

A STATE TO BUILD, A NATION TO FORM: ETHNO-POLICY IN UKRAINE

Viktor Stepanenko

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Abstract

This chapter will analyse relations between the Ukrainian state and ethnic groups living within its borders by looking at the strengths and weaknesses of the country's policy on minority issues. The Chapter will also attempt to recommend improvements in Ukrainian ethnic policy. Unlike most countries of Central and Eastern Europe, Ukraine does not have a stable and developed historical tradition of independent statehood, and thus it has a less clearly defined national identity than some of its neighbours. As a result, the process of democratic state-building is inextricably linked with the process of nation-building. The overlap of these two processes is the source of various political ambiguities, which have created a disadvantageous situation for certain minority groups.

The government's responses to recent challenges to its authority have produced several ambiguous policies. The fear of secessionist movements has significantly slowed down the reform of public administration decentralisation, as well as the introduction of self-governance at the local level. For example, some members of the Russian ethnic minority have perceived recent efforts to strengthen the status of Ukrainian as the official state language as being unfriendly to minorities and discriminatory against those seeking public work.

Meanwhile, a group of Crimean Tatars, most of whom are re-settling in Ukraine after past deportation to Uzbekistan, have become more politicised in response to their perception that the government is not doing enough for them. Tatars have complained that they have not received sufficient support in re-settling, and that the process of acquiring citizenship has excluded many of them from participation in elections.

Other minority issues need to be addressed in Ukraine as well, and they can probably be best handled at the local level. As this chapter will attempt to show, one of the greatest current weaknesses in Ukraine's existing policy on minorities is a centrist approach. By leaving local authorities with only limited funding and decision-making powers, the policy eliminates a potential effective tool for ensuring minority rights.

1. Introduction

1.1. *The roots of ethnic diversity*

In contrast to Russia and the majority of Central European and Baltic states, Ukraine does not possess a stable or developed historical tradition of independent statehood. Until now, Ukraine has only enjoyed two brief periods of independence in the modern era: for a few years after the Cossack rebellion of 1648, and under a succession of weak governments between 1917 and 1921.¹ Ukraine occupies a position on the border between Central and Eastern Europe and Russia. By virtue of this geographical location, and its historical development, the country is a crossroad of political, cultural, historical, ethnic and religious influences between the east (Russia) and west—and between the south (Turkey, the Balkans) and the north (the Baltics and Scandinavia).

One of the most important demographic features of Ukraine is its broad range of ethnic groups. There are more than 130 minority ethnic groups residing in the country, representing 28% of the total population. Thus, Ukraine accommodates a wide range of cultural, linguistic and religious diversity. According to the results of the 1989 census,² Ukraine's population is 51.4 million, of which Ukrainian nationals make up about 72% (37.4 million). Russians are the second major ethnic group, making up more than one-fifth of Ukraine's population (11.3 million).

Other major ethnic groups—each making up less than 1% of the population—include Jews, Belarussians, Moldovans, Crimean Tatars,³ Bulgarians, Poles, Hungarians and Romanians. Minorities whose total population within Ukraine is between 50,000 and 100,000 consist of Greeks, Volga (or Kazan) Tatars, Armenians and Germans. Even smaller groups include the Roma, Gagauz, Georgian, Chuvash, Uzbek, Mordvin, Slovak, Czech, Bashkir, Latvian, Lithuanian and Estonian peoples. These groups represent an extremely colourful picture of linguistic, cultural and religious diversity. (See Table I.)

It should be stressed that ethnic Ukrainians themselves do not form a homogenous community. Their identity varies due to the diverse historical heritage of different parts of the country. Factors in variations of ethnic Ukrainians include:

¹ Taras Kuzio (1992) *Ukraine. The Unfinished Revolution*, London: Alliance Publishers, p. 7.

² Apart from the statistics on the Crimean Tatars all the data is from the latest 1989 Soviet census 'Natsional'nyi sostav naseleniia SSSR' (The national composition of the USSR) (1991) Moscow, *Finansy i Statistika*, pp. 134-136.

³ According to the statistics of the State Committee for Nationalities of the ARC on 1 October 1996. See: Buznytsky et al. (1997) 'Stability and Integration in the Autonomous Republic of Crimea: The Role of International Community', Kiev: International Renaissance Foundation, pp. 10-11.

Table I. The Largest Ethnic Minorities in Ukraine and their Main Characteristics

Nationality	Number (in thousands) and per cent of total	Character of distribution (compact or dispersed)	Type of distribution (city or village)	Religion	Region(s) of living
Russians	11,355 (22.1%)	Dispersed, but regionally concentrated	More than 80 per cent live in cities and industrial regions	Russian Orthodox	East (Donbass), south, Crimea
Jews	486 (0.9%)	Dispersed	Overwhelming majority is urban population	Judaism	Cities and towns (Odessa, Kiev, Kharkiv, etc.)
Bela-russians	440 (0.8%)	Predominantly dispersed	Predominantly urban with a share of rural population	Greek Catholic/Russian Orthodox	Rural population in north-west regions (Polissya and Volyn)
Moldovans	324 (0.6%)	Predominantly compact residence	Predominantly in rural areas	Orthodox	Southwest (Odessa region)
Crimean Tatars	260 (0.5%)	Compact residence	Predominantly in rural areas	Islam	Crimea
Bulgarians	233 (0.45%)	Compact residence	Predominantly in rural areas	Orthodox and Catholic	Southwest (Odessa and Kherson regions)
Poles	219 (0.4%)	Dispersed, but regionally concentrated	Predominantly in urban areas	Catholic	Northwest regions (Polissya and Volyn)
Hungarians	163 (0.3%)	Compact residence	Predominantly in rural areas	Catholic and Protestant	Trans-Carpathian region
Romanians	134.7 (0.26%)	Compact residence	Predominantly in rural areas	Orthodox	Bukovyna (Chernivtsi region)
Greeks	98.6 (0.19%)	Compact residence	Urban and rural population	Orthodox	South (Odessa, Zaporizhyha regions)
Germans	51 (0.10%)	Predominantly compact residence	Predominantly in rural areas	Protestant	South and Trans-Carpathian region
Roma	47.9 (0.09%)	Predominantly compact residence	Urban and rural population		Trans-Carpathian region and southeast

- The main polarities are the strongly nationalist-oriented western part of the country, on the one hand, and the ‘Russified’ Southeast, on the other.
- The main language used in the Southeast, especially in the cities, is Russian, while Ukrainian is dominant in the western area.
- Divisions include the Ukrainian (Greek) Catholic Church, which has historically been dominant in the west; the Russian Orthodox Church; the Ukrainian Autocephalous Orthodox Church; and the Ukrainian Orthodox Church, which succeeded from the Moscow patriarchate in 1992.

It should be noted that, due to socio-political and cultural factors in the development of a historically divided Ukrainian society, the political cultures of the eastern and western parts of the country are different. The eastern regions of the country accommodate a large Russian population and traditions of Soviet-Russian administration are stronger, whereas in the western regions, Ukrainians form the majority and a more liberal national consciousness has developed.

1.2. Socio-historical background

The roots of Ukrainian nationalism stem from the beginning of the 20th century, when Ukrainian intellectuals agitated for an independent state. The struggle for independence succeeded in 1917, when the Bolshevik Revolution broke up the Russian Empire. Ukraine had a brief and anarchic period of independence beginning in 1917, at which time the Ukrainian People’s Republic was proclaimed in Kiev. In 1918, the new state adopted the law on national-personal autonomy,⁴ which provided a legal avenue for ethnic minorities to establish their autonomies. These plans were never implemented, however, because Ukraine was one of the first countries to be forcibly seized by Russia as the Bolsheviks asserted their power. Successive political and military attempts to restore the independent status of Ukraine failed, and in 1922, most of Ukraine became part of the USSR as one of Soviet republics. (Certain western parts of Ukraine did not join the USSR then, because at that time they belonged to Poland, Romania and Czechoslovakia.)

From the late 1920s, the Soviet leadership repressed both the Ukrainian community at large and its minorities. The Stalinist regime, claiming to pursue the political goals of collectivisation and the struggle against a ‘class enemy’, created a deadly famine in Ukraine—with the aim of crushing the independent peasantry and the last vestiges of Ukrainian nationalism. More Ukrainians died during the 1932–33 man-made famine than during the Second World War. From that time to the middle of the 1980s, the best representatives of the Ukrainian intelligentsia were assassinated or deported to Siberia on the basis of political accusations of being ‘bourgeois nationalists’.

Various ethnic groups were expelled from Ukraine to remote parts of Central Asia and eastern regions of Russia. During and after the war, almost 450,000 ethnic Germans and about 200,000 Crimean Tatars, as well as more than 38,000 Crimean Greeks, Bulgarians

⁴ National-personal autonomy refers to the concept of self-government for minorities.

and Armenians,⁵ were deported from eastern Ukraine to Central Asian regions of the USSR and Siberia. Under Nazi occupation during the war, Jewish and Roma minorities were exterminated en-masse in western Ukraine. In Babiy Yar, now part of Kiev, about 100,000 Jews, Roma and other people were assassinated by Nazis.

In the postwar period, nationality policy in Ukraine and the rest of the former Soviet Union was strongly centralised in the hands of the Communist Party apparatus. Despite the fact that the Ukrainians were the official titular nation and the prevailing ethnic majority in the former Ukrainian Soviet Socialist Republic, they, and other non-Russian nationalities, were subjected to ‘internationalist policies’. The ultimate goal of these policies was the merger (*slijanie*) of different ethnic groups in order to form a new historical community of ‘Soviet people’. At the same time, social and political upward mobility in the Soviet Union was informally linked to ethnic origin. The famous fifth point of Soviet passports declared the ethnic origin of the bearer. Ethnicity was often the reason for hidden discrimination, particularly towards Jews. Typically, there was a traditional minority network in places with a high concentration of minorities—like Hungarian and Romanian schools in Trans-Carpathia, and Gagauz and Bulgarian schools in Odeska oblast. But educational policy during the postwar era served as the main tool in implementing ‘internationalist policy’. During the postwar period, Russification severely impacted non-Russian Slavs, Ukrainians and Belarussians.

The declaration of an independent Ukrainian state in 1991, and the ratification of the Constitution in 1996, were the final steps in the quest for Ukrainian independence. In order to foster greater support for independent Ukraine among national and ethnic minorities, the Declaration on State Sovereignty of Ukraine, as well as the Declaration of the Rights of Nationalities of Ukraine (November 1991), included provisions to protect minority rights. Soon after, a Law on National Minorities in Ukraine (1992) was adopted.

During the first years of independence, Ukrainian lawmakers aimed at achieving broad support for statehood among the populace by adopting the concept of a ‘civic nation’, which would include all citizens, regardless of their ethnic origin. In 1996, with the adoption of the new Constitution, came the ratification of the political and legal framework for development of the ‘civic nation’. The constitution defines this concept as ‘the Ukrainian people—citizens of Ukraine of all nationalities’.

2. Recent Policy Challenges

Ethnic policy in Ukraine faces three major challenges:

1. The issues of state decentralisation and territorial autonomy for minority groups. (This is especially important with regard to Crimean Autonomy and the rights of the Crimean Tatars.)
2. The linguistic rights of the Russian-speaking population of Ukraine.

⁵ Y. Belukha (ed.) (1999) *Deportovani krymski tatory, bolgary, virmeny, greky, nimtsi. Zbirnyk dokumentiv (1941-1998)*, Kiev: Abris, p. 3.

3. Issues related to policy and legal provisions for immigrants and refugees coming into Ukraine.

These challenges set the stage for current state-ethnic relations in Ukraine, and determine the main trends in ethno-policy⁶ and power-sharing. Ukrainian policy-makers view these challenges in the context of the dilemma over political priority: the desire to create an inclusive multi-ethnic state versus the desire to promote Ukrainian national identity.

The unresolved issue of state decentralisation—including the complex question of territorial autonomy for minority groups—demands territorial-administrative reform, along with profound reforms in local government. These changes must include an alteration of the traditional, strongly centralised model of policy-making. There is a need for institutionalised power-sharing that considers the interests of minorities as stake-holders. Such a strategy corresponds to the model of an inclusive, multi-ethnic state.

The dilemma of Ukraine's task of nation-state building is also revealed in the unsettled problem of the language rights of the country's Russian-speaking population. The problem has already generated dangerous tensions between central and local authorities. One controversial case involved legal precedents for local governments' decisions on a declaration of Russian as a second official local language, in the eastern Ukrainian localities of Kharkiv, Lugansk and Luganska oblast in 1998-1999.

The growing legal and socio-economic problems of refugees and immigrants, especially illegal immigrants, reveal the absence of a clearly elaborated state migration policy—as well as a lack of co-ordination between central and local authorities in dealing with these issues. The limited autonomy of local self-governments means that local policy on immigrants and refugees is likely to be ineffective. Meanwhile, the central authorities demonstrate their inability in dealing with migrants' problems and in initiating real political efforts on prevention of human trafficking at the international level.

2.1. *The perspective on territorial autonomy*

In the range of internationally recognised means for implementing special minority rights, only the right to territorial autonomy is not provided under current Ukrainian legislation.⁷ The ambitious proclamations of the Declaration of the Rights of Nationalities of Ukraine of 1991, in which the Ukrainian state guaranteed 'the right of all nationalities to preserving their traditional settlements' and promised 'to provide an existence of national administrative units', were not included in the Law on National Minorities (1992) or in the 1996 Constitution.

Claims for various degrees of territorial autonomy by various ethnic groups living in compact areas are apparently considered to be a threat to a unitary state in Ukraine. From the state's perspective, the main problem with territorial autonomy is the absence

⁶ Ethno-policy is a term used to refer policies towards national and ethnic minorities in Ukraine, and does not include policies towards religious and other minorities.

⁷ Crimea is not a case of *national territorial* autonomy; Crimean autonomy is based on the *administrative-territorial* principle.

of legislative guarantees to prevent the kind of separatism that could potentially threaten the country's territorial integrity.⁸ In regions with compact national minorities, the issue of power decentralisation can be turned into a question of extending the minority's right of local self-governance to the point where it becomes a right to territorial autonomy. This is exactly the question that arose when voters initiated local referendums on autonomy.

Case Study 1. Territorial Autonomy

Issue: The right of ethnic minorities regarding territorial autonomy.

Subjects studied: 1) national organisations of ethnic Hungarians in Trans-Carpathia; 2) local self-governments of the Beregovskiy district and Zakarpatska (Trans-Carpathia) oblast—the Beregovskiy district council, the Zakarpatska oblast council; 3) the Ukrainian government.

Proceedings of the case: On 1 December 1991 a local referendum on the creation of the Hungarian autonomous unit in Beregovskiy district took place. A total of 82% of the voters supported the idea of autonomy. On 25 April 1992 a plenary meeting of the district council approved the draft of law 'On a Hungarian Autonomous Unit'. The central authorities simply ignored the referendum and the draft law that followed it. Since that time, the issue of a Hungarian autonomous unit has been repressed by the central government and kept out of the national media. However, the national organisations of ethnic Hungarians have not dropped the idea.

The issue of national territorial autonomy came up in the last elections, when some candidates said they favoured the idea. But given the current political climate in Ukraine, efforts aimed at the peaceful creation of national territorial autonomy seem unlikely to succeed.

Lessons: 1) Inconsistency in legislation and the lack of certainty with respect to minority rights can create dangerous tensions between local and central authorities. 2) The central authorities' strategy of simply ignoring the issue pushes the conflict into a latent stage. Such an approach can only further tensions and ensure that the issue does not disappear until it is appropriately addressed.

Sources: Mykhailo Tovt (1997) 'Problemy Ugorskoj natsionalnoi menshyny u suchasnyj Ukraini' Kiev: Nova Polityka, Vol. 3, pp. 24-28; J. Marcsuk (1999) 'Az autonomia nem utópia', *Karpati Igaz Szó*, 26 June.

Local referendums in 1991—in the Bolgradskiy district of Odeska oblast and in the Beregovskiy district of the Zakarpatska oblast (Trans-Carpathia)—supported the idea of national territorial units in these areas. However, central authorities simply ignored the results of the local initiatives taken by ethnic minorities—Bulgarians and Gagauzes in the first case and Hungarians in the second. The contradiction between the promising Declaration of the Rights of Nationalities of 1991, which fed minorities' aspirations on territorial autonomy, and current legislation on minorities, which does not mention autonomy, may create a dangerous clash of rights and interests of different groups in Ukraine.

⁸ Political decisions and practical measures on decentralisation in the exercise of state power in favour of extending a level of regional self-governance (while preserving state unity) is one of the most significant and problematic issues in the post-communist transformation in Ukraine.

According to state law, Ukraine is a unitary state, composed of the Autonomous Republic of Crimea and 24 territorial administrative units, or *oblasts* (regions). Thus, the only case of autonomy is in Crimea, but its autonomy is administrative, not national. Since 1991, when the state rejected the initiatives of Hungarian and Bulgarian-Gagauz minorities to establish national territorial units, the idea of national-territorial autonomy was also raised in the political movement of the Crimean Tatars. Aside from these instances, there have been no other visibly significant political manifestations on the issue of national-territorial autonomy from Ukraine's other ethnic minorities. The Russian minority is, however, particularly active in claiming rights to cultural autonomy, with special emphasis on linguistic rights.

In terms of local self-government, the rights of minorities are satisfied in local communities where they constitute the majority of voters. This is the case with Hungarians in the Berehivskiy district of Transcarpathia, Romanians in rural areas of Bukovyna and Bulgarians in the Bolgradskiy district of Odeska oblast. In these locations, the ethnic minorities have been able to elect a majority in their local self-governments.

2.1.1. A special case: Crimean Administrative Autonomy

The Autonomous Republic of Crimea (ARC) enjoys administrative autonomy within the territorial structure of Ukraine. The Crimean case represents a 'reverse' ratio in the majority-minority relationship in Ukraine: Ukrainians in Crimea are an ethnic minority, making up only 25% of the peninsula's population, while the Russian majority is 63%. The demographic situation in Crimea is also complicated by the process of active repatriation of formerly deported nations apart from Crimean Tatars, including Armenians, Bulgarians, Greeks, Germans, Crimchaks, Karaims and other peoples.

The history of political and ethnic relations in Crimea is complex and turbulent. In the 16th and 17th centuries, the Crimean peninsula belonged to the Crimean Khanate. As a result of Russo-Turkish wars, it was annexed by the Russian empire in 1792. The Soviet power was established in Crimea in 1921, with the creation of the Crimean Autonomous Soviet Socialist Republic (Crimean ASSR), part of Soviet Russia. During the early years of the Crimean ASSR, Crimean Tatars, who made up 25% of the Crimean population in the 1926 census, enjoyed a high level of national cultural autonomy. This relative autonomy came to an end in late 1927, when a 'struggle against bourgeois nationalism', country-wide collectivisation and an anti-religious campaign led to mass political repression against the Tatar intelligentsia and Muslim clergy. During and after World War II, the Crimean Tatars—as well as small numbers of Bulgarians, Armenians, Greeks, Germans, Crimchaks and Karaims—were accused of having collaborated with Nazi Germany, and then forcibly deported to Central Asia and eastern regions of Russia. The new settlers moving to the peninsula, which was considered a desirable place to live, were mostly ethnic Russians. Crimean administrative territorial autonomy was abolished in 1946.

In 1954, administration of Crimea was officially transferred from Russia to the Ukrainian Soviet Republic. Therefore, when Ukraine declared independence in 1991, Crimea automatically became a part of the new state. The new and uncertain position of the Russian postwar immigrants and their descendants, a socio-economic crisis and other factors, compounded by a mass return of Crimean Tatars, created a volatile clash of expectations among the different ethnic groups inhabiting Crimea. The territorial status of the penin-

sula also turned into one of the more difficult issues in Russian-Ukrainian inter-state debates over the post-Soviet legacy. The Ukrainian leadership's decision to restore the autonomous status of Crimea and hold a referendum on Crimean autonomy helped defuse the situation.

After a lengthy negotiation process between the Ukrainian and Crimean governments, the 1996 Constitution of Ukraine defined the main political and legislative regulations for the autonomous status of the Republic of Crimea. In accordance with the Ukrainian Constitution, the Constitution of the Autonomous Republic of Crimea was adopted by the Crimean parliament in October 1998, and approved by the *Verkhovna Rada* (national legislature) of Ukraine in December 1998.

The Crimean Constitution generally adheres to principles of minority protection contained in the Constitution of Ukraine. One major difference, however, is that the Crimean Constitution gives special status to the Russian language. Although Ukrainian is recognised as the state language, and the Crimean Republic guarantees protection for the Tatar language, the Crimean Constitution classifies Russian as 'the language of the majority', which functions as the language of inter-ethnic communication in the public sphere. This provision has a discriminatory effect towards Tatar and Ukrainian. The use of these languages for public matters is only allowed if it is acceptable for all interested parties. The Crimean Constitution does, however, guarantee the right of all citizens to be educated in their mother tongue.

The Crimean Constitution has been strongly criticised by the leaders of the Crimean Tatars. They are dissatisfied with the Constitution because:

1. It does not recognise the Crimean Tatars as one of the indigenous peoples of Crimea.
2. It does not legitimise the *Kurultay* (National Assembly) and the *Mejlis*—the elected representative bodies of the Crimean Tatars.
3. It does not ensure the effective representation of the Crimean Tatars as integral members of the power structure in Crimea.

Indeed, the Crimean Constitution does not provide any guaranteed quotas for political representation of minorities in the Crimean legislature. According to the Constitution, a person elected to the Crimean Parliament must be a Ukrainian citizen who has lived in the country for no less than five years. Because the Crimean Tatar population is mostly recent returnees, about a half of the adult Tatar population were not Ukrainian citizens by the beginning of 1998.⁹ Even by the middle of 2000, an estimated 14,000 to 20,000 adult Tatar returnees, including 13,700 from Uzbekistan, were still considered to be de-jure stateless people, according to UNHCR data.¹⁰ Although more Crimean Tatars are receiving citizenship, many still do not meet residence requirements, so that the whole Crimean Tatar minority of around 260,000 people could conceivably be legally represented by a mere 150,000 eligible voters.

Thus, the Constitution of the Autonomous Republic of Crimea falls short in enshrining

⁹ From an interview with a leader of the Crimean Tatars, Mustafa Dszamilyov, *Nezavisimost*, 20 January 1998

¹⁰ UNHCR office in Ukraine. Online. Internet: <http://www.un.kiev.ua>.

ing the political rights of Crimean Tatars. This situation will likely increase tensions between the Tatars and Crimean authorities, and also between Tatars and the Ukrainian central authorities. This problem, along with the Ukrainian majority's strategic interrelation with the largest ethnic minority—Russians—poses the greatest threat to peaceful ethnic relations in Ukraine.

At the same time, the case of Crimean autonomy proves the effectiveness of accommodating and power-sharing strategies in dealing with separatist trends.¹¹ Crimean autonomy plays a significant role as a *legal and institutional precedent* in the development of public administration reform in Ukraine.

2.1.2. Politicisation of the Crimean Tatars

It is an axiom that government neglect or discriminatory policies toward ethnic minorities leads to ethnic mobilisation and the politicisation of those minorities. This can be witnessed in the Ukraine, where there is a growing political mobilisation of Crimean Tatars, who have returned en-masse from Central Asia and Siberia more than 45 years after their exile. The repatriates have found insufficient provisions for their adaptation process and have experienced a high level of unemployment. These factors created a strong economic impetus for political mobilisation and self-organisation by the Tatar community.

To some extent, both the Crimean and the Ukrainian governments were unprepared for the scale and pace of the Tatars' repatriation movement. Authorities had hoped for an organised and gradual return of the formerly deported people. There were plans to prepare housing and greater social infrastructure for re-settlers. But things happened more quickly than officials expected.

By the end of 1992, about 190,000 Crimean Tatars had resettled in Crimea of their own accord. This influx of people has generated enormous problems for central and local governments. The radical change of the ethnic situation in Crimea has also generated serious tensions between the existing local population, who are mostly ethnic Russians, and the incoming Tatars. Crimean authorities are often guilty of both tacit and explicit discrimination towards Tatars.

All of these factors have encouraged Crimean Tatars to create their own political and governmental structures at all levels. (The issue of the Crimean Tatars' local self-governmental structures are presented in further detail below.) In fact, political mobilisation of the Crimean Tatars began with the repatriation process in 1991. The main aims of the Tatars' political organisations are to achieve political privileges for the Crimean Tatars, based on their historical status as an indigenous people, and to establish the Tatars' national-territorial autonomy in Crimea.

The Crimean Tatar case, which has the potential to lead to open ethnic conflict, involves the clash of the interests of different ethnic groups. The aspirations and claims of the politically mobilised ethnic minority can only be realised within limits before they begin to violate the rights of other ethnic groups.

¹¹ See also: *Ethnic Conflict and Migration in Europe. First Report of the Ethnobarometer Programme* (1999) CSS-CEMES, pp. 53-81.

2.2. Linguistic Rights of the Russian Minority

The interaction of ethnic Ukrainians with the Russian minority—which makes up 81% of the non-ethnically Ukrainian population—is a politically sensitive and strategic issue for the stability and unity of the state. Historic, religious and linguistic affinity between Ukrainians and Russians have forced this issue to the forefront of domestic politics.

About 63% of Ukraine's ethnic Russians live in Crimea. Elsewhere, the central, and especially the western, regions of the country are overwhelmingly Ukrainian in terms of ethnic and linguistic composition. Nonetheless, the Russian language plays a major role in everyday communication in the cities of central Ukraine, including the capital, Kiev.

The official status of Russian as the second state language in Ukraine is one of most problematic policy issues at both the central and local levels. This issue is not only important to ethnic Russians, but also to '*Ukrainian Russophones*'. Many ethnic Ukrainians have assimilated the Russian language, due to a policy of 'Russification' that began under the tsars and continued in the Soviet regime.

Although many Ukrainians might prefer a '*one state, one language*' ideology, the country is in fact bilingual, and Russian may actually be the dominant language. Nonetheless, according to the current Law on Languages, Ukrainian is the only official language at the political and legislative level.¹² Ukrainian alone was granted official language status, while Ukrainian, Russian and other languages were proclaimed the languages of 'inter-ethnic communication'. Though Russian was not given distinct status, a free usage of Russian and other national languages is guaranteed.

Practical application of the law places stronger emphasis on the implementation of Ukrainian in all spheres of public life, particularly in education. As a consequence of this so-called 'policy of Ukrainisation', the ratio of Russian to Ukrainian schools was changed in favour of the latter during the early years of independence. According to data from the Ministry of Education, during the first four years of Ukrainian independence, the number of pupils who studied in Ukrainian increased from 45 to 56.5%.¹³ According to government data from 1998, 65% of students in Ukrainian secondary schools studied in Ukrainian and 34.1% studied in Russian.¹⁴

However, Ukrainisation has not occurred as rapidly as some authorities had hoped, in part because of the way Ukraine's population is distributed. The majority of students studying in Ukrainian live in rural Ukraine, in western and central parts of the country. While in Crimea, where about 25% of ethnic Ukrainians live, 98.1% of the students study in Russian. A similar situation prevails in the eastern and southern regions of Ukraine. Furthermore, the effectiveness of Ukrainian instruction for Ukrainisation is not clear. Many children who study in Ukrainian schools in central, eastern and southern Ukraine prefer

¹² The Law on Languages in Ukraine was adopted in 1989 (before state independence was won).

¹³ M. Zgurovskiy (1995) 'Educational issues at the parliamentary meeting', Kiev: *Osvita*, 22 February.

¹⁴ The Bulletin of the State Committee on Nationalities and Migration of Ukraine (1999) p. 110.

to communicate with each other and their families in Russian. This is particularly true for senior pupils in the Ukrainian capital, Kiev.¹⁵

Despite its inconsistent results, the policy of Ukrainisation produced strong criticism and resistance from the representatives of the Russian-speaking community. Though the law guarantees citizens the right to use their national languages, Russians demanded that their language share equal footing with Ukrainian as Ukraine's second official language.

The debate over the use of the Russian language—and, implicitly, the linguistic rights of Ukraine's Russian minority—has already been actively explored in two presidential election campaigns. In 1994, three-quarters of the Ukrainian-speaking community supported Leonid Kravchuk. Meanwhile, three-quarters of the Russian-speaking community backed the eventual winner, Leonid Kuchma. As Andrew Wilson concludes, 'of all elections in 1990-1994, the presidential elections of the summer of 1994 showed the polarisation between Ukrainian historical regions most sharply'.¹⁶ In the parliamentary election of 1998, eight political parties actively used the language issue in their political agendas. The relative success of one of them—the Communist Party—demonstrated that the unresolved issue of the linguistic rights of Russian-speakers may augur an uncertain destiny for the democratic transformation of Ukraine and the existence of its present borders.

2.3. Migration

As elsewhere in modern Europe, external migration has recently become a demographic factor in Ukraine's inter-ethnic relations. Though the number of immigrants entering the country is almost equal to the level of emigration,¹⁷ migration has changed the country's ethnic composition. While most Germans and Jews¹⁸ have left Ukraine since the mid-1980s, there is large-scale immigration of formerly deported ethnic groups, especially Crimean Tatars.

The growing legal and socio-economic problems caused by the influx of illegal immigrants, deported people and refugees reveals the absence of a clearly elaborated state migration policy. It is also obvious that there is a lack of co-ordination between central and local authorities in dealing with these issues. The situation has produced tension among the population of a country that was essentially closed to the outside world a short time ago.

The prospect of EU enlargement, and the new visa regimes it will bring to Ukraine's immediate neighbours, could further aggravate tensions surrounding migration. Illegal

¹⁵ Larisa Masenko (1999) *Mova i polityka*, Kiev: Soniashnyk, p.145.

¹⁶ Andrew Wilson (1997) *Ukrainian Nationalism in the 1990s*, Cambridge: Cambridge University Press, p.145.

¹⁷ M. Shulga (ed.) (1998) *Vyvchennia vplyvu zovnishnoi migratsii 1991-1996 na zminy etnichnogo skladu naselennia Ukrainy ta ii regioniv*, Kiev: International Organization for Migration, p. 52.

¹⁸ Among all the ethnic groups of Ukraine, Germans and Jews show the highest index of emigration (the ratio of external emigrants of given ethnic group to its total number). In all, 14,400 Germans out of 37,800 left the country in 1991-1996. And 350,000 Jewish people emigrated in the period between 1984-1995. *Ibid.*, p. 61.

immigrants and refugees, who used to consider the Ukraine a stopping point on the way west, will find it harder to leave the country. These migrants could create a substantial financial burden for Ukraine, and there is no clear legal provision for EU assistance with this problem.

It is possible to distinguish three main flows of immigrants into the country:

1. *Repatriation of Crimean Tatars and other deported peoples.* This is the most significant source of immigration into the Ukraine. Apart from the Crimean Tatars, returnees include Armenians, Bulgarians, Greeks, Germans, Crimchaks, Karaims and other peoples of the Crimea. Active repatriation began when the Supreme Soviet of the USSR adopted the Declaration of 14 November 1989, which recognised the repressive acts against the deported peoples and removed the obstacles to their return. Since the late 1980s, more than 250,000 formerly deported people or their descendants have returned to Crimea, and immigrants now constitute about 10% of the population of the peninsula. The massive wave of returnees has created enormous socio-economic difficulties for both central and Crimean authorities. This has not stopped the Ukrainian government from supporting repatriation and allocating budgetary resources for the process—though local authorities are still overburdened.
2. *Refugees from the former Soviet Union.* Since 1991, Ukraine has assimilated about 150,000 ethnic Ukrainians, Russians, Armenians and people from other ethnic groups within the former Soviet republics.¹⁹ The socio-economic problems these refugees face are exacerbated by the ambiguity in the Ukrainian laws on immigrants and refugees. Many of these people do not fit into any of the four judicial categories for migrants in need of assistance.²⁰ This is especially a problem for ethnic Ukrainians, who are either fleeing ethnic conflict or were denied citizenship in the Baltics or other parts of the former Soviet Union. Further, even those who do manage to qualify as refugees have only received limited government support.
3. *Refugees from South Asia, the Middle East and Africa.* As much as 85% of the refugees from these regions are Afghans, and the rest are citizens from about 20 African and Asian countries. The first officially registered refugees from this category, mostly Afghans, were former students who applied for refugee status after the breakdown of the USSR. Experts estimate that there are about 3,000 people from this group who are currently registered as refugees, while there are at least 15,000 undocumented migrants, most of whom are concentrated in Kiev.²¹

Due to its location, Ukraine has also become a destination for numerous illegal immigrants, many of whom consider the country a gateway to the west. Insufficient Ukrainian laws regarding immigrants, and an unwillingness of central and local authorities to deal with the problem, has resulted in a huge growth in illegal immigration. There is, however, considerable discrepancy between official and actual data on the situation. According

¹⁹ Olena Malinovska (1998) 'Bizhentsi v Ukraini', Kiev: *Problemy migratsii*, Vol. 2, p. 3.

²⁰ According to national legislation, these four legal categories are as follows: 'a person seeking asylum', 'refugee', 'migrant' and 'deported person'.

²¹ *Ethnic Conflict and Migration in Europe. First Report of the Ethnobarometer Programme* (1999) CSS-CEMES, p. 202.

to the experts' estimates, the total number of illegal immigrants and persons with indefinite status varies between 70,000 and 500,000.²²

Ukrainian officials admit that they lack a clear migration policy.²³ The laws are inadequate, there are complex bureaucratic procedures for registration—and there is a weak and under-funded system for immigration control and statistical registration. Although a law on refugees was adopted in 1993, its implementation only began in March 1996, with the first officially recognised documents for refugees. Until then, inexperienced local officials were forced to make decisions about refugees, without clear legislative guidance. Experts suggest that the social status of refugees would improve if there was a simpler registration procedure at the local level, coupled with stronger controls on entry into the country.²⁴

Thus, in summary, Ukraine's ethno-policy since 1991 has faced three major challenges: (1) territorial autonomy for minority groups, (2) the linguistic rights of the Russian-speaking population and issues related to immigrants, and (3) refugees entering Ukraine.

Efforts to establish territorial autonomy by Hungarian and Gagauzes in 1991 were unsuccessful, and claims for autonomy by various ethnic groups living in compact areas are generally low on Ukraine's political agenda. The only exception is the Crimean Tatars, who have organised and increased their political voice. But the state still seems to consider any claims for territorial autonomy by ethnic groups as a potential threat that could lead to separatism and eventually threaten the country's territorial integrity.

Given current political circumstances, minorities with compact residence could benefit by working toward local government reform. By pressing for much needed decentralisation, and thereby empowering local governments, minorities with compact localised populations can achieve a higher level of self governance. This is particularly the case for Hungarians in the Berehivskiy district of Trans-Carpathia, Romanians in rural Bukovyna and Bulgarians in Odeska oblast, who constitute the majority in their local communities.

The Ukrainian government did achieve some success in using power-sharing strategies to defuse potential separatist trends by establishing Crimean territorial-administrative autonomy. But, because the Crimean Constitution does not do enough toward recognition of the Crimean Tatars, that group has become more politicised. The case of the Crimean Tatars, involves competing interests between different ethnic groups. Therefore, the aspirations of the politically mobilised Tatars can only be realised to a certain extent without violating the rights of other groups.

The quest for language rights among the Russian speaking population of the country is another potential source of conflict in Ukraine. The problem has already generated tensions between the central government and some local authorities, who have sought to give the Russian language official legal status. Attempts by the government to encourage 'Ukrainisation' have been unsuccessful, because they ignore the realities of the country's population distribution.

²² M. Shulga (ed.) (1998) *Vyvchennia vplyvu zovnishnoi migratsii 1991-1996*, p. 47.

²³ A. Belyaev, Vice-Head of the State Committee on the Defence of the State Border of Ukraine (1998) 'U nas nelegalami zanimaiutsia vse po chut'-chut', *Den*, 9 September.

²⁴ S. Pirozhkov, A. Ruchka, L. Aza (1998) 'Bizhentsi v Ukraini: sotsiologichnyi portret', *Sociologia: teoria, motody, marketing*, Vol. 1-2, p. 183.

3. A Difficult Bargain: Legal Instruments and Institutions Promoting the Rights of Minorities

While the Ukrainian state has done well to achieve relative stability and avoid openly violent conflicts, efforts on the part of ethnic minorities to preserve their identities have been one of the most sensitive political issues in Ukraine. Some of the policies aimed at promoting Ukrainian language and culture have had discriminatory effects on minority members.²⁵ This section will look at the existing international and Ukrainian legal instruments affecting minority issues in the country, and analyse the successes or failures of these measures.

3.1. *Process of European integration: influence of international law*

The Ukrainian political leadership has officially proclaimed a policy of seeking strategic integration into Euro-Atlantic structures. The government has already taken steps in this direction, including membership in the Council of Europe, participation in the OSCE, a partnership co-operation agreement with the EU and a special charter on partnership with NATO. At the same, however, Ukrainian foreign policy also seeks a strategic partnership with Russia. This somewhat inconsistent foreign policy reflects geo-political ambivalence of the Ukrainian political elite and the population at large. Surveys indicate that the western regions of the country traditionally show prevailing western orientation, while the more populated eastern and southern regions demonstrate a strong socio-political and cultural affiliation with Russia.²⁶

From the perspective of ethnic minorities, Ukraine's membership in the Council of Europe and other international obligations are considered helpful channels for the protection of basic rights. Russian minority political activists, for example, take advantage of the opportunities afforded by Council of Europe membership as a tool for international advocacy of their cultural-linguistic identity rights.²⁷

As a member of the Council of Europe, Ukraine is obligated to ratify the main statutes of this organisation by specified dates. The Framework Convention for the Protection of National Minorities was ratified by the Parliament in 1997. The European Charter for Regional or Minority Languages was ratified at the end of 1999, but, in a controversial decision, the Constitutional Court annulled this ratification on procedural grounds.

²⁵ The Law on Languages in Ukraine introduced a preference to Ukrainian language; the Law on the Freedom of Conscience and Religion introduced an administrative procedure to register non-native religious organizations both at the central and the local levels.

²⁶ V. Vorona (ed.) (1999) *Ukrainske suspilstvo: monotoring sotsialnykh zmin (1994-1999)*, Kiev: Institute Sociologii, p. 187.

²⁷ Interview with a political activist of the Russian community and Ukrainian MP V. Alekseev. *Kievskie Vedomosti* (2000) 4 September.

3.1.1. *Framework Convention for the Protection of National Minorities (FCNM)*

Ukraine signed the Framework Convention for the Protection of National Minorities in September 1995. When Parliament ratified it in 1997, the minority provisions of the convention became part of national legislation.

Joining the Convention has prompted several pro-minority activities, which were outlined in the materials for the report,²⁸ on the implementation of legal provisions of the Convention that Ukraine submitted to the Council of Europe. The report cited progress in improving relations with Crimean Tatars, including the April 1999 presidential decree creating the Council of Representatives of Crimean Tatars.

The report also noted progress in self-organising activities of ethnic minorities at both the regional and national levels. The Association of National-Cultural Communities and Societies of the Crimea, the Confederation of National-Cultural Communities of Western Ukraine and the Association of National-Cultural Communities of Odeska oblast were created. The second All-Ukrainian Congress of National Communities of Ukraine was conducted in 1999. The All-Ukrainian Congresses, and meetings of Jews, Greeks, Germans, Poles and Crimean Tatars of Ukraine, were conducted by national societies of these ethnic minorities.

The report also pointed out some failures related to the implementation of minority rights. It admits that socio-economic issues relevant to deported peoples of Crimea are unresolved, and only 51% of returnees are provided with satisfactory housing. The report cited instances of discrimination and ethnic intolerance, including anti-Semitic publications.

3.1.2. *European Charter for Regional or Minority Languages*

The European Charter for Regional or Minority Languages includes several state obligations designed to guarantee the use of minority languages in education, legal and administrative proceedings, the media and other areas of daily life.

Ukraine signed the Charter in 1996, though the Ukrainian Parliament only ratified it in December 1999, following much debate. Ukrainian nationalists opposed ratification, claiming the Charter would promote the dominance of Russian language and culture. According to member of Parliament Mykhaylo Kovach, a Hungarian, even representatives of the State Committee for Nationalities supported an anti-minority position in the debates over ratification.²⁹

This victory for minority rights was short-lived, however. The endorsement of the Charter for Regional or Minority Languages was repealed in the summer of 2000, when the Constitutional Court ruled that Parliament breached the ratification procedure. It seems apparent that the court's decision was a political one, designed to foster exclusionary language policies.

The Constitutional Court's repeal of ratification of the Charter, and the new trend in language policy, were strongly criticised by representatives of the Russian ethnic community, who consider the decision illegitimate and purely political. The decision set a dangerous legal precedent, which casts ambiguity on the Charter's ratification, and its legitimacy in Ukraine.

²⁸ State Committee on Nationalities and Migration (1999) *Evropeiskiy orientyr etnonatsionalnoi polityky Ukrainy*, Bulletin, Vol. 3.

²⁹ M. Kovacs (1999) 'Szavazas elotti vita a Nemzetisegi es regionalis Nyelvek Europai Chartajarol', *Karpati Igaz Szo*, 12 June, (an official regional newspaper in Hungarian in Ukraine).

3.2. *Bilateral treaties*

Bilateral international agreements, particularly with neighbouring countries, can be considered an important method to internalise minority rights legislation. Since independence, the Ukrainian government has concluded such agreements with Hungary,³⁰ Poland, the Republic of Moldova and Lithuania. Bilateral treaties with Russia and Romania, ratified in 1997, are particularly important because of the complex relations between Ukraine and these neighbouring countries. The treaties involve the protection of respective minorities' rights, including the right to cultural autonomy.

Ukrainian experience demonstrates that implementation of bilateral treaties strengthens international trust and contributes to regional stability in Central and Eastern Europe. In the framework of the treaties, representatives of Ukraine and its neighbouring countries, meet annually to discuss concerns of ethnic minorities. The practical results of the bilateral interrelations for Ukraine are: mutual regular intergovernmental monitoring of minority rights implementation; the development of inter-border regional co-operation; facilitating of economic support of ethnic minorities abroad by their kin-states; and development of cultural and educational initiatives, which aim at provision of minority cultural autonomy.

3.3. *Constitutional and internal legislative guarantees*

The 1996 Constitution is the source of the most important rights and guarantees for minorities. This includes the right of legal equality, the prohibition of discrimination and the right to develop minority culture and preserve ethnic identity. The Constitution also provides for protection against hate crimes.

According to Article 10 of the Constitution, the official language is Ukrainian. The same article also guarantees the free development, use and protection of Russian and other languages of the minorities of Ukraine. However, the Russian community of Ukraine is dissatisfied with the unofficial status of Russian and the debate over whether to make it an official language is one of the most serious inter-ethnic issues in the country.

The Constitution confirms state support for the development of ethnic minorities, and obliges local authorities in places of compact minority residence to ensure the implementation of national and regional programs for minorities' national and cultural development. The document also includes the prohibition of discrimination, including 'positive discrimination', or affirmative action.

3.3.1. *Declaration of the Rights of Nationalities of Ukraine—1991*

The first major document regulating the principles of Ukraine's ethno-policy, the Declaration of the Rights of Nationalities of Ukraine, was adopted by Parliament on 1 November 1991. It proclaimed the equality of all people and ethnic groups in Ukraine—

³⁰ 'The agreement signed in 1991 was praised by some Hungarian leaders as a model for other countries to follow'—quoted in M. Opalski (ed.) (1996) 'Ethnic Minority Rights in Central Eastern Europe', Ottawa, p. 35.

and helped the new government gain broad support. When a popular referendum on Ukrainian independence was held a month later, voters overwhelmingly backed the idea, even in regions in which ethnic minorities were concentrated. In some districts where ethnic Romanian and Moldovanian populations are predominant, over 90% of the electorate voted in favour of Ukrainian independence.³¹

Though the Declaration does not provide mechanisms for the implementation of minority rights, it still preserves its significance as one of the first politically important documents and as a guarantee of state obligations toward minorities.

3.3.2. *Law on National Minorities in Ukraine—1992*

This law guarantees minorities the right to national and cultural autonomy, including rights to: form associations, receive education in their native language, practice their religion, use national symbols, commemorate minority holidays and develop national traditions.

The law guarantees that, in regions where a minority group predominates, their language can be used in tandem with the official state language of Ukrainian for all institutions and government bodies. These provisions have been mostly implemented: Hungarian and Ukrainian are the languages used by public institutions in some Trans-Carpathian regions; Romanian is used in ‘ethnic Romanian’ regions of Bukovyna; and Russian is broadly and predominantly used in government and public institutions in eastern and southern Ukraine and in Crimea.³²

The law provides for the political rights of minorities by guaranteeing equality of the individual rights of the persons belonging to ethnic minorities rather than by guaranteeing the minorities’ collective rights. Ukrainian legislation does not provide special norms for political representation of ethnic minorities, such as electoral quotas. Although there are some provisions which can help territorially concentrated groups—like Hungarians and Russians—gain minority representation in central and local government, these measures do not benefit dispersed groups, like Crimean Tatars and Roma.

The Law on National Minorities in Ukraine allows minorities to participate in government through their associations—which can nominate candidates for central and local elections. However, there is some ambiguity in the implementation of this right, because it was not mentioned in the recent law on local self-government.

The law implies that the interests and needs of ethnic minorities are also represented through advisory bodies, which consult with the government on minority issues. However, these bodies can only advise, and lack the necessary authority to provide for true political involvement of minorities in the decision-making process.

3.3.3. *Law on Citizenship of Ukraine*

The Law on Citizenship was adopted in 1991, and it ensures the equality of all permanently residing citizens before the law, regardless of their ethnic, cultural, linguistic or religious identity. The inclusive character of the law was based on the so-called ‘zero-option’

³¹ Interview with Ivan Gnatushyn, Head of the Chernivtsi local state administration. *Uryadovyj Kurjer* (1995) 5 August.

³² Interview with Olexander Efremov, the Head of Luganska oblast state administration. *Zerkalo nedeli* (2000) 29 August.

approach, which *automatically* granted Ukrainian citizenship to citizens of the former USSR who permanently resided in Ukraine at the moment of the declaration of independence.

Naturalisation for Ukrainian citizenship demands five years of continuous legal residence and renunciation of foreign citizenship. This legal norm affected deported people who had returned and established their residence in Ukraine and the process of acquiring citizenship has excluded many of them from participating in elections. Progress was recently made in this respect, due to a 1999 agreement between Ukraine and Uzbekistan that simplified the procedure of renunciation of Uzbekistan citizenship for Tatars seeking to become Ukrainian citizens.

3.3.4. *Law on Local Government in Ukraine—1997*

The Constitution and the Law on Local Government of 1997 legitimise the local territorial community as the subject of local governance. The law does not provide any special regulations regarding possible ethno-cultural specificity of these territorial communities. But it does provide a powerful tool for minorities who are concentrated in one region, and make up the local voting majority.

The law grants local governments specific rights in facilitating a renaissance of national-cultural traditions and in providing broad possibilities for education in the mother tongue of local people. The local government manages the communal property of its district, but the issues of control over local budget revenues and of the separation of power between decentralised government and the local state administration are not clearly elaborated in the law.

3.3.5. *Law on Education*

The Law on Education guarantees the right of minorities to education in their mother tongue.

In the 1998-99 school year, 13% of all state schools in Ukraine offered instruction in the ethnic minorities' language of choice. 11.6% of the secondary schools in Ukraine are bilingual. Russian is taught as a subject in 90% of all state secondary schools. Since the Soviet period, minority schools have been created in regions where Ukraine's ethnic minorities are situated, in accordance with the decisions of local administrations and the wishes of the local populations.

Implementation of educational policy has remained highly centralised and it still places stronger emphasis on the affirmation of the Ukrainian language. Education policy follows the dubious premise of establishing correspondence between the language of instruction and the ethnic composition of the region. This policy has a discriminatory effect with respect to ethnic Russians, Ukrainian Russophones and some highly Russified ethnic minorities—such as Jews and Belarussians.

Hungarians or Romanians are not particularly affected by this nationalising educational policy. However, their representatives still express concern about recent tendencies to strengthen the centralised, 'top-down' approach of educational policy towards minorities, which they say does not take into account the traditions of relative educational autonomy.

3.3.6. *The Constitution of the Autonomous Republic of Crimea*

Because of its special provision for the Russian language, the Crimean Constitution has a certain discriminatory effect towards other ethnic minorities of Crimea, mainly Ukrainians and Crimean Tatars. There are only three schools in Crimea that use Ukrainian language for instruction and nine Crimean Tatars' schools, even though Crimean Tatars make up about 10% of the Crimean population.

Other serious shortcomings in the Crimean Constitution include its neglect of political and representative rights of the Crimean Tatar population and the legislative refusal to recognise the Crimean Tatars as one of the indigenous peoples of the Crimea.

The exclusive character of the Crimean Constitution is likely to increase tensions—both locally and with the Ukrainian central authorities.

3.4. *State Programmes*

There are a number of special state programmes intended to be realised in the sphere of current ethno-policy in Ukraine, including:

- The National Programme for the Renaissance and Development of Education of Ethnic Minorities for 1994-2000;
- The National Programme for the Development of Cultures of Ethnic Minorities by 2000;
- The National Programme on the Adaptation and Integration in Ukrainian Society of Crimean Tatars and Other Deported Peoples;
- The 'Ukrainian Language' Programme.

These programmes are elaborated by the government and ratified by the Parliament. Implementation is financed through the state budget, though the government seeks additional financial support from other sources. This particularly relates to the implementation of the programme on the adaptation of deported peoples, where international support is sought. The main implementing governmental agency is the State Committee on Nationalities and Migration. Ethnic minorities can advise on the elaboration and implementation of these state programmes through the involvement of the Council of Representatives of Civic Associations of National Minorities.

3.5. *Central Institutions*

During the past ten years, various institutions have been set up to design and implement policies regarding minorities. This section provides an overview of those institutions.

3.5.1. *Constitutional Court*

Control over the effective implementation of various guarantees of rights is exercised by the Constitutional Court of Ukraine and by courts of general jurisdiction. However, the country's judicial system is still not fully independent, and its control upon governmen-

tal agencies is insufficiently developed. The central government's influence over the Constitutional Court, particularly in the sphere of ethno-politics, has prompted minority activists to complain that the Court acts as a tool for the government's goal of Ukrainisation. The Court struck down the Ukraine Parliament's endorsement of the Charter for Regional or Minority Languages on the grounds that there were procedural flaws in the vote. It seems obvious, however, that the court's decision was a political one, designed to foster exclusionary language policies.

The Constitutional Court's bias was also apparent in another recent ruling on the use of state language in government institutions and educational process in Ukraine. This case appeared to be a reaction to decisions by some local governments in eastern Ukraine to give Russian the status of official language. In its 14 December 1999 ruling, the Constitutional Court declared Ukrainian to be the state language and the obligatory means of communication in governmental institutions for the whole territory of Ukraine. By this ruling, Ukrainian was also defined as the language of instruction in all educational institutions, though the court permitted other languages to be studied concurrently with Ukrainian.

3.5.2. *Committee of Human Rights, National Minorities and International Relations in the Verkhovna Rada (Parliament) of Ukraine*

This committee is the main body specialising in minority rights provision in the national legislature. The Committee elaborates and supervises legislative initiatives on minority issues. Members of the Committee are usually representatives of ethnic minorities, and are often the activists on behalf of their national communities.

3.5.3. *The Parliamentary Commissioner of Human Rights (Ombudsman)*

In January 1998, the Ukrainian president signed a law creating the Parliamentary Commissioner on Human Rights, a constitutionally-mandated independent human rights ombudsman. The Parliament elected Nina Karpachova as the first ombudsman in April 1998.

By law, the ombudsman can initiate investigations into implementation of human rights by any public/governmental institution. However, the law created a weak position with limited enforcement power. The Commissioner of Human Rights can, however, provide the government with recommendations to amend existing laws or practices.

Although the issues of minority rights are still not the focus of the work of the Commissioner on Human Rights, the ombudsman was involved in the inter-governmental debate over Russian-language issues. Responding to criticisms of the Ukrainian government's plans for wider use of the Ukrainian language, Nina Karpachova said that she had not received a single complaint of discrimination against the Russian language since a Ukrainian-Russian human rights agreement took effect in 1999. She also stated that ethnic Russians in Ukraine are afforded many cultural and linguistic protections,³³ and com-

³³ Quoted in: P. Byrne (2000) Ukraine, Russia clash over language. Kiev: *Kyiv Post*, 24 February.

plained that 'there is not a single school, theatre, library, newspaper, magazine or TV program for millions of Ukrainians residing in Russia'.³⁴

It seems that the ombudsman's office is not entirely independent, and highly sensitive issues of ethnic minorities are interpreted in a political way. This fact indicates a lack of development of democratic traditions in the country.

3.5.4. *State Committee for Nationalities and Migration*

The State Committee is a central executive institution dealing with national minority rights, issues related to the Ukrainian diaspora and migration. The committee has regional branches attached to regional governmental executives. The mandate of this committee is to design and implement activities to prevent ethnic conflicts, and to elaborate national ethno-policy. It also has a role of co-ordination between various activities of the state in promoting inter-ethnic peace.

The Committee has often been criticised by representatives of ethnic communities for its bureaucratic and 'declarative' approach toward minority issues. Ethnic minority leaders charge that having a committee, instead of a full ministry, for minority rights—and lumping ethnic and migration issues together—transgresses the Law on Minorities. They add that this Committee's existence is evidence of the simplistic approach taken by the state towards minorities and migration.

3.5.5. *Council of Representatives of Civic Associations of National Minorities*

The Council is an advisory body to the central government, composed of 25 representatives from minority organisations that have countrywide status. The Council takes part in elaboration of legislative initiatives and in implementation of state programs on minority issues, but it can only make recommendations.

Despite its purely advisory character, the Committee plays an important role in providing a channel of communication and co-ordination between the government and minority organisations, and between minorities themselves. The opportunity for minority representatives to participate in governmental meetings on minority issues increases transparency of state policy in this field. The role of the Committee can be substantially increased by giving it the function of a 'minority audit commission', which would be allowed to monitor state policy on minority issues, observe implementation of minority rights provisions and offer legally binding expertise on evaluation of state ethno-policy. Minorities therefore have a weak position vis-à-vis the Ukrainian state, as their role is limited in political decision-making, and their representative body enjoys only a consultative role in the policy process.

³⁴ Ibid.

4. Implementation of Ethno-policy at the Local Level

The system of public administration in Ukraine involves two verticals of power—the appointed executive branch and the elected legislative and self-governmental branches. The relationship between these two verticals is rather complicated, particularly at the local level. At the top of the executive vertical, the president appoints his representatives at the regional and district levels. The *gubernators*, or heads of local state administration, who are often appointed on the basis of loyalty to the president, have the real power in the regions and are mainly accountable to the president and the Cabinet of Ministers.

The local state administrations are also formally accountable to the elected local councils. But issues of this accountability, as well as of authority delegation, are ambiguous and undeveloped in national legislation. In fact, the Ukrainian system has a strongly centralised executive vertical, from 'top to bottom', which is often justified as being modelled after the French system. In truth, the country's recent experience with an omnipotent Communist Party structure is probably the main inspiration behind the current system.

The system of self-government involves an elected council at the municipal level. The deputies, and leaders, of these councils are elected for a four-year term by community residents. The citizens also elect the deputies of district and regional councils, but the leaders of these bodies are elected by the council deputies. Deputies of the self-governing councils elect their own executive bodies, which often delegate authority to parallel executive structures of the appointed local state administration. Control of the local budget, which consists of local and state contributions, is even more complicated and vague under current legislation.

The elected local self-government formulates and suggests the local agenda of the budget, and the appointed local executives are the implementing agencies, which control practical decision-making. In addition, local state administrations are fully responsible for implementation of state programs at the regional level. This means that the appointed local state administrations are in charge of implementing both state or local policies pertaining to minorities. According to the law, the local self-governments officially have wide opportunities to conduct local ethno-policy, but their role is substantially diminished by the usually limited local budgets.

4.1. State involvement in local ethno-policy issues

The experience of post-communist transition in Ukraine involves a profound transformation of the traditional model of 'top-down' policy-making. This process implies a reform in the interaction between the central authorities and local communities in every sphere, including inter-ethnic relations. Though the traditional scheme of centrally-planned policy-making is still politically and psychologically strong in Ukraine, the process of democratic decentralisation of power has begun.

When discussing 'local government' in Ukraine, unless otherwise specified, we mean the system which combines the institutions of the state local administration (local executives) and the local self-governmental agencies. The principal question is: who is the main actor in conducting ethno-policy at the local level? The answer, as we will try to

demonstrate, very much depends on the concrete cases, regions and issues involved. In general, the centralised approach still prevails in Ukraine.

Though fully effective local self-government in Ukraine is still only an ideal,³⁵ the Constitution and the 1997 Law on Local Self-Government provide norms, principles and forms of direct governance by territorial communities at the municipal level. While these laws do not expressly provide for ethno-cultural specificity in self-government, the law does guarantee local self-governments the right to facilitate a renaissance of national-cultural traditions, as well as allowing broad opportunities for education in the local mother tongue. Unfortunately, as mentioned above, the budgets of local self-governments are small and poorly regulated. This is a serious shortcoming for the implementation of local initiatives concerning minority needs.

The inherent contradiction in ethno-policy in Ukraine is that the central state is still the main actor in this policy at the local level, but the state is interested in building a Ukrainian nation-state.³⁶ In the Ukrainian context, this apparent conflict of interest substantially reduces the possibility of power-sharing with ethnic minorities, particularly from the perspective of national-territorial autonomy for some ethnic groups.

Nationalist Ukrainian politicians justify this contradiction by arguing that it is the best approach to counter the threat to a unitary Ukrainian state from a developing economic crisis, on the one hand, and increasing political rights of indigenous peoples of Ukraine, on the other.³⁷ From this perspective, dominant in Ukrainian political discourse, even if ethnic issues appear locally, they have state significance, and therefore must be settled from the point of view of the state's interests. As a result, the implementation of ethno-policy at the local level can be highly complex.

4.2. Main actors and mechanisms of ethno-policy implementation

The mechanism for implementing ethno-policy at the local level, the main actors in this implementation and their relationship may vary in different cases. Nevertheless, it is possible to describe the most typical scheme of implementation of ethno-policy at the local level in Ukraine.

The main state executive institution in the sphere of ethno-policy is the State Committee of Ukraine on Nationalities and Migration. Attached to the Committee is an advisory body, the Council of Representatives of Civic Association of National Minorities of Ukraine,

³⁵ Among the most difficult issues that are still not properly regulated in the current legislation and are crucial for a true working system of local self-governance are: the problem of local taxation and budget, the issue of separation of power with the state local administrations, which represent executive power at the district and regional levels, the issues of control upon property and its division at the local level.

³⁶ It does not mean that the unitary state model is incompatible with the policy of democratic accommodation of ethnic differences. We are referring only to the concrete case, in which the tradition of administrative policy-making is still politically and psychologically strong.

³⁷ V. Dashkevich (1996) 'Chy pogrozhuie sumnyi dosvid Avstro-Ugorzhyny Ukraini?', Kiev: *Viche*, Vol. 12, p. 79.

which fulfills a mostly representative role. State ethno-policy is mainly articulated through state programs. The Committee implements its policy through the system of its regional representation at the local level. The Committee departments are incorporated into the structure of the state local administration. In the more ethnically heterogeneous regions, the second vice deputy of the head of local state administration is usually responsible for the sphere of inter-ethnic relations.

Minority education policy is controlled and implemented by the Ministry of Education, through its own executive bodies at the local level—which include oblast, district and municipal departments of education.

The practical functions of the State Committee on Nationalities, and its regional executive branches, are often reduced to supervision of local executive administrations in conducting ethno-policy—along with attempts to co-ordinate the ethno-policy activity of executive bodies, self-government institutions and national cultural societies. The Committee also provides assistance to the departments of local government that are responsible for conducting inter-ethnic policy in the regions.

National cultural societies of minorities tend to become the representative bodies of ethnic minorities in their interaction with central and local state agencies.³⁸ Even more importantly, countywide organisations of ethnic Hungarians, Jews, Crimean Tartars, Germans and other ethnic communities become the basic form of self-organisation, and often play the role of ethnic self-government in these communities.

A typical, centrally dictated approach to ethnic issues is described by the following case study on the support of the Karaims.³⁹ In this more representative case, bureaucratic difficulties have led to the failure of the 'centralised strategy'.

Case Study 2. Financing Minority Education: A Failed Project

The problem: Karaims are becoming an extinct ethnic group, and they need measures to protect their national cultural identity.

The actors involved: 1) National cultural association of Karaims 'Krymkaraylar'; 2) the State Committee of Nationalities; 3) the local authorities of the Crimea.

The issue proceedings and failed strategy: In 1995 the Karaims' national cultural association 'Krymkaraylar' submitted a program for the protection of the historical and cultural legacy of Karaims, and support of their ethno-social development, to the State Committee (then the Ministry) of Nationalities. Based on this proposed program, the Cabinet of Ministers ordered seven ministries to prepare projects concerning the issue. The projects prepared involved the creation of classes with Karaim-language instruction, the preparation of the Karaim cadres, restoration of Karaim libraries and even the restitution of the Karaim cultural and art relics taken from the Crimea to Russia.

³⁸ V. Rebkalov et al. (1996) *Ethno-national Processes in Modern Ukraine*, Kiev, p. 43.

³⁹ Karaims are one of ancient indigenous peoples of the Crimea. The Karaim language belongs to the Turkish language group. Their religion is Karaimism, based on the Old Testament. Karaims are becoming an extinct ethnic group, which is currently numbered at 2,602 persons, living in the territory of the former USSR, according to the 1989 census. In 1989, 1,404 Karaims lived in the Crimea, but according to newer data, the number of the Crimean Karaims was reduced to 800 by 1996.

It was supposed that the project would begin in 1998 and would be financed by Crimean local authorities. However, the expenditure on the Karaim project was not adopted by the Crimean government, mainly because of lack of funding. Furthermore, the project was still not approved by the Ukrainian central authorities because of the time-consuming bureaucratic procedures and the change of government. Consideration of the entire project had to begin again. And even if the programme is adopted by the government, it has to be approved by the Parliament of Ukraine.

Lesson: Inefficiency of the state's 'centralised' strategy, lack of co-ordination between central and local authorities and the lack of political will in dealing with the minorities issues prevented important ethno-policy from being implemented.

Source: *Ukraina moloda* (1998) 16 June.

The Karaims' case proves that centralised management of inter-ethnic issues is losing its effectiveness. The problem is simply that this approach lacks one crucial traditional factor: sufficient centralised state subsidies, which can be controlled and distributed at the regional level.

Despite this weakness, the political and psychological inertia of thinking that only the centre can settle the problems of ethnic minorities is still strong. The situation could also be taken as an indication that the issues of ethnic minorities are of marginal importance in state and local policy, especially in budgeting issues. In the opinion of the leaders of ethnic communities, the argument of lack of financial resources becomes a sort of official justification for the situation.

The experience of the German community in Ukraine is an example of ethnic self-organisation and self-government that effectively deals with concrete issues of local policy.⁴⁰ The German agencies of self-determination in Ukraine include the Association of Germans of Ukraine, German Youth of Ukraine, the *Volksrat* (People's Council) of Ukrainian Germans and its executive structure, '*Volksparlament*'.

These institutions of ethnic Germans successfully co-ordinate their efforts in local policy with local self-governments of the regions where ethnic Germans live: Trans-Carpathia, the Odeska oblast and the Crimea. In co-ordination with the Federal Republic of Germany and German national societies of Ukraine, the regional state administration of Odeska oblast deals with four projects designed to create job opportunities in the village of Kudryavska, a settlement of German migrants. The German case, however, is exceptional due to the better organisation and mobilisation of this minority group relative to other groups and the financial support of the German state for ethnic Germans abroad.

As can be seen from the comparison of these two cases, without adequate financing, the promise of self-government as outlined in the 1997 Law, is an empty promise indeed.

⁴⁰ A. Belyakov (2000) 'Integration processes of ethnic and so-called Russian Germans in Ukraine', LGI database. Online. Internet: <http://www.osi.hu/lgi/ethnic>.

4.3. Representation of minorities in local government

While the Law on Local Self-Government gives ethnic minorities living compactly the opportunity to elect their own representatives to the bodies of local self-government, some officials see the situation as a potential threat to multi-ethnic local communities. If one ethnic group gains local control, it could encourage 'positive discrimination' to the benefit its own members, at the expense of other ethnic groups. In other words, 'the issues of local policy and its commissions can not be dependent on the nationality of the mayor of a city, but they should be strictly regulated by the law'.⁴¹

Current legislation is meant to prevent this situation by providing sufficient opportunities for representation of minorities in the governmental structures of all levels. In general, certain academic studies confirm that the legislation is working. The authors of a 1996 survey concluded that 'the official characteristics of nationality of the heads of local self-government involved in the study mostly corresponds to the ethnic composition of the country'.⁴²

The level of involvement and the index of representation⁴³ of ethnic minorities in the representative bodies—at all levels, from local village councils up to the *Verkhovna Rada* of Ukraine (excluding the Republic of Crimea⁴⁴)—are represented in Table 2. According to the index of representation, Russians, Belarussians, Jews, Poles, Germans, Kazan Tatars and some other ethnic groups are underrepresented in the structures of representative power, while the percentage of Ukrainians, Moldovans, Hungarians, Romanians and Bulgarians in regional and local self-government exceed their share in the ethnic composition of the country. These statistics demonstrate that the ethnic groups that live compactly have some advantage in governmental representation in comparison with the groups that are predominantly dispersed.

The low representation of Russians does not appear to be the result of open discrimination against them, but rather can be explained by several factors, including the phenomenon of 'shifting identity'. (Many individuals who previously identified themselves as Russians now identify themselves as Ukrainian.) The surveyors discovered that some ethnic Ukrainians who occupied high positions in the state and administrative structures in the former Soviet Union indicated their nationality as Russian during the Soviet period, perhaps because they perceived this identity would assist in upward mobility under the previous policy of Russification. The same people now, during Ukrainisation, identify themselves as Ukrainians.⁴⁵

⁴¹ I. Prokopchuk (1998) 'The Issues of Self-Government in Odessa Region', *Golos Ukrainy*, 26 November.

⁴² Y. Saenko, A. Tkachuk et al. (1997) *Local Self-Government in Ukraine: Problems and Perspectives*, Kiev.

⁴³ The ratio between a percentage of total number of deputies of a given ethnic group and its percent in the ethnic composition of Ukraine

⁴⁴ The complex case of the Crimea and the facts of open discriminatory policy towards ethnic minorities, particularly Crimean Tatars will be demonstrated next.

⁴⁵ *Ibid.*

Table 2. *The Ethnic Characteristics of the Deputies of Ukraine (March 1998)**

Nationality	Number	Per cent of total number of deputies 162,445=100 per cent	Per cent of the ethnic composition of Ukraine and index of representation
Ukrainians	147,126	90.5	72–1.26
Russians	9,900	6.1	22.1–0.28
Moldovians	1,123	0.7	0.6–1.17
Bulgarians	998	0.6	0.45–1.33
Hungarians	711	0.44	0.3–1.47
Romanians	586	0.36	0.26–1.38
Belarussians	532	0.33	0.8–0.4
Poles	434	0.27	0.4–0.67
Greeks	316	0.19	0.19–1
Jews	181	0.11	0.9–0.12
Gagauzes	95	0.05	0.062–0.8
Azerbaijani	54	0.033	0.07–0.47
Germans	53	0.033	0.10–0.33
Armenians	42	0.026	0.10–0.26
Kazan Tatars	29	0.02	0.17–0.12
Total	162,445	100	100–1

Source: Statistical account of the Secretariat of the *Verkhovna Rada* of Ukraine on 29 March 1998; M. Tomenko (1998) 'Ukrayinskyi parlamentarizm' (The Ukrainian parliamentarianism) Kiev: *Khronika 2000*, Vol. 27-28, pp. 239-240.

Note: Apart from the representatives of ethnic groups indicated in the table, the deputy corps of Ukraine include: 29 Albanians, 25 Georgians, 19 Czechs, 13 Latvians, 12 Uzbeks, 12 Tadjiks, 11 Lithuanians, 9 Kazakhs, 9 Turkmens, 8 Mordvins, 7 Osetins, 6 Chuvash, 5 Slovaks, 5 Chechens, 5 Udmurts, 5 Roma, 4 Lezgins, 3 Avars, 3 Crimean Tatars, 2 Bashkirs, 2 Estonians, 2 Koreans, 2 Dagestanis, 2 Turks, 2 Tabasarans, as well as one Swede, Ingush, Marian, Assirian, Tuwin, Komi, Cherkess, Agul, Finn, Ujgur and Kirgiz.

The national composition of some territorial communities, in which ethnic minorities are numerically dominant, gives a legal advantage for these national minorities to be proportionally represented in institutions of local self-government, particularly at the level of village and district councils. The phenomenon of 'ethnic' district and village councils can already be observed in Ukraine. Thus, in the local elections of 1994 in Bolgradskyi district, Odeska oblast, Gagauzes were elected in 11 village councils from 17 councils in the district.⁴⁶

⁴⁶ P. Nadolishnij (1998) *Ethno-national Factor of Administrative Reform in Ukraine*, Kiev, p. 140.

However, there are more blatant signs of open discriminatory politics with respect to minorities. According to the statistics presented by Mustafa Dzsamilyov, a leader of the Crimean Tatars, at the third *Kurultay* (National Assembly) in 1996, the Tatars, who make 10% of the Crimean population, only had 0.5% representation in the bodies of executive power and were practically absent from Crimean self-governmental structures.⁴⁷

4.4. Political organisation of minorities

Ukrainian independence was accompanied by the growth of ethnic self-awareness among Ukrainians and other ethnic groups resident in the country. As self-awareness was translated into a desire for activism, there was considerable growth in the number of national societies and associations. According to official statistics, as of 1 November 1999,⁴⁸ 429 national cultural societies and civic associations, including 25 organisations with countrywide status, have been registered. The number of national societies has almost doubled between 1995 and the end of 1999.

Most of these national societies of ethnic minorities declared themselves as cultural associations, whose main purpose was the realisation of minority rights to cultural autonomy. In most cases, however, this legal aim was not converted into the political context, and these associations were not politicised. Exceptions include the case of the Rusyn cultural society, (described in the case study below), ethnically based parties of the Hungarian minority and the Crimean Tartar National Movement.

Perhaps one reason why so few associations became political organisations was the successful 'open' strategy of the democratic political parties and movements of Ukraine in the early 1990s. Groups like the Popular Movement of Ukraine (*Rukh*), facilitated, to some extent, the political and civic integration of the different democratically oriented parts of society, including minority groups, around the idea of democratic reforms.

Case Study 3. Moderating Extremism

The problem: The development of a cultural society into a political organisation promoting an extremist, destabilising message.

The actors involved: 1) the Society of Carpathian Rusyns; 2) local authorities of Sub-Carpathia; 3) Ukrainian central authorities.

The issue proceedings: The Society of Carpathian Rusyns, founded in 1990 as 'a regional cultural educational society', came forward with a declaration of regional independence of Trans-Carpathia in 1990. The leaders of the Society formed the 'Government of Trans-Carpathian Rus' in 1993, with the political aim of restoring the 1938 borders between Ukraine and (former) Czechoslovakia. Radical political forces in Slovakia and Hungary supported the movement. Due to indifference from the local government and noninterference by Ukrainian cen-

⁴⁷ V. Vyzgrin (1998) 'Crimean Tatars: Discrimination and the consequences of smouldering conflict' *Problemy migratsii*, Vol. 2.

⁴⁸ State Committee on Nationalities and Migration (1999) *Evropeiskiy orientyr etnonatsionalnoi polityky Ukrainy*, Bulletin, Vol. 3., p. 20.

tral authorities, the 'Rusyn issue', which was apparently initiated by a 'cultural society' with about 200 members, quickly grew beyond its regional borders and united extremist political forces in a movement that threatened regional stability and security.

The strategy used to address the problem: Because the Rusyn political arguments were mostly drawn from unorthodox interpretations of history, language and identity of the Trans-Carpathians, a number of scientific conferences were organised by local and central authorities, with the aim of providing counter-arguments. The tension was mostly defused by the mid-1990s. However, it seems that a more effective settlement of the 'Rusyn issue' involves removing motives for destabilisation by developing inter-regional economic co-operation among neighbouring countries in the region.

The result: Because of the Rusyns' political manifestation, well-intentioned plans for social and economic development of the Trans-Carpathian Ukraine through increased regional autonomy were partly discredited. These ideas are still perceived by central Ukrainian authorities with a dose of suspicion. Ultimately, the development of the local self-government in the region was hampered.

Nevertheless, motivations still exist for the political organisation of minorities. The Ukrainian experience proves that:

1. The issues of culture, education, ethno-cultural development and, especially, minorities linguistic rights, are extremely important and can be easily politicised.
2. Unresolved ethnic issues inevitably lead to active political mobilisation of ethnic groups. In particular, the processes of ethnic mobilisation and self-organisation of German and Crimean Tatars' have resulted in the creation of parallel systems of government for these ethnic communities.

The controversial issues of local self-government (through local *mejlises*, or councils) of Crimean Tatars is particularly interesting. Acting unilaterally, the Crimean Tatars have established 250 local *mejlises*, which function as a system of parallel self-governmental and executive bodies of Tatar government at the local level. The *mejlises* were mostly created as the result of the inability or unwillingness of central and, above all, local authorities to deal with the difficult issues facing Crimean Tatars. The *mejlises* were also a reaction to the local authorities' open, and hidden, discrimination towards Tatars. (See Section 2.) The *mejlises* at all levels are unrecognised by state and local authorities, though the authorities do not forbid or interfere with *mejlises* activities. These bodies are therefore exclusively for the self-government of one ethnic community. In their structure and principle, the local *mejlises* are elected bodies. They deal with the whole spectrum of everyday issues affecting Tatars. Depending on the issue, a local *mejlise* may resolve the problem by dealing with official administrative structures of the same level—or the *mejlise* could pass the issue on to a higher *mejlise*, who can deal with officially recognised authorities on a higher level.⁴⁹

⁴⁹ D. Ablyamitov (1994) 'The Bodies of National Self-Government of Crimean Tatars', *Local and Regional Self-government of Ukraine*, Kiev, Vol. 4 (9), p. 42.

Mejlises do more than the official local government in dealing with the specific needs of the ethnic community. Furthermore, they can act as mediators between official government structures and Tatars. One possible drawback of this practice is that the existence of a 'parallel' local government can reinforce the isolation of Tatars in multi-cultural Crimea and have an effect of 'self-ghettoisation' of this ethnic group.

The increasing political mobilisation of the Crimean Tatars, who now openly declare the achievement of territorial autonomy in the Crimea as the objective of their political movement, is a classic example of unresolved ethnic issues leading to political mobilisation of minority groups. Another such example is the politicisation of the issue of linguistic rights of Russians living in Ukraine.

4.5. *Financial issues in the field of minority protection*

Financial support of ethnic minorities is one of the biggest problems in the field of minority protection in Ukraine. Financing the special needs of minority groups often receives low priority in state and local budgets. In fact, the very principle of financial support for ethnic minorities is now debated at the official level in Ukraine. This spending, and some other so-called 'mandatory expenditures' implied by current legislation, are put in doubt by the state's inability to fulfill its obligations because of the regular budget deficit.

The situation is similar at the local level. Schools for ethnic minorities and public cultural institutions used by national societies are financed through the existing state infrastructure, and new needs and initiatives can hardly be covered by tiny local budgets. The local government is generally responsible for the co-ordination and facilitation of projects initiated by national societies, which are largely self-financed. Significant financial support for some national societies, such as German, Jewish, Hungarian and others is provided by government and private organisations in their kin-states.⁵⁰ International donor organisations and institutions also provide financial support for ethnic minority initiatives.

As we have pointed out, the structures of local self-government are not well developed and the important issue of financial independence is not entirely regulated by current legislation. Further, even when local governments do finance the special needs of minorities, the distribution of funding is often not carried out in the legally prescribed manner.

⁵⁰ However, there are also some problems with financial assistance from abroad. As one of the leader of the ethnic Hungarian community admits, "external" financial and economic support of Hungarian organisations of Ukraine due to different reasons (including the lack of transparency and information on financing, different systems of accountability, discrepancy in the tax and custom rules etc.) often turns into a personal profitable business for local 'activists' and foreign "bureaucrats". See: Mykhaylo Tovt (1997) 'The Problems of the Hungarian Minority in a Contemporary Ukraine', Kiev: *Nova Polityka*, Vol. 3, p. 27.

4.6. *Minority education*

Beginning in December 1991, the Ukrainian state launched a state policy on education, requiring that all schools, including those with minority languages, follow state guidelines. The current law on education also proclaims state control over educational institutions of all types, including minority and private schools.

Most of the minority schools in Ukraine are public schools. Many of these schools were established in minority regions during the Soviet period, in accordance with the decisions of local administrations and the wishes of the local populations. Since 1991, a network of minority national schools has been developed, in part because of the considerable increase in the number of Sunday and private schools organised by minority national societies. But the policy towards national schools has remained centralised. There is a single state curriculum for all schools. The only difference between Ukrainian schools and schools for national minorities is the language of instruction and the courses on native language and literature.⁵¹

A positive development in education with respect to minority needs is the emergence of Sunday schools for minorities, organised by their national societies. According to official statistics, in 1993 there were 26 minority Sunday schools, and by 1998 there were twice that amount.⁵² The increase of these schools indicates that minority organisations are becoming a positive force in minority education policy, and that they can influence the decision-making process at the local level. As a result of successful partnerships between local governments and national societies, advanced schools (*gymnasiums* and *lycees*) for minorities have recently been established. One gymnasium with Bulgarian-language instruction was opened in Odessa oblast and two Romanian gymnasiums and a lycee opened in Chernivtsi oblast.⁵³ Since independence, four gymnasiums with Hungarian-language instruction were added to the existing 50 Hungarian schools. Three of the Hungarian gymnasiums were founded by the Trans-Carpathian Reformist Church. The first nongovernmental high school for national minorities, the Zakarpatskyi pedagogical institute, was also founded in Beregovo, Trans-Carpathia.

Despite this progress, representatives of ethnic communities are worried by the recent trend toward strengthening the centralised 'top-down' approach in educational policy for minorities. A project on ethnic education policy, prepared by the Ministry of Education in 1997, called for more study in Ukrainian, and for the preparation of exams in Ukrainian.

⁵¹ The state programme 'Education: Ukraine of the 21st Century', adopted at the First All-Ukrainian Congress of Teachers in 1992.

⁵² V. Troszynskyi (1997) 'Poshuky zgoty' (The search for consent), *Viche*, Vol. 10, p. 41.

⁵³ According to Ukrainian official figures in respect of Romanian minority, there are 104 schools with Romanian language of instruction (there are schools in practically all Romanian villages). Romanian pedagogical cadres study at the departments of the Chernivtsi and Uzhhorod universities and in Chernivtsi pedagogical college. In comparison, 66,000 officially registered and about 200,000 'unofficial' Ukrainians of Romania have the possibility to attend only one a 'half-Ukrainian' lycee (40% of classes are with Ukrainian language of instruction) and 70 schools with the Ukrainian classes (Interview with the Head of the Department of the State Committee on Nationalities of Ukraine, A. Popko (1998) *Ukrainske slovo*, 5 March).

Representatives of ethnic minorities, particularly the Hungarian and Romanian groups, say the new policy, which had not even been put forward for discussion among the representatives of ethnic minority groups, does not take into account their traditions of relative educational autonomy.

Another obstacle to minority-language education, enforced through Ukrainian-language requirements, is a shortage of dictionaries and textbooks for teaching Ukrainian to minority-language speakers. Some observers consider the delay in materials to be a masked attempt by the Ministry of Education to indirectly push national minorities toward enrolment into schools offering instruction in the Ukrainian language.⁵⁴

Another inter-ethnic sticking point is the issue of Russian-language schools. While Russians constitute about 22% of the national population, about half the schools in the Soviet Ukraine were Russian—in the period from 1970 until the late 1980s—because many ethnic Ukrainians consider Russian their native language. The new educational policy of Ukrainisation has resulted in an increase in Ukrainian schools and a decrease in Russian ones. The reasoning given by authorities is that there should be a correspondence between ethnic composition and educational structure.

During the first four years of independence, the number of students studying in Ukrainian increased from 45% to 56.5%.⁵⁵ Although the changes often involved a mere change in a school's title—particularly in the regions of eastern and southern Ukraine—it brought strong criticism from the Russian community and a considerable number of Ukrainians in traditionally 'Russian' regions of the country.⁵⁶

The Ukrainian handling of school language policy is an example of a centralised approach to ethno-policy that does not take into consideration regional, historical and cultural specificity. This has led to growing tensions between the central government and minority populations.

4.7. Local policy on socio-economic and cultural empowering of the Roma community

The socio-economic crisis affecting the whole population of the country has had the most severe impact on the Roma community. The problems of the Roma in Ukraine are similar to problems of their ethnic counterparts in other countries. These include unemployment, illiteracy, a high child mortality rate, a higher incidence of diseases from unsanitary conditions and infectious diseases and social isolation and exclusion, which exacerbate the difficulty of obtaining minimal social benefits.

Official statistical data on the Roma population of Ukraine—numbering about 48,000, according to the 1989 population census—does not correspond to current reality. The European Roma Rights Center estimates that 55,000 Roma live in Ukraine. Roma groups themselves believe that the real figure is at least twice this. The discrepancy in data is characteristic of the neglect and poor understanding that typifies the situation of the Roma in Ukraine.

⁵⁴ Kuksa, V. (1999) 'Minorities Would Be Keen to Learn Ukrainian...', *Den*, 3 March.

⁵⁵ M. Zgurovskyi (1995) 'The High Mission of the Ukrainian Teachers', *Osvita*, 15 June.

⁵⁶ *My Motherland* (1998) 17 June.

The first major attempt to support the socio-economic empowerment of Roma communities was the Integrated Rural Community Development Program, elaborated by the Renaissance Foundation and the Carpathian Foundation in 1996. The principal aim of the program was to facilitate co-ordination and partnership between local government, civic organisations, NGOs and private business structures in socio-economic development of communities.⁵⁷ Further attempts to empower Roma communities are ongoing. A first, symbolic, achievement has been the election of the first Roma representative to a local council of Uzhgorod in Trans-Carpathia.

5. Conclusions and Recommendations

Since 1991, an inclusive nationality policy has been combined with the visible articulation of a policy that supports an ethnic Ukrainian state. Contradictory decisions on administrative Ukrainisation were made at the beginning of the 1990s; conversely, during the same period advanced legislation on minority rights was adopted. Official political movements—which involved attempts to form a democratic, social and legal state and a ‘civic nation’—were accompanied by a trend toward neglect of minority rights. This ambiguity in the nation-state-building strategy can be explained by the unresolved political conflict between the desire to creating an inclusive, multi-ethnic state and the desire to promote a Ukrainian national identity.

Other reasons for both a negligent state policy on minorities and an ambiguous nation-state-building strategy include:

1. the lack of developed democratic traditions among democratic institutions;
2. limited democratic local self-government; and
3. minimal public participation in the decision-making process by all of citizenry, including minorities.

With this political and legal backdrop in mind, the following policy recommendations are proposed for a number of key issue areas relevant to the situation of minority groups in Ukraine.

5.1. *Legal framework for minority protection*

National legislation on minority rights is approaching accepted international legal norms and agreements in the sphere of human and minority rights. However, numerous ambiguities and shortcomings in the legal framework in this sphere are:

- The limited legal possibilities for direct political participation by minorities in decision-making at both national and local levels, particularly with regard to the issues concerning their own interests.
- The absence of legal provisions for collective and socio-economic rights of minorities.

⁵⁷ A. Sofyj (2000) ‘Partnership’ LGI database. Online. Internet: <http://www.osi.hu/lgi/ethnic>.

- The lack of systematic links between legal positions on minorities, and inconsistencies within the corpus of relevant laws.
- An unsatisfactory implementation of minority legislation which is dependent largely on political consensus at both national and local levels.⁵⁸ Recently, there have also been some worrying trends that can best be characterised as willful neglect, by central and local authorities, of the pressing issues surrounding minority rights.

Without question, greater legislative clarity on issues of concern to minorities, including minority language education, rights to cultural and/or territorial autonomy, citizenship issues, the status and rights granted to Ukraine's large immigrant communities and other relevant topics is crucial. To that end, the numerous contradictions between the 1991 Declaration of the Rights of Nationalities and current legislation on minorities should be resolved.

5.2. Decentralisation and public administration reform

Institutional reform also implies the search for an optimal model—ranging from a unitary state to a federative state with significant local self-governance, up to territorial autonomy for some ethnic minorities. However, a fear of territorial separatism is still predominant in Ukrainian political discourse. The unresolved dilemmas within Ukrainian state-building hinder the process of the implementation of minority rights, as well as institutional and administrative reforms.

Even in the present climate of unfinished administrative reforms, Ukraine's experience shows that a local ethno-policy performed by local self-government is more effective than the traditional, centralised approach. As public opinion illustrates, the local level can be a bridge in building trust between state and minority interests. Local action can provide better opportunities for minorities to satisfy their own needs themselves through self-governmental participation. Public administration structures must be given the appropriate authority and financial autonomy necessary to meet the needs of local ethnic communities.

5.3. Political participation

In the Ukrainian context, the policy of accommodation implies the political and participatory empowerment of ethnic minorities and broadening their level of involvement in the political decision-making process, both at the central and local levels of government. The aforementioned 'top-down' administrative approach in dealing with the issues of ethnic minorities still prevails in Ukraine. The state strategy on ethno-policy in Ukraine treats ethnic communities, and their organisations, as the objects of influences—rather than full-fledged partners in shaping and conducting ethno-policy. Ukraine's transition process

⁵⁸ However, this is not a specific 'Ukrainian case', but rather it proves a common trend in a post-communist transformation. Particularly, participants of the LGI workshop 'Local Governance in Multi-ethnic Communities of Central and Eastern Europe' point out that 'there is the tension in the transition period between the imperative of the rule of law, and the realisation that law operates within a broader social and political context—in which the law is not always implemented'.

could be enhanced by encouraging the establishment of local civil society through community development and self-organisation of independent groups, including minorities.

- There must be constant participation of minority representative councils in the process of local policy-making, particularly in regard to policy concerning the interests of ethnic minorities in multi-ethnic communities.
- Regular public hearings on minority issues, and other feedback methods, must be employed, to ensure that local policy is transparent and accountable for local people, particularly for the minority groups.
- 'Hot issues' of inter-community relations, such as the language regime in local schools, must be settled through negotiations. The participation of minority community representatives in the negotiations is a crucial condition.

5.4. *Cultural autonomy*

Ukraine's experience in dealing with inter-ethnic issues demonstrates that:

- The issues of culture, education, ethno-cultural development and linguistic rights are emotionally charged and can be easily politicised.
- Unresolved ethnic issues and neglect of these issues by central and local authorities, can readily lead to active political mobilisation of ethnic groups. Most notably, the processes of ethnic mobilisation and self-organisation of ethnic German and Crimean Tatar communities have resulted in the creation of so-called 'parallel systems of government' in these communities.
- Inter-regional and international co-operation in the border regions should be developed and economic links with neighbouring countries whose minorities are living in Ukraine should be strengthened. The establishment of Ukrainian-Hungarian, Ukrainian-Romanian and Ukrainian-Polish local co-operation, initiated by local communities and co-ordinated by local governments of neighbouring countries, can be mentioned as successful examples.

The controversial issue of the linguistic rights of minorities (particularly the large Russian minority) must be resolved. A new law on languages is being developed, and this could do much to solve the problem—but only if the law eschews the principal of Ukrainisation.

- The new law should be based on the principles of equality of the two main languages of the country, and on the inalienable right of free language identification.
- The European Charter for Regional and Minority Languages should be ratified.

Further efforts to protect the cultural autonomy of minority groups can include symbolic (and inexpensive) measures that demonstrate the local authorities' commitment to minorities' needs. Such measures can include:

- listing street names in two main languages;
- conducting cultural festivals for ethnic minorities;
- facilitating the work of national-cultural societies by providing accommodations for their activities, granting local taxation privileges or reducing their payments for communal expenses;

- facilitating the organisation of Sunday schools for minorities, as well as other cultural and educational events;
- employing all legal possibilities for displaying ethnic symbols in local municipalities in which ethnic minorities are dominant.

5.5. *Public finances*

Clear and predictable rules for financing cultural initiatives and organisations must be implemented. More specifically:

- Both local and central governments must provide physical space and transparent rules for the distribution of subsidies.
- Legal and transparent forms of control and accountability on distribution of funds for minority cultural initiatives must be achieved by allowing for an independent minority audit by authoritative members of local minority communities.
- More funding is needed for returning peoples such as the Crimean Tartars and others, in order to build permanent housing, basic infrastructure, adequate education services, sufficient health care and promote employment among these immigrant populations.

5.6. *Education*

To date, Ukraine's highly centralised education policy has in many cases been used as an instrument of 'Ukrainisation'. This does not bode well for minority cultural protection and for positive inter-ethnic relations. The policy of Ukrainisation is incompatible with adequate protection for minority rights to education in their mother tongue. Equally important, the development of Ukraine's education system in a way compatible with minority rights is hindered by the high degree of centralisation of education policy.

- A bottom-up, decentralised policy approach is necessary to improve both majority and minority education.
- Policy decisions affecting school curricula, the employment of teachers, teachers' salaries, school maintenance and other relevant education issues should be made at the local level, or in greater co-operation with local authorities.

5.7. *Capacity-building*

- Best practices at the national and international levels should be studied.
- Training courses and seminars on multi-ethnic management and conflict prevention strategies should be organised for local officials. A school on municipal management—part of which can be multi-ethnic issues—was opened in Sudak, on the initiative of local self-government. This is the first serious achievement in this direction.
- Special training programs and regular meetings of state officials and minority organisations may serve as confidence-building measures between majority and minority communities and may serve to undermine the current attitude among government officials that state security interests are inherently contradicted by the interests of minority groups.

In conclusion, it should be noted that some 'success stories' of self-governmental management of ethnic issues—particularly in the Trans-Carpathia, Chernivtsi and Odessa regions—are partly founded on maintenance of local traditions, together with the everyday practice of inter-ethnic tolerance. Ukraine is mercifully still free of serious ethnic conflict—not because of, but rather despite, the dominant centralised approach to ethnic issues.

Further reading

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