate further in the course of 2005. The country's record fell short with respect to democracy, the rule of law, and a number of basic rights, including freedom of expression, association and the media, and the right to peaceful assembly. Fair trial standards were repeatedly violated by courts and no progress was made to investigate the unsolved "disappearances" of the past.

New, increasingly restrictive regulations concerning civil society brought many NGOs to the brink of annihilation, while amendments introduced to the criminal code in late 2005 added to their problems by allowing arbitrary charges for legitimate criticism of authorities.

A presidential election was scheduled for March 2006, but the short pre-election campaign did not allow the opposition to engage in adequate campaigning - an additional reason why it was impossible that the elections would be free, fair and democratic.

Belarusian authorities have ignored all UN and other international criticism of its deplorable human rights practices and rejected most cooperation with intergovernmental organizations aimed at improving the situation in Belarus.¹ The government also ignored two resolutions of the UN Commission on Human Rights, expressing concern that Belarusian officials had been implicated in the disappearances and/or summary execution of three political opponents in 1999 and a journalist in 2000 and in the continuing investigatory cover-up of these cases.²

What is more, the government has repeatedly failed to cooperate with the UN special rapporteur on the situation of human rights in Belarus, Adrian Severin. In late 2005, it failed to reply to his second request to visit Belarus. Also in 2005, the special rapporteur made an effort to organize a round table on the situation of human rights in Belarus in Minsk, with participation of representatives of the government, political parties, civil society organizations, human rights defenders, and international observers. However, he received no reaction from the Belarusian government.

Apart from wide-scale violations of civil and political rights, Belarus continued to suffer economic deprivation from the long-term effects of the 1986 Chernobyl catastrophe. In 2005, more than 1.6 million people were still living in contaminated areas, including almost 420,000 children. In addition to the prevailing ecological and health problems, the disaster dramatically interfered with every-day life in Belarus. Most importantly, the victim mentality, which many had developed, resulted in a loss of interest in taking charge of their lives.

As a result of political and economic pressure, social problems continued to grow, while health and welfare care remained out of step and failed to meet the very basic needs of the most vulnerable groups.

During 2005 the population of Belarus decreased by 49,900 persons (0.5%) and, as of 1 January 2006, constituted

* Based on the *Annual Report 2006 (Events of 2005)* of the Belarusian Helsinki Committee, prepared by Dzmitry Markusheuski. The section on the Roma minority was provided by the European Roma Rights Center (ERRC, IHF cooperating organization).

9,750,200 inhabitants.³ The main reasons for the decrease were the fact that the death rate exceeded over the birth rate by 47,100 persons, as well as migration.

Good Governance

President Aliaksandr Lukashenka and his administration kept close tabs on all developments in the country. Only people in or close to these circles were able to hold important positions in Belarusian society. In violation of democratic principles and procedures, the president himself appointed higher-ranking public officials.

According to Transparency International, Belarus tumbled from 74th to 107th place among 159 countries in the Corruption Perceptions Index 2005, which related to the degree of corruption as seen by business people and country analysts.⁴

National Human Rights Protection⁵

In the absence of an ombudsman institution, the Parliamentary Commission on Human Rights simply redirected citizens to submit their complaints to various state bodies. However, it was difficult for most citizens to file complaints as presidential decree no. 13 of April 2003 barred public organizations from representing persons in court who are not members of those NGOs, also most people could not afford to hire a lawyer, and most lawyers would not take up such cases.

Human Rights Defenders⁶

While there were about a dozen local human rights NGOs in Belarus, only very few were strong enough to carry out activities nationwide. As of the end of 2005, the only legally registered human rights organization that still carried out activities in all Belarus was the Belarusian Helsinki Committee (BHC), but it, too, was facing the imminent threat of closure. Several other NGOs have been stripped of their legal status in recent years. The BHC was

forced to officially close down its 13 regional branches in 2005.

Human rights activists were exposed to persecution.

◆ In February 2005, the investigator dropped all charges against Hary Pahaniaila, a legal advisor of the families of the “disappeared” politicians, and a member of the BHC. Pahaniaila had been charged with slandering President Lukashenka. The case was related to an interview that Pahaniaila gave to the Swedish TV4 channel in 2004, a videotaped version of which was confiscated by custom officials when the journalist left the country. In the interview, Pahaniaila described the due process violations that characterized the investigations into past “disappearances” and named suspects. The prosecutor general, however, wanted to review the case, and it was pending as of February 2006. If found guilty, Pahaniaila could be sentenced to up to five years in prison.

Elections and Referenda

According to article 81 of the constitution, presidential elections shall be conducted no later than two months prior to the expiration of the term in office of the incumbent president. Since the current President Lukashenka was inaugurated on 20 September 2001, the election was due to be held before 19 July 2006. On 16 December 2005, the parliament announced the presidential election for 19 March 2006.

Belarus has a history of flawed elections and referenda. The 17 October 2004 referendum called by the president lifted all limitations on his tenure despite the fact that the constitution and other laws clearly limited the president’s tenure to two five-year terms and did not provide for a referendum.⁷

As of early 2006, representatives of initiative groups for alternative presidential candidates reported that they faced significant obstacles in collecting signatures for

candidature, including denied access to student residences and state premises, detention of signature collectors and pressure on initiative group members, among other problems.⁸ At the same time, a number of students and employees of state enterprises complained that they had been required to sign signature lists and collect signatures for the incumbent president. In addition, political parties were not presented in the Central Election Commission.

All the above-mentioned reasons indicated already in early 2006 that the opposition had little opportunity to participate in the elections and carry out an appropriate election campaign, and that the citizens would not be able to make an informed choice - all indicators of unfair and undemocratic elections.⁹

Freedom of Expression, Free Media and Information

Freedom of expression and the media was formally guaranteed by the constitution and the media act but numerous regulations and especially practices by authorities placed serious restrictions on it. In a similar vein, the media act provided for access to information of public interest and importance. Yet, the law was not implemented in practice in 2005; instead, new terms were invented by authorities to classify information of public importance.

The media act provided that after the Ministry of Information has issued two warnings to a media outlet for what it termed "violations of the law," a court could rule the entity's closure. Moreover, the ministry was able to suspend the operation of an outlet without a court decision on similarly poorly worded grounds.

The amendments to the criminal code proposed by the president that were adopted in July (and came in force on 1 January 2006) brought additional restrictions on free expression. For example, "fraudulent representation of the political,

economic, social, military or international situation of [...] Belarus" is regarded as "discrediting Belarus" and subject to punishment of up to six months of detention or two years of imprisonment. The punishment for acts of "public appeals for seizure of power or forcible change of the constitutional system" was increased to up to three years in prison, among other similar formulations.¹⁰

Members of the political opposition and other openly critical public figures, including human rights defenders, were harassed, charged and detained on questionable or fabricated accusations.

◆ Mikhail Marynich, former minister, member of parliament, ambassador, and presidential candidate in 2001, remained in prison throughout 2005. He was arrested in April 2004 and sentenced on 30 December 2004 to five years' imprisonment with confiscation of property for alleged larceny in a trial that violated due process standards. The BHC believes that the charges were fabricated and the real reason for Marynich's detention were his political activities.

◆ On 15 May 2005, Siarhei Skrabets, former parliamentary deputy, leader of the Republic faction in the parliament and member of the BHC Council, was arrested in Minsk and taken to Brest to investigation custody. He was charged with preparing a bribe. Skrabets went on hunger strike to protest the sentence. On 27 December, an initiative group was formed to promote him as a presidential candidate. On 16 January 2006 the Supreme Court of Belarus opened hearings against him. The BHC assumes that Siarhei Skrabets is persecuted for his political activity.

Freedom of the Media

The state-run media was financed from the national budget. The Academy of Management - under presidential adminis-

tration - trained staff journalists for the state-owned mass media. Meanwhile, the independent media outlets suffered under increasing criminal, administrative and economic pressure. All mainstream media practiced self-censorship so as not to face repercussions, such as defamation charges, for legitimate criticism.

In 2004-2005, the Ministry of Information punished a number of media outlets after their critical reporting: *Novaja Hazerta Smarhoni*, *Navinki*, *Zgoda*, *Vremya*, *Predprinimatelskaya Gazeta*, *Vecherni Stolin*, *Regionalnaya Gazeta*, *Narodny Predprinimatel*, *Regionalnye Vedomosti*, and *Birzha Informacii* were temporarily suspended.

◆ On 24 March 2005, police and unidentified people in plain clothes broke into the privately owned editorial office of the newspaper *Zgoda*, searched the premises and confiscated computers and graphic images. The offices were sealed off, paralysing the journalists' work and making the publication of the next issue of *Zgoda* impossible.

In addition, fearing problems from the authorities, printing houses frequently declined to print independent newspapers and magazines or censored them under various pretexts. Likewise, shops and supermarkets refused to sell independent newspapers and magazines for the same reasons, and in September, the state media distribution monopoly "BelSayuzDruk" ordered newspaper stands to stop selling independent newspapers such as *Narodnaya Volya*, *Nasha Niva*, and others. Another state monopoly, "BelPoshta," refused to disseminate the independent newspapers by subscription.

Access to information of legitimate public importance or interest was blocked under various pretexts and vaguely worded regulations on "classified information." Independent media outlets were, as a rule, not allowed to attend official events such as press conferences of public authorities

and "public" hearings that were open to the state-run media.

◆ Local administrations and courts refused to give any information to correspondents of *Narodnaya Volya*, *Belorusskaya Gazeta*, *Den'*, *Mestnaya Gazeta*, *Hancavitski Chas*, and other independent papers.

◆ In April 2005, the Aktsiabrski District Court in Minsk partially satisfied the suit brought by a US citizen, Alexander Mar, against Iryna Khalip, the deputy editor-in-chief of *Belorusskaya Delovaya Gazeta*, and the private enterprise Marat. Khalip was ordered to pay 10 million Belarusian rubles (EUR 4,000) to Mar in compensation, and Marat 50 million rubles (about EUR 21,000). The judge did not admit a single petition of the defense during the trial. The journalist had criticized Alexander Mar for his interview with President Lukashenka. The suit was reportedly initiated by Belarusian authorities.

Criminal defamation provisions were yet an additional threat to reporting on abuses of power and other misconduct by public officials. Defamation (article 367 of the criminal code) or insult (article 368) of the president carried penalties of up to five years' and three years' imprisonment, respectively. While no one was imprisoned under the defamation provisions, their sole existence had a chilling effect on reporting on sensitive issues because criticism of the authorities was often interpreted as equal to insult.

◆ In 2004-2005, the editorial boards and correspondents of the *Belorusskaya Delovaya Gazeta*, *Narodnaya Volya*, *Mestnaya Gazeta*, *Den'*, *Gazeta dla Vas* were reprimanded and fined for allegedly insulting Belarusian authorities.

The Internet

In 2005, Reporters Without Borders included Belarus in its the list of "enemies of the Internet." Access to the Internet was

limited and it was provided only by "Beltelecom," a state monopoly.

Internet sites that published information on human rights and about the activities of independent democratic organizations were sometimes blocked, including those of the United Civil Party (www.ucpb.org), the BPF Party (<http://pbpf.org>), independent trade union movement (www.praca-by.info) and Young Front (<http://mfront.net>).

The Minsk city administration has reportedly issued an instruction to order internet café staff to demand identification from visitors and to keep track of people's surfing on the internet.

State Indoctrination

On 23 August, President Lukashenka met with the minister of education, Alexander Radzou, who reported that a whole new system of education was due to be launched at the beginning of the new academic year. For this purpose, the president tasked authorities to continue preparing textbooks on the ideology of the Belarusian state.

In the fall of 2005 and early 2006, schoolchildren were threatened with expulsion if they refused to enrol in the state-organized Belarusian Republican Youth Union (BRSM), which promotes presidential ideology. In some cases, pupils were told that only BRSM members were allowed to continue studying in high schools.

Peaceful Assembly

New legislation on public organizations and political parties was adopted in July 2005, making it easier for authorities to suspend and halt the activities of NGOs and political parties, and to close down an NGO or a political party because of a single violation of legislation on the organization of public events.

The 2005 amendments to the criminal code were accompanied by a regula-

tion according to which "education or other forms of preparation" for mass riots, or financing of such actions, are to be punished by arrest of up to six months or imprisonment of up to three years. On the basis of the new article 342, training or other preparation of people for participation in group actions, which "grossly violate public order," as well as financing or other material support of such activities, can lead to imprisonment of up to two years.¹¹

By law, it was only possible to hold peaceful assemblies if permitted by authorities, and organizers had to cover the costs of "providing for public order." Any informal group meeting could be considered an impermissible public event and its participants could be punished.

Opposition rallies were as a rule not sanctioned and – if they were held at all – were dispersed by the police. The participants were usually beaten, arrested and fined. Authorities also often moved sanctioned demonstrations to suburban areas or they banned them outright.

◆ A peaceful assembly on Freedom Day, 25 March, was violently dispersed by the police and 25 participants were fined or placed in administrative arrest.

◆ On 26 April 2005, a police riot squad violently dispersed the "Chernobyl Way" demonstration. Dozens of demonstrators were arrested and accused of violating the regulations on the organization and holding of mass actions. As a rule, the arrestees were kept in cold and wet cells, 6-12 persons at a time.

Freedom of Association

The Constitution of Belarus vows freedom of association, yet, other legal regulations and especially discriminatory practices seriously limit this freedom. New legal provisions under the law "On Public Associations," a presidential decree, as well as amendments to the criminal code

and the criminal procedure code, introduced increasing restrictions on civil society activities in the course of 2005.

All NGOs were required to register with the Ministry of Justice in order to operate legally - any activity of non-registered civic groups was prohibited under threat of fine or imprisonment. The Republican Commission on Registration decides on the "expediency" of the formation of an NGO. Its members are appointed by the president and they represent the government and the State Security Committee. The applicants must undergo arbitrary checks and an application can be rejected without stating any legal reason. In addition, registration fees for NGOs are considerable by Belarusian standards: EUR 350.

Law on Public Association

The new law "On Public Associations" came into force in October 2005 and it brought about additional restrictions on freedom of association. It renders illegal all activities not specifically listed in NGO statutes and allows for broad interpretation by the executive of the activities which fall within the law. The new law also toughened the procedure of official registration of NGOs. NGO statutes must include a description of governing bodies, and a detailed presentation of regional organizational structures. Also, NGOs must submit to authorities a circumstantial list of the membership record. Additionally, arbitrary hurdles that impede legal registration are, for example, a requirement that a public organization must have a "legal address," i.e., an office in an administrative building. However, such buildings are state-owned in Belarus and are usually not rented to independent organizations.

Curiously, the new law also prohibits the use of the words "Belarus," "Republic of Belarus," "national," and "people" in the name of an NGO without special permit from the president of Belarus, and pre-

scribes registration of all symbols of a public association, including its logo, badge, hymn, neckwear, etc.

Under the new law, the Ministry of Justice can suspend NGO activities for up to six months for violating the law or its own charter following two warnings from the ministry. Moreover, a single violation of legislation on mass events and/or infraction of the regulation on receiving foreign aid can lead to the closure of an NGO.

Presidential Decree

In addition, presidential decree no. 302, which passed on 1 July 2005 and entered into force on 1 December introduced further restrictions on activities of charitable foundations by introducing new procedures for setting up, registering, reorganizing and closing NGOs. This decree appears to be aimed also at hindering directors of dissolved NGOs from creating foundations and thus preventing organizations from giving any legal framework to their activities.¹²

Amendments to the Criminal and Criminal Procedure Codes

Further adding to the already serious restrictions on association and civil society activities, the 2005 amendments to the criminal code and the code of criminal procedure increased penalties for "actions aimed against a person and public security." These amendments were submitted to the parliament marked "urgent" only two days before the reading by President Lukashenka and they came into force on 1 January 2006. The new, vaguely worded amendments pave the way to wide discretionary powers for authorities to interpret legitimate civic activities as illegal attempts to discredit or harm the Belarusian state and render them illegal.¹³

The new article 193-1 of the criminal code on "Illegal Organization of Activities of a Public Association, Foundation or Participation in Their Activities" envisages that

organizing activities or participating in activities of organizations or foundations whose liquidation or suspension has been decided by Belarusian courts or judicial authorities, are to be punished by a fine or arrest of up to six months, or by imprisonment of up to two years.¹⁴

Attacks on NGOs

Officially, the total number of NGOs in Belarus was 2,259 as per January 2005. This figure decreases every year. Closing public organizations or suspending their activities under a court ruling, as a result of a lawsuit initiated by the Ministry of Justice, has been common practice in 2000–2005.

Two reprimands from the Ministry of Justice within a year constituted a legal basis for the liquidation of an NGO. In 2005, the Ministry of Justice issued 425 reprimands to NGOs and political parties and courts satisfied 68 ministerial claims on closure of public organizations. In addition, 43 NGOs closed down on their own accord in 2005 because they wanted to avoid further problems with authorities, which targeted primarily human rights groups.

- ◆ On 8 February, the Supreme Court of Belarus, acting upon a suit filed by the Ministry of Justice, closed down the public association Belarusian Women's Movement 'Revival of Homeland.'

- ◆ On 16 February, the Ministry of Justice issued a written warning to the association Frantsishak Skaryna Belarusian Language Fellowship (TBM), motivating its claim by saying that some TBM structures used residential premises for registering their legal addresses and thus violated the provisions of the housing code.

- ◆ On 14 April, the Supreme Court shut down the largest sociological institute, the public association Independent Institute for Socio-Economic and Political Studies

for using an incomplete name for the association (IISEPS instead of PA "IISEPS"), for using of private apartment as its office premises, and for refusing to submit its internal documents to the Ministry of Justice.

The BHC remains the only legally registered independent nation-wide human rights NGO, however, its situation deteriorated dramatically at the end of 2005, bringing the BHC to the brink of closure under unjustified charges.

- ◆ From August 2003 through January 2004, the Inspectorate of the Ministry for Taxes and Collections of the Maskouski District of Minsk audited all the BHC's financial records since its foundation in 1995. While the audit confirmed that the BHC had used all the funds adequately, the inspectorate nevertheless ordered the BHC to pay 155 million Belarusian rubles (around EUR 64,000) in allegedly unpaid taxes and penalties on grants received from the European Union TACIS Programme. In addition, BHC officials were charged with tax evasion. The tax authorities failed to take into account that TACIS programs in Belarus were regulated by an international agreement under which technical assistance is exempted from taxes and customs duties. In 2004 two courts cleared the BHC of charges of tax evasion and the Supreme Economic Court (SEC) rejected the appeal of the tax authority. Yet, the Department of Financial Investigations of the Committee of State Control continued a criminal case against two BHC officials. In December 2004, the investigator closed the case due to lack of substance and the tax authorities lost a series of appeals against the final ruling. However, despite the fact that this matter was *res judicata*, the SEC first deputy chair, Eugene Smirnou, contested this ruling in late 2005, prompting a re-hearing of the case by the SEC presidium, and obtaining a reversal of the earlier SEC ruling and reinstatement of the sanctions against the BHC.¹⁵

The SEC presidium ruling was obviously politically motivated and aimed at creating obstacles to BHC efforts to monitor the ongoing presidential campaign and other human rights developments. It paved the way for closing down the last remaining human rights organization that was still active nation-wide. Moreover, the new SEC ruling opened the door for the criminal prosecution of BHC officials who may face up to seven years in prison and confiscation of property.¹⁶

Independence of the Judiciary and Lawyers¹⁷

Judges were appointed by the president on nomination by the executive branch, but for the appointment of the Supreme Court and Supreme Economic Court judges consent of the higher chamber of the parliament was necessary. The judges' terms were unlimited except for their first appointment of five years. The candidates' qualifications had to be approved by qualification boards of judges and by state security bodies. The president was able to dismiss any judge on a recommendation of a qualification board.

On 3 November, the president signed law no. 53-Z authorizing him to suspend judges' powers immediately after "disclosing any reason" to do so, and allowing him to dismiss judges from office. This law significantly increases his control over the judicial system, including the Constitutional Court.

The judiciary was dependent on the executive for daily material and social subsistence, including an apartment, that was allocated by local authorities. Judges' salaries and social guarantees were established by the president.

The lack of independence of the judiciary was also demonstrated in the judges' willingness to approve almost routinely the proposals of the departments of justice to

close down public associations, and convictions in fabricated defamation cases.¹⁸

Lawyers

Restrictions on the right to render legal services continued to limit the right to legal representation and activities that would be necessary by lawyers to carry out their duties properly. Under the law "On Advocacy," only members of the bar were allowed to offer legal services. To do so, they were required to have an additional license issued by the Ministry of Justice, granted for five years at a time and only upon passing a special examination, which was not related to the lawyer's specialisation. The qualification board consisted of two lawyers of the bar and representatives of the State Security Committee (KGB), the Ministries of Interior and Justice, and the Supreme Court. All candidates needed prior consent of a regional bar to be allowed to take the examination.

Fair Trial and Effective Remedies¹⁹

Both the Belarusian public and legal experts did not trust the courts to operate independently. Judges virtually never referred to the constitution or international treaties when handing down rulings and Constitutional Court decisions were often ignored.

Courts and prosecutor's offices generally refused to investigate and consider cases related to electoral disputes or alleged misconduct by public authorities. In addition, courts showed lack of independence by taking up cases, which were clearly aimed at avoiding rivalry and silencing critics.²⁰ In other cases, they frequently accepted as sole evidence a confession by the suspect also when there was reason to believe that it had been extracted under duress.

Punishments were often totally disproportionate, e.g. fines for administrative offences were comparable to an average an-

nual salary. Trials were often held behind closed doors without adequate justification, and representatives of human rights organisations were denied access to courts to monitor hearings.

Access to courts was limited by the fact that people were unable to pay the high fees involved in pursuing cases: a rife fee is equivalent to almost half an average monthly salary.

The right to appeal was severely limited because in many cases the Supreme Court acted as the court of first instance, leaving no possibility for appeal.

In 2005, President Lukashenka amended presidential edict no. 250 of 1994, vesting himself with the right to disembarass of a responsibility any person convicted of a crime who "has compensated the budget for the loss" he or she had caused.

Torture, Ill-Treatment and Police Misconduct

Police abuse was usually reported to have occurred during peaceful demonstrations and in police stations, in pre-trial custody and in psychiatric hospitals.

In the course of 2005, particularly inmates held in the following facilities under the Ministry of Interior complained of torture and inhuman treatment, including forced labour and extraction of confessions: IK-11 (Valkavysk, Hrodna region), IK-19 (Mahileu), IK-17 (Shklou, Mahileu region), IK-20 (Mozyr, Homel region), LTP-1 (Svetlagorsk, Homel region), SIZO-1 (Minsk), SIZO-8 (Zhodzina, Minsk region).²¹

Usually, the complainants did not want to have their names mentioned to the prison administration because they, justifiably, feared reprisals.

Seriously substandard prison conditions in many cases amounted to cruel, inhuman or degrading treatment. Inmates both in pre-detention facilities and prisons typically had less than two square meters of space (including bed space), in dirty and rarely ventilated cells, with inadequate

hygiene facilities. Sometimes prisoners reportedly had to take turns sleeping because not everyone had a bed of his or her own. Prisoners were not given enough food, and did not always receive the medical care or medicines that they needed.

Arbitrary Arrest and Detention²²

The police carried out arbitrary arrests usually during peaceful meetings and demonstrations and placed their participants in detention without any legitimate reason. Among the arrestees were, for example, members of opposition youth movements "Zubr" and "Malady Front" and other political activists, as well as journalists. The maximum detention period without charges was officially 72 hours. However, prosecutors, at the request of an investigator, had the power to decide to keep a person in detention or to extend the period of detention without permission by a judge.

Right to Life

Death Penalty

On 9 February 2006, the chairman of the Supreme Court stated that two death penalties were passed in Belarus in 2005 and four death sentences were executed. According to him, eight people had been sentenced to life imprisonment in the course 2005, in addition to 100 already serving life sentences.

The government did not, however, publish names and total numbers of people on death row. The prisoners' families were not informed about the date of execution, nor were the families handed over the bodies of their relatives for burial. Even the places of burial were kept secret.

The Constitutional Court ruled in March 2004 that the president or the parliament can abolish the death penalty if they wish to do so. The chairman of the court also declared that Belarus was about to introduce a moratorium on capital punishment. In July, however, a representative

of the presidential administration said the death sentence would apparently be put to national referendum and noted at the same time that the majority of Belarusian citizens were in favor of capital punishment and that the government intended to respect this view. According to her, only when certain "socio-economic conditions are created," would the abolition of the death penalty be possible.²³

Freedom of Religion and Religious Tolerance

Despite constitutional guarantees for freedom of religion and equality between all religious communities, the Russian Orthodox Church enjoyed a privileged position over all other religions on the basis of the 2003 concordat signed between the government and the church. The Belarusian state openly supported the Belarusian Exarchate of the Russian Orthodox Church both financially and morally. Meanwhile, minority religious communities continued to be subjected to discrimination.

As of November 2005, Belarus had 26 registered denominations. Almost half of the 2,829 registered religious communities constituted Orthodox communities. In addition, there were 494 Evangelic communities, 439 Catholic, 63 Seventh-Day-Adventist, 26 communities of Jehovah's Witnesses, and others.²⁴ Minority groups faced obstacles in compulsory re-registration in 2004-2005.

It was difficult for the Belarusian population to obtain objective information about minority religions. The state-run mass media spread false and defamatory information about minority religions even though it was prohibited by the Law on the Press and Other Mass Media.

While the 2002 restrictive law on religious organisations was justified as necessary to protect citizens against dangerous "sects," the law in fact placed serious restrictions on all religious activity and re-

quired that all religious associations be re-registered in 2004.

The preamble of the 2002 law vested the Russian Orthodox Church with a special status because of its "determining role" in spiritual, cultural and state developments in Belarus. The law established that only those religions that existed in the country 20 years before the law's adoption and had at least ten-member congregations would be officially recognised. Such regulations relegated the so-called "new religions" in a difficult position: for example, the Hare Krishna movement was not officially recognised, as it was not registered during the Soviet era. Virtually no other Orthodox communities than those subordinated to the Moscow Patriarchate were registered.

Non-registered religious groups were banned by law: they were not allowed to collectively practice their faith or invite foreign clerics to visit the country, they could not establish monasteries or educational institutions, and their religious literature was subject to censorship prior to import or distribution. The vaguely formulated law was also used to restrict many other religious activities: for example, meetings of members of different communities of the same denomination were regarded as a violation of the law.²⁵

The requirement to have a permit from authorities to lease premises for religious events affected particularly many Protestant communities, which did not have premises of their own. In Minsk, most of the 500-800 Full Gospel communities continued to have difficulties organizing their meetings as no one wanted to let rooms to them.²⁶ Members of minority religious groups - especially those belonging to small communities in rural areas - who participated in religious meetings were frequently warned, fined or arrested.

◆ On 7 October, New Life church administrator Vasil Yurevich was found guilty of

organizing and participating in a church service on 4 September. Yurevich was regarded as the organizer of the service because he had greeted the parishioners.

Conscientious Objection to Military Service

The Belarusian Constitution guarantees the right to carry out alternative civilian service to military service if the applicant's conviction is based on religion. However, by the end of 2005, the parliament had not adopted a law on alternative civilian service. In practice, believers who refused to conduct military service as well as pacifists faced criminal prosecution or administrative sanctions.

Freedom of Movement and Human Contacts

According to official information, about 130 public charity organizations had licenses for the organization of children's trips abroad for health treatment. However, a presidential decree of October 2004 imposed age limits for such travel. According to it, up to 15-day trips were allowed during a school year for pupils of 1-4 grades of the primary school and 1-5 grades of specialized schools. The official reasoning for the restriction was the necessity to ensure regular school attendance. Many teachers believed, however, that the real intention was to limit schoolchildren's contacts with the West for ideological reasons.

Additionally, the Ministry of Public Health issued an internal order regulating foreign travel of its own employees.

Respect of Private Life

Legal amendments adopted in May 2005 gave KGB officials the right to enter any private dwelling without a court warrant, as well as the right to tap telephone calls and infiltrate companies as regular workers. In addition, the anti-revolution law allows the police to hold terror suspects

and persons suspected of malicious hooliganism for up to ten days without charge.

National Minorities and Ethnicity

Belarus is a multiethnic state with 130 nationalities, with the largest ethnic communities being Belarusians (81.2%), Russians (11.4%), Poles (3.9%), and Ukrainians (2.4%), according to the 1999 census.

As of 1 August 2005, 124 public associations of 25 national minorities were registered in Belarus.

◆ The Union of Poles in Belarus was the largest public association. After a change in its leadership, which was against the liking of the Belarusian government and president, it has been subjected to pressure. A false edition of the union's newspaper *Glos znad Niemna* was printed and distributed, defaming the union's new leadership, and its activists and officials faced harassment.

Roma Minority²⁷

According to official sources, about 16,000 Roma live in the Republic of Belarus. However local human rights and Romani activists estimate the real figure to be considerably higher: between 60,000 and 70,000 Roma live predominantly in the Gomel and Mogilev regions and in the towns and cities of Bobruisk, Gomel, Zhitkovichi, Mogilev, Vitebsk, and Minsk.

The human rights situation of Roma and others perceived as "Gypsies"²⁸ in Belarus has not been well documented to date. However, there have been reports that Roma rights issues are similar in profile to those elsewhere in Central and Eastern Europe: that is, that Roma face racial discrimination and other exclusionary forces.

According local Roma activists, while the human rights situation in Belarus is generally very poor, Roma are in an especially vulnerable situation. In particular, Roma reportedly fall victim to police violence; they have limited access to education; many Roma lack the personal documents

they need to access fundamental rights, including identity cards, residence permits, etc.; large numbers of Roma live in unintegrated settlements in substandard conditions, often without basic infrastructure and/or utilities; and the government has failed to date to undertake relevant measures to improve the situation.

There have been reports that Roma living in the areas affected by the Chernobyl nuclear reactor accident in 1986 may have been disproportionately excluded from preventive and/or ameliorative medical measures, such as regular doses of iodine, required for the prevention of thyroid cancer.

Roma in Belarus frequently do not challenge discriminatory treatment and human rights violations at the relevant institutions because they consider authorities undemocratic and/or unreceptive to such complaints, as well as for reasons related to their historic exclusion. In addition to the issues raised above, a significant number of Roma have not yet exchanged their old identification documents for new documents, and may have missed the deadline in 2004 for the exchange of such documents. Such persons are at risk to be deprived from the right to vote and other goods and services.

Hate speech against Roma takes place in the media, portraying Roma as thieves and criminals, thereby provoking high levels of intolerance and perceptions of Roma as an outcast group. Discriminatory treatment of Roma by local authorities deepens the inequality of Roma in their access to fundamental rights.

Belarusian Ethnicity

About 74% of the population identify Belarusian as their mother tongue while only 37% actually speak it.²⁹ The government policy has been to promote the Russian language and to suppress the use of the Belarusian. Consequently, for example, only the Russian version of laws has

legal effect, and the number of Belarusian-language schools and classes has been shrinking gradually (down to 24% in 2004/5 from over 40% in 1994/5).³⁰

In 2005, the electronic media continued to broadcast political, social or economic issues solely in Russian - Belarusian was featured as a language of ethnography, history and literature only. Belarusian-speakers were defamed as "national fascist" and oppositionist in a derogatory meaning. They faced discrimination not only in the state administration or in law enforcement but also in daily life: for example, state companies refused to hire Belarusian speakers.

Equal Rights of Women and Men

The labour market remained segmented along gender lines. In particular, women were over-represented in the sectors of health and social care (83% of the employees) and education (80%) but under-represented in leading positions. For example, although women clearly dominated within the education sector as a whole, only 48% of all principals of primary schools and two of the 42 heads of higher education institutions were female.

Women were paid 20% less than men in average for the same jobs.³¹

Traditional gender roles prevailed within the family and domestic violence remained a problem. According to studies, psychological violence took place in about a half of all families, and physical violence in 6% of all families. In most cases women were the victims. Studies also indicated that 59% of the women serving sentences for murders in the Homel prison were former victims of domestic violence.

Endnotes

- ¹ As of the end of 2005, Belarus had not signed the European Convention for the Protection of Human Rights and Fundamental Freedoms. However, by becoming a state party to the Optional Protocol to the ICCPR, Belarus has recognized the competence of the UN Human Rights Committee to determine whether there has been a violation of the covenant or not, and pursuant to article 2 of the covenant, Belarus has undertaken to ensure all individuals within its territory or subject to its jurisdiction the rights recognized in the covenant, and to provide an effective and enforceable remedy in cases where a violation has been established.
- ² Resolution E/CN.4/2005/L.32 on the situation of human Rights in Belarus.
- ³ Information from the Ministry of Statistics and Analysis of Belarus.
- ⁴ See Transparency International, "Corruption Perceptions Index," at www.transparency.org/policy_and_research/surveys_indices/cpi.
- ⁵ For details on human rights defenders in Belarus, see IHF, *Assault on Human Rights Defenders in the Russian Federation, Belarus and Uzbekistan: Inadequate Legislation and Bad Practices*, March 2006, at www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4221, and Belarusian Helsinki Committee (BHC), *Human Rights Defenders in Belarus*, at <http://bhc.unibel.by/arhiv/HRDBelarus2006.doc>.
- ⁶ See also Freedom of Association.
- ⁷ In particular, according to article 78 of the constitution, the election code defines the list of issues, which cannot be made subject of a referendum. Part 3, article 112, of the code stipulates that "the issues related to election and dismissal of the president of the Republic of Belarus cannot be brought to a national referendum." The Council of Europe's Venice Commission came to the same conclusion. See its statement "Opinion on the Referendum of 17 October 2004 in Belarus, Adopted by the Venice Commission, at its 60th Plenary Session (Venice, 8-9 October 2004)," Opinion no. 314/2004, at [www.venice.coe.int/docs/2004/CDL-AD\(2004\)029-e.asp](http://www.venice.coe.int/docs/2004/CDL-AD(2004)029-e.asp). For more detailed information see *The Belarusian Helsinki Committee is appealing to recognize illegal the actions of President Lukashenka on calling the referendum*, BHC press release, 15 September 2004, at http://bhc.unibel.by/arhiv/2004/2004_sept.htm.
- ⁸ For additional information, see IHF and the BHC, "Belarusian Election Results Lack Credibility - Prosecutor General Should Investigate Restriction of Opposition Campaigns and Abuse of Executive Authority, and Ensure Right to Peaceful Assembly," 20 March 2006, at www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4216.
- ⁹ Ibid, and the BHC website at <http://bhc.unibel.by/>.
- ¹⁰ For details, see IHF/BHC, "Criminal Prosecution for "Discrediting the Republic of Belarus," 30 November 2005, at www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4164.
- ¹¹ IHF/BHC, "Criminal Prosecution for 'Discrediting the Republic of Belarus,'" 30 November 2005, at www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4164.
- ¹² International Federation of Human Rights (FIDH)/ World Organisation against Torture (OMCT), "Contribution of the Observatory on Freedom of Assembly and Association, OSCE Human Dimension Implementation Meeting, 22 September 2005, at www.fidh.org/article.php?id_article=2682.
- ¹³ IHF/BHC, "Criminal Prosecution for "Discrediting the Republic of Belarus," 30 November 2005, at www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4164.
- ¹⁴ Ibid.
- ¹⁵ IHF/BHC, "Supreme Economic Court reinstates enormous penalties against the

Belarusian Helsinki Committee. Human rights group may be forced to close; leaders may face criminal charges," 22 December 2005, at www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4169.

¹⁶ Ibid.

¹⁷ Based on the special BHC report by Hary Pahaniaila and Aleh Hulak, *The Courts and Human Rights*. 2003.

¹⁸ See the sections on National Human Rights Protection and Freedom of Expression, Free Media and Information.

¹⁹ Based on the special BHC report by Hary Pahaniaila and Aleh Hulak, *The Courts and Human Rights*, 2003.

²⁰ See the sections on National Human Right Protection and Freedom of Expression, Free Media and Information.

²¹ SIZO is a closed institution for those awaiting sentencing; IK is a closed correctional institution (prison); LTP is a closed labour camp with special medical care for those suffering from alcoholism and other substance abuse.

²² See also the section on Peaceful Assembly and a report of the UN Working Group on Arbitrary Detention on its visit to the Republic of Belarus from 16 to 26 August 2004 (E/CN.4/2005/6/Add.3) at www.unhchr.ch.

²³ ITAR- TASS World Service, "Belarus is about to introduce moratorium on capital punishment," 24 January 2005; Interfax-West, "Belarus: death penalty might be annulled via a national referendum," 11 July 2005, both cited at the Hands off Cain website, www.handsoffcain.org/news/index.php?iddocumento=6300810 and www.handsoffcain.org/news/index.php?iddocumento=7108280.

²⁴ Information from the State Committee on Religions and Nationalities.

²⁵ For example see *Eighty-fourth session of the UN Human Rights Committee, 11 - 29 July 2005*, views under the Optional Protocol to the ICCPR, Communication No. 1207/ 2003, at [www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.C.84.D.1207.2003.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.C.84.D.1207.2003.En?OpenDocument).

²⁶ Information from the association of the communities of Full Gospel Christians in Belarus.

²⁷ This section was provided by the European Roma Rights Center (ERRC, IHF cooperating organization).

²⁸ The expression "Roma and other people perceived as Gypsies" is used here as well as in other ERRC reports to describe those minorities on the territory of the former Soviet Union who are perceived by the surrounding communities as "Gypsies". Many of these people are ethnic Roma and speak Romani. The term "Roma" is used here as a short hand for the complex mosaic of peoples perceived as "Gypsies" and treated as such, as a result of stereotypes and racial prejudice rampant in wider society.

²⁹ According to the national census of 1999.

³⁰ According to information from the Ministry of Education of the Republic of Belarus.

³¹ Information from the Women's Independent Democratic Movement.