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Ukraine

Country Report for use in refugee claims based on persecution relating to sexual orientation and gender identity

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This document was prepared by law students and highlights information about publicly-accessible country conditions available at the time it was prepared. It is not exhaustive, nor is it updated on a regular basis. The information provided here is not a substitute for legal advice or legal assistance, and the International Human Rights program at the University of Toronto, Faculty of Law cannot provide such advice or assistance.

Introduction

Part I of this Country Conditions report on human rights violations of LGBT Ukrainians surveys reports by the Canadian, U.S. and U.K. governments, reports by Non-governmental Organizations and media reports documenting persecution of LGBT persons in Ukrainians. It also surveys reported Immigration and Refugee Board of Canada decisions and Federal Court of Canada decisions concerning LGBT refugee claimants with ties to the Ukraine.

These reports reveal that:

- **Ukrainian LGBT NGOs complain that LGBT Ukrainians are not sufficiently protected by the Ukraine Constitution or other Ukrainian legislation**
- **Several prominent Ukraine politicians, including the chair of a parliamentary committee on human rights, have characterized homosexuality as an evil that threatens national security**
- **Indifference on the part of Ukraine politicians to LGBT concerns**
- **Attempts of government agencies to thwart the activity of LGBT NGOs and the circulation of LGBT publications**
- **Budget of LGBT-oriented social services, however, is substantial, according to one media report (see “Gays and lesbians hold congress near Kiev”)**
- **Police officers very frequently violate the rights of LGBT person through a variety of means including harassment, unconstitutional collection of personal data, refusal to investigate rights violations of LGBT victims, harassment and assault (physical and sexual)**
- **Discrimination in the labour sphere and lack of legislative protection for LGBT persons in this sphere**
- **Discrimination in the educational, healthcare, housing and service sectors occurs**
- **Community and domestic violence against LGBT persons occurs**
- **Although there are more opportunities and freedoms for LGBT persons in Kyiv, rights violations still occur in that city (i.e. 2009 raid on gay bar with collection of personal data of patrons)**
- **When LGBT persons take action to protect their rights, they are frequently unsuccessful but sometimes have achieved a positive result**

Part II of this report addresses some of the problems faced by minors in the Ukraine. These reports reveal that:

- **According to one report, 43% of minors in the Ukraine have experienced some kind of violence**
- **Trafficking in children, child prostitution and child pornography are problems**
- **The Ukraine government is committed to fighting child abuse but is limited by budgetary constraints**
- **There are agencies with which to file complaints and there exists legislation aimed at combating domestic violence**

- **Police have been documented as neglecting to investigate alleged claims of parental abuse**
- **A testimonial by an LGBT Ukrainian youth describes physical threats of murder and violence including a threat with a knife**

Part II: The status of sexual minorities in the Ukraine

Case Law

Immigration and Refugee Board of Canada

Re (X), TA5-12778, October 17, 2006

Claim Rejected

- **Involvement in gay organization and non-sexual photo may not be sufficient to establish the claimant's assertion that he or she is actually LGBT.**

The Ukrainian claimant claimed she was a lesbian whose brother had discovered her kissing another woman and “extorted money for drinking from the claimant threatening to expose her if she did not pay.” Before her heterosexual marriage, during the Soviet regime, she had made advances on another woman. The claimant described beatings by her brothers and his friends.

The Board disbelieved the claimant's assertion that she was lesbian. The Board also states that it was “on a balance of probabilities, not plausible for the claimant to make three unsuccessful relationships.” The Board also disbelieved her claim that she was beaten by her brother. The Board did not consider her involvement in a Russian Gay and Lesbian Association, nor a photo of her in a pool with another woman, to show that she was a lesbian.

Re (X), AA0-01226/27, March 19, 2001

Claim granted

- **A violent family member who pursues a claimant and is likely to harm that claimant may give rise to a successful claim.**
- **Credible reports of attacks on and murders of homosexuals and of indifference or harassment by police may assist in establishing a claim.**

The claimants were Russian citizens who claimed they were a lesbian couple. Both had been married and had children. When the ex-husband of one of the women learned that they were lovers “he had not only been physically abusive but also exercised psychological pressure on them.” The ex-husband informed their employer, for example, that they were lesbians who then dismissed the couple. When they opened a small business together, he made its operation difficult and had threatened to set fire to it. When the shop did burn down, police attributed the fire to a malfunctioning electrical circuit. Although neither claimant was a citizen of the Ukraine, the mother of one of the

claimants lived in the Ukraine with the claimant's son. The claimant's ex-husband had gone there looking for them.

The Board found the claimants were Convention refugees by virtue of the fact that the ex-husband of one claimant "would locate them if they were to return to Russia as he does have contacts in the police force" and that he would be "so upset" that he would "harm them." The Board also observed credible reports of attacks on homosexuals and indifference and harassment on the part of police in Russia.

Re (X), A99-00384, September 28, 1999

Claim granted

- **Social hostility and large scale discrimination against homosexuals, an inability to register as parents, obtain spousal support or adopt children and a reluctance to seek police protection may establish a well-founded fear of persecution.**

The claimant alleged that he had suffered "repeated physical attacks, threats, [an] arson incident and . . . humiliation . . . because of [his] homosexuality." He and his partner had left the Ukraine and were still in a homosexual relationship.

The Board accepted the claimant's testimony as credible and observed that Ukrainian society remains hostile to homosexuality, that social discrimination exists on a large scale, that LGBT persons cannot register as parents, obtain spousal support or adopt children and that LGBT Ukrainians fear threats by police and thus do not seek their assistance.

Federal Court of Canada

Tsyhanko v. Minister of Citizenship and Immigration (2008)

2008 FC 819

Judicial review granted

- **The Board cannot selectively rely on evidence in addressing the availability of an IFA or on the availability of state protection.**
- **The Board must provide an explanation for discarding a claimant's testimony regarding her attempt to seek state protection.**
- **A claimant who fears a hate group in general, rather than a particular hate group based in one area, may not have an IFA.**

The claimant is a 20-year-old Ukraine citizen and claims she was expelled from her university (University of Lviv), two attacks by homophobic assailants and banished by her father when a lesbian relationship between herself and a professor was exposed. She also reported that police, once they learned the claimant was lesbian, "became disinterested in pursuing their investigation[s]" after each attack. Her partner died as a result of another attack.

Mandamin J. stated that the Board “committed a reviewable error when it concluded . . . that state protection was available and . . . that there was an IFA available in Kiev” (para 24). According to Mandamin J., the Board’s conclusion on the availability of state protection “cannot be reasonably arrived at by selectively relying on the documentary evidence while not providing an explanation for discounting the Applicant’s testimony regarding her attempt to seek state protection” (para 24). In determining whether or not an IFA was available in Kiev, the Board was also “selective” in its use of documentary evidence. Mandamin J. stated that the fact that “the Applicant fears persecution at the hands of ultra-nationalists in general, rather than merely a particular group of ultra-nationalists based in Lviv” was crucial in determining the availability of an IFA.

Khrystych v. Minister of Citizenship and Immigration (2005)

2005 FC 498

Judicial Review Granted

The claimant is a Ukraine citizen who was beaten by schoolmates for his effeminacy and was dismissed from his university for being homosexual.

- **If the Board doubts the credibility of a claimant’s assertions that he is LGBT, they must give reasons for their doubt in “clear and unmistakable terms.”**
- **Dismissing the claimant’s assertions as “vague and uncertain” does not meet this threshold.**

Strayer J. stated that the Board’s failure to give reasons for its doubt of the credibility of the claimant’s testimony that he was gay was a reviewable error. By simply dismissing the claimant’s evidence as to his involvement in Toronto’s gay scene as “vague and uncertain”, the Board did not meet the threshold of “clear and unmistakable” required in *Hilo* (para 4).

Kravchenko v. Minister of Citizenship and Immigration (2005)

2005 FC 387

Judicial review granted

- **The Board should not assess the credibility of the claimant’s assertion that he is homosexual on the basis of stereotypes about homosexuals.**

The Board’s disbelief that the claimant was actually gay was based on inferences “so unreasonable as to warrant the intervention of [the] Court. Those inferences were based on stereotypical profiles that simply cannot be assumed to be appropriate to all persons of homosexual orientation” (para. 7).

Bondarenko v Minister of Citizenship and Immigration (2004)

2004 FC 306

Judicial review granted

- **There will be a denial of natural justice if the IRB finds the applicant's testimony consistent at the hearing but inconsistent in its decision.**

The claimant stated that he was a Ukrainian homosexual who feared persecution by UNSO, an ultra-nationalist organization at whose hands his partner was attacked and, in 1999, he himself was "beaten, and told to leave the city [in which he lived] within a month." Police refused to assist him. He was subsequently beaten by this group four other times. When he moved to two other locations, he was again beaten in each by members of UNSO and hospitalized for his injuries. Police again refused assistance.

O'Keefe J. found that, in the IRB hearing, there was a denial of natural justice to the claimant:

[72] I am of the view that it was a denial of natural justice for the Board to state at the hearing that the applicant's testimony was consistent on a certain point and then in its decision base its adverse credibility finding in part on its finding that the applicant's credibility on this factual point was inconsistent.

Trembluik v Minister of Citizenship and Immigration (2003)

2003 FC 1264

Judicial Review granted

- **In determining whether a claimant is actually homosexual, the Board should not rely on stereotypes of homosexuality and ignore rational and reasonable testimony of the complainant.**

The applicant is a 19 year old Ukraine citizen who was beaten by his peers (suffering broken ribs, a broken arm and a broken nose), hospitalized on several occasions, suffered death threats, was abducted and raped by youths and survived "an alleged attempt of his life." Police did not provide protection despite his having made reports to them.

Gibson J. held that the Board, in doubting the credibility of the claimant's assertion that he was actually gay, "applied to the applicant a stereotypical view of the life style and preoccupations of homosexual persons." The Board asserted that his claim was implausible on the basis that the claimant did not seek out Toronto's LGBT community, did not know much about gay pride day, attended a Roman Catholic school and attended church. The Board's inferences, based on stereotypes, "ignored the rational and reasonable testimony of the applicant in explanation." Gibson J. also stated that, in response to a psychologist's diagnosis of post-traumatic stress syndrome, "it was open to the RPD to determine the weight, if any, to be given to the assessment provided by the psychologist, it was not open to the RPD to reject the psychologist's diagnosis."

Government Reports

Canada

1. Immigration and Refugee Board of Canada, *Ukraine: The situation of homosexuals; availability of support groups and state protections* (25 August 2008), UKR102897, online: <<http://www.unhcr.org/refworld/docid/492ac7c82d.html>>.

- **Legal Department of the Ukraine Supreme Court opposes protections against discrimination based on sexual orientation on grounds of threat of moral injury**
- **Indifference and hostility to gay rights on part of political leaders**
- **46% of Ukrainians think some restrictions on rights of LGBT citizens necessary**
- **Tolerance highest in Kyiv and Crimea; lowest in Western and Northern regions**
- **61.5% of Ukrainian LGBT report rights abuses by law enforcement agents (including extortion, threats to announce sexuality and collection of personal information through fingerprinting, taking addresses and collecting names)**
- **Gay youth commits suicide due to harassment from stepfather**
- **Three men mock, beat and rape gay male**
- **Criminal charges (pornography) against gay publication**

Although homosexuality was legalized in 1991 and Ukrainians are constitutionally guaranteed equal rights and freedoms, “there is no specific legislation in place to address discrimination based on sexual orientation.” Proposed legislative changes to make sexual orientation a prohibited ground of discrimination in labor law are opposed by the Legal Department of the Supreme Court of Ukraine because awarding ““additional privileges to so-called ‘sexual minorities’ could cause ‘injury of moral principles’ and impact negatively on labor relations.” Some MPs have expressed similar sentiments.

Many politicians and religious leaders are either indifferent or hostile to LGBT rights. The head of the parliamentary committee on human rights and the Committee on the Issues of Freedom of Speech and Information have demonized homosexuality as a threat to national interests and security. President Yushchenko is reportedly supportive of LGBT rights but does not consider them an important issue.

LGBT NGOs note growing intolerance of LGBT persons over a five-year period. Of 1,200 respondents to a March 2007 poll, 46.7% believed some restrictions on the rights of LGBT citizens were necessary, 52.3% believed same sex partnerships should not be recognized legally and 60.2% believed same sex couples should not raise children. Tolerance was highest in Kyiv and Crimea and lowest in the Western and Northern regions. Hate speech directed at LGBT was common in Ukraine’s media.

Law enforcement agents committed, according to the Commissioner for Human Rights of the COE, rights abuses against LGBT citizens. An NGO report indicates 61.5% of homosexuals suffered rights violations from law enforcers, including physical violence and sexual harassment. Police have threatened to expose sexual orientation to families and employers, committed extortion and collection personal information including addresses and phone numbers, fingerprints and photos of LGBT persons.

There are examples of hate crimes. In one, a youth committed suicide after subsection to

harassment from stepfather; in another, three men mocked, beat and raped a gay male.

LGBT support organizations have encountered difficulty. Criminal charges were laid, on 22 February 2008, by the Public Prosecutor's Office in Kyiv against a gay publication for the distribution of pornography. Enforcement of pornography laws is selectively directed at LGBT community.

2. Immigration and Refugee Board of Canada, *Ukraine: Treatment of gay and lesbian persons by society and state authorities; state protection (January 2003-November 2005)* (23 November 2005), UK100719.E, online: <http://www.unhcr.org/refworld/docid/45f14809a.html>.

- **Low visibility of LGBT community in Ukraine**
- **Legislation requiring sale of publications with LGBT-oriented advertisements in sealed packages and only in medical institutions specializing in sexual disorders**
- **Low involvement of LGBTs and inattention to LGBT issues in political sphere**
- **Evidence showing police as perpetrators of violence against LGBT persons.**

The Ukrainian LGBT community is not “highly visible” with five LGBT clubs in Kiev and small gay scenes or venues in Simeiz, Kharkov, Lviv and Odessa. A law, reportedly passed in November 2003, called “On the Protection of Morals”, “stipulated that newspapers with advertisements aimed at gays and lesbians could be sold only in hermetically sealed packages, and only in ‘specialized medical institutions that have a special licence to treat individuals with sexual disorders’.”

There is also evidence of the exclusion of the LGBT community and neglect of LGBT issues from Ukrainian political life. The NGO Our World (*Nash Mir*) stated that gay issues are not of high priority for Ukrainian politicians.

There is evidence showing that police are perpetrators of violence against LGBT persons. One LGBT man is reported to have died while in police custody. Police reports that he jumped out a window to his death during questioning were not consistent with a subsequent medical examination. According to an uncorroborated account by the NGO Our World, police employed “intimidation tactics” “when they interviewed gay men who knew a gay murder victim.”

United States of America

1. Bureau of Democracy, Human Rights and Labor, *2008 Human Rights Reports: Ukraine*, (25 February 2009), online: <http://www.state.gov/g/drl/rls/rrpt/2008/eur/119110.htm>.

- **Homophobic remarks by MPs and Chair of parliamentary Committee on Freedom of Speech and Information**
- **Ongoing police abuse of LGBT persons, including threats to inform family members and employers of their sexual orientation**

- **Lack of access to medical treatment and HIV/AIDS prevention programs**

Political and religious leaders are either indifferent or hostile to the LGBT community. In addition to remarks by MPs from the Yulia Tymoshenko bloc that homosexuality was a threat to national security, the chair of the parliamentary Committee on Freedom of Speech and Information states that government bodies were obliged to cease “the popularization of homosexuality, lesbianism, and other sexual perversions that do not correspond to the moral principles of society.”

Allegations of distribution of pornography resulted in a criminal investigation against a gay publication that “was circulated among a restricted number of subscribers” resulted in a criminal investigation. Other erotic materials were easily available in Ukraine’s newspaper kiosks.

There were reports on ongoing police abuse of homosexuals, including threats to inform gays’ families and employers of their lifestyle.” There were also reports of a lack of access to medical treatment and information for gay men on the prevention of HIV/AIDS.

2. Bureau of Democracy, Human Rights and Labor, *2006 Human Rights Reports: Ukraine*, online: <<http://www.state.gov/g/drl/rls/hrrpt/2006/78846.htm>>.

- **Expulsion of gay student from post-secondary institution**
- **Public opposition of LGBT rights movement**

A gay student was expelled from the Economics and Law College of the Inter-Regional Academy of Personnel Management in March 2005 (see below). The country’s leading LGBT NGO, Nash Mir, led a demonstration outside the school.

In September, 100 persons participated in a Kyiv march carrying signs stating, “Homo dictatorships will not be allowed; politicians, protect out families.”

3. Bureau of Democracy, Human Rights and Labor, *2005 Human Rights Reports: Ukraine*, (8 March 2006), online: <<http://www.state.gov/g/drl/rls/hrrpt/2005/61682.htm>>.

- **Student who is expelled from post-secondary institution is awarded compensation by courts**
- **Complaints of police abuse and suspicious death of gay man while in police custody go uninvestigated**
- **Survey of 900 LGBT Ukrainians reveals general prejudice as well as discrimination in the labour and health care sectors**

A student at the Economics and Law College of the Inter-regional Academy of Personnel Management was expelled for circulating leaflets that advanced LGBT rights. In a suit against the school, the student was awarded \$120 in compensation by the Holosivskiy District Court in Kiev; the student transferred to Kiev State University. A February 2004 complaint by two gay men about harassment by police and a suspicious death in September 2004 of a gay man in police custody were not investigated by authorities.

Based on a survey of 900 interviewees, the country's leading LGBT NGO observed that "homosexuals were generally treated with prejudice in Ukrainian society. It noted that homosexuals faced discrimination from law enforcement agencies and the country's healthcare workers, among others and that the media frequently provided a 'distorted representation' of persons with nontraditional sexual orientations."

4. Bureau of Democracy, Human Rights and Labor, *2004 Human Rights Reports: Ukraine*, (28 February 2005), online:
<<http://www.state.gov/g/drl/rls/hrrpt/2004/41715.htm>>.

- **Parliament passes law requiring publications with LGBT advertisements be sold in sealed packages and only at medical institutions licensed to treat sexual disorders**
- **Although the injuries of an LGBT man who died in police custody are not consistent with the police version of his death, no investigation takes place**

According to a leading NGO specializing in LGBT rights, "On Protection of Morals" was passed by Parliament in November 2003. By this legislation, publications containing gay-related advertisements "may only be sold if they are sealed in a hermetic package, and then only in specialized medical institutions that have a special license to treat individuals with sexual disorders." The Bureau report noted, however, that "in practice" LGBT advertisements "appeared in many popular publications."

Dmytro Pakhomov died on September 18, 2004 while being interrogated by police. Police officials made derogatory remarks about the victim's sexuality, provoking him to jump out a window to his death. Medical staff stated that the victim's injuries were not consistent with the police version. Pakhomov's family "declined to request an investigation."

United Kingdom

Home Office, *Country of Origin Information Report: Ukraine* (June 2006), online:
<http://www.asylumlaw.org/docs/sexualminorities/ukraineUK_060706.pdf>.

- **Greater public tolerance in Kiev and Kharkov but rural areas, especially in Western Ukraine, are quite homophobic**
- **Small gay scenes in Kiev, Karkhov and Simeiz**
- **School expels gay activist student; compensation awarded**
- **Lack of response to complaints involving police abuse of gay men and suspicious death of gay man while in police custody**

According to reports from a gay news service (Gaytimes), "public attitudes towards homosexuals are generally tolerant in Kiev and Kharkov but in rural areas, especially in the Western Ukraine people are still extremely conservative and quite homophobic." The gay scene remains small: in Kiev, there are 5 bars and clubs; there are also venues in Kharkov and Simeiz.

In March 2005, the law college of MAUP expelled a student for circulating leaflets advocating gay rights; the Holosivskiy District Court ordered MAUP to compensate the student (\$120) who had transferred to Kiev State University.

There also seemed to be a lack of response to complaints of LGBT human rights violations. Two gay men had complained about police harassment in the Volyn region to an ombudsman and in Kryvyi Rih, a LGBT man had suspiciously died in police custody.

UN Reports

1. United Nations, General Assembly, *Report of the Working Group on the Universal Periodic Review: Ukraine*, (3 June 2008), A/HRC/8/45, online: <http://lib/ohchr.org/HRBodies/UPR/Documents/Session2/UA/A_HRC_8_45_Ukraine_E.pdf>.

- **Widespread domestic violence and inadequate shelters for victims**
- **Growing homophobia and particular problems faced by LGBT persons in the workplace**

The Slovenian delegate noted that domestic violence was widespread in the Ukraine and that there were few shelters for victims of violence. It also observed that homophobia was growing in the Ukraine in recent years and that homosexuals face problems “in the workplace with law enforcement bodies.”

2. Human Rights Council, *Summary Prepared by the Office of the High Commissioner for Human Rights, In Accordance with Paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1: Ukraine*, (3 April 2008), A/HRC/WG.6/2/UKR/3, online: <<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=48591f610&skip=0&query=LGBT%20Ukraine>>.

Nash Mir (Our World) Gay and Lesbian Centre stated that a March 2007 survey has shown an increase in societal homophobia over the last five years. LGBT persons are vulnerable in the work place and “during contact with law enforcement bodies.” Police have often displayed prejudicial attitudes, exerted psychological pressure and issued threats or blackmail.

Non-Government Reports

Human Rights First

1. Human Rights First, *Ukraine: 2008 Hate Crime Survey* (New York: Human Rights First, 2008), online: <<http://www.humanrightsfirst.org/pdf/fd/08/fd-080924-ukraine-web.pdf>>.

- **Lack of legislative and constitutional protection of LGBT persons for LGBT persons against discrimination and violence.**

The Ukraine Constitution does not specifically prohibit discrimination based on sexual orientation and laws against “bias-motivated violence” do not specifically prohibit violence based on sexual orientation. Almost 35% of Ukrainians, in an Institute of Sociology survey, disagreed with the statement that “gay men and lesbians should be free to live their own life as they wish.”

Council of Europe Commissioner for Human Rights

1. Council of Europe Commissioner for Human Rights, *Report by the Commissioner for Human Rights Mr. Thomas Hammarberg on his visit to Ukraine 10 – 17 December 2006* (26 September 2007), online:

<<http://www.helsinki.org.ua/en/index.php?id=1191768795>>.

- **Law enforcement officers most often responsible for human rights abuses of LGBT**
- **Media as a site of hate speech**
- **Discrimination in workplace, health care and social protection fields**

Law enforcement agents are most often responsible for human rights abuses of LGBT people and the media is a frequent site of hate speech. *Nash Svit/Mir* conducted a poll of 1,2000: 37% of respondents thought LGBT associations and clubs should be banned, 21% disagreed with that premise and 44% were undecided. According to the NGO, “[d]iscrimination is present in those spheres that are most important for a standard of living, and especially in relation to employment and salary, medical services and social protection.”

Nash Mir (Our World)

1. Nash Mir Gay and Lesbian Centre, *Human Rights Violations Based on Sexual Orientation in Ukraine*, (2008), online: <<http://www.gay.org.ua/index-e.htm>>.

- **Proposals to prohibit same-sex advertisements in mass media**
- **Ukraine refuses to sign Joint Statement in support of LGBT human rights**
- **Draft of Labour Code does not specifically prohibit discrimination based on sexual orientation; one of draft’s authors makes homophobic remarks**

National Expert Commission of Ukraine on Public Moral Protection proposes “changes to the current Law of Ukraine “On Protection of Public Moral” [to prohibit] “*placement of advertisements about intimate meetings and intimate relations between people of the same sex in non-specialized mass-media*”. The currently working law only prohibits placement of advertisements about “*deviant forms of intimate relations*”. The law does not prohibit advertising intimate relations between people of the opposite sex in public mass media.”

The Ukraine also refused to sign, on December 18, 2008, the UN General Assembly’s Joint Statement “to support human rights in relation to gay, lesbian, bisexual and transgender people.” A Minister of Foreign Affairs spokesman stated, “We don’t have

such a problem and we do not need to discuss it. Since this phenomenon was decriminalized in Ukraine, there has been neither punishment, nor persecution.

Another draft of the Labour Code, submitted to Parliament for review at the end of 2007, was adopted on May 20, 2008. The anti-discrimination article of the draft “did not include prohibition of discrimination on the ground of sexual orientation.” The Chair of the Parliamentary Committee on Labour and Social Policy MP Vasily Khara, one of the draft’s authors, stated in an interview that homosexuals ““violate all norms of morality”” and considered homosexuality a ““physical defect that should be concealed, not flaunted.””

2. Nash Mir Gay and Lesbian Centre, “Leader of Committee on Human Rights of Ukrainian Parliament names homosexual people ‘evil’ and calls for a fight against them” (10 February 2007)

- **Leader of the Ukrainian Parliament’s Human Rights division calls homosexuality an evil from which society ought be protected**

Leonid Grach, Head of the Committee of Human Rights, National Minorities and International Relations of the Supreme Council (Parliament) of Ukraine described homosexuality as ““an anomaly, which is caused by the amorality and the depravity of man.”” He has stated, moreover, that the state was responsible for protecting society from evils like homosexuality and that “Ukrainians must observe the norms of moral cleanness.”

3. Nash Mir Gay and Lesbian Centre, *Ukrainian Homosexuals & Society: A Reciprocation*, (2007), online: <<http://www.gay.org.ua/2007/>>.

- **Diminishing support for LGBT equality over a five year period, especially in the 16-19 year old cohort**
- **Kyiv and Crimea have highest levels of tolerance**

According to a March 2007 poll by Nash Mir Gay and Lesbian Centre (NMGLC), 34.1% of 1200 respondents thought that LGBT Ukrainians should have the same rights as other citizens and 46.7% thought that some restrictions were needed (65). In contrast 42.5% of respondents to a 2002 poll felt that LGBT Ukrainians should have the same rights as other citizens and 33.8% thought some restrictions were required (65). Moreover, the polls found that, of respondents aged 16-19 years, 63.2% favored equality for homosexuals in 2002 (with 19.5% being opposed to LGBT equality) but only 40% were in favor in 2007 (with 42% opposed) (66). The poll also showed the regions “most tolerant towards gays and lesbians are inhabitants of Kyiv and Crimea; less tolerant are inhabitants of the East of the country; and the most homophobic are residents of the Western and Northern regions of the Ukraine (66).

- **Church groups and Love Against Homosexuality (LAH) are vocal opponents to gay rights movements**
- **LAH seeks to criminalize the “propagandizing and popularization” of homosexuality and uses variety of means to expand membership**

Church groups and an “ultra-homophobic group” called Love Against Homosexuality (LAH) have been vocal opponents of homosexual equality (66-67). On September 15, 2007, LAH began an initiative to criminalize the “propagandizing and popularization of homosexual behaviour” (67). In October, the group organized a 500-person march from Kyiv’s central square to the Administration of the President of Ukraine with the declaration, “The framework, in which messages about homosexuality, lesbianism and etc. are authorized, should pursue the aim of extermination of these shameful phenomena, instead of their popularization” (67). LAH has carried out public actions and used the internet and mass-media to expand their membership (67).

- **Ukraine’s political elite, through public statements, has shown hostility toward LGBT rights; most notably, the Chair of the Ukraine Parliament’s Committee on Human Rights, National Minorities and International Relations has made markedly homophobic public statements**

Statements by the Ukraine’s political elite show “both explicit and covert homophobia and an unwillingness to understand the problems and needs of gays and lesbians” (72). An MP representing the Yulia Tymoshenko Block of Parliament has stated a categorical opposition to gay unions and labeled homosexuality a “big sin” (72). Another MP has stated a need to protect the Ukraine family and its spiritual values from homosexuality and a member of the Parliament Committee of Social Policy and Labour has labelled homosexuals “violat[ors]” of morality and homosexuality a “physical failing which is necessary to hide” (73). The head of the parliamentary Committee on Human Rights, National Minorities and International Relations has also identified homosexual as an “anomaly” from which society which be protected (73). According to the report, “[n]egative statements of politicians towards homosexuals had increased in number on the threshold of out-of-turn elections in Verhovna Rada of Ukraine in September, 2007 (73).

- **Although members of the media have attempted to provide an unbiased, complete and detailed account of LGBT issues, others have given biased and negative accounts of homosexuality**

Although the mass media has published “materials of a general enlightening and historical characters on gay issues” and interviews with LGBT NGO leaders, “themes relating to homosexuality attracted very little attention either in national or local newspapers” (75). The sharp increase in visibility of the LGBT community in 2005-2006 due to the expulsion of a student from a university led some publications linked with that university to show “a level of homophobia unprecedented in Ukraine.” One publication even endorsed the Nazi’s incarceration of homosexuals. Another article, profiling the Kyiv gay scene, made an “anxious conclusion” on the impact of homosexual mores on “the fate of Ukrainian society” (76). While two publications (the magazine *Korrespondent* and the Kyiv newspaper *Segovna*) aimed to provide “complete and detailed treatment” of LGBT issues with “unprejudiced coverage of the affected problems,” some papers have given cursory accounts “showing the attitude of the author towards the theme—and often his/her political conviction” (76). There were also problems with fact-checking (76). There are also regular accounts of a “gay mafia” that aims to “plant alien orders within

Ukraine that are against its nature” (77). Like the print and internet-based media, Ukrainian television showed a similar approach to LGBT issues. One programme, called “Ours” documented an individual’s coming out (77).

- **Fear of publicizing sexuality prevents victims from reporting rights violations**
- **54.5% of LGBT survey respondents experienced LGBT-related discrimination**

According to a 2005 survey of 900 LGBT Ukrainians, 54.5% experienced discrimination on the basis of their sexual orientation. Of persons who did not “hide their sexual orientation from ambient others”, more than 76% reported discrimination (79). According to the report, rights violations are often underreported due to the victim’s fear that reporting will publicize their sexuality (79).

- **Discrimination based on sexual orientation pervades the labour sphere**
- **One individual reports dismissal when employer learns he hosted LGBT events**

78.2% of “those who worked or tried to find a job have noticed that they faced one or another violations of their rights, unequal treatment or a prejudiced attitude towards them in the labour sphere” (79). One respondent reported dismissal when his employer learned from the local newspaper that the respondent had organized LGBT oriented parties (79).

- **61.5% of respondents having had contact with law enforcement report rights violations including threats, procedural violation and unlawful collection of data**
- **Detention and humiliating treatment of LGBT persons including threats to fabricate charges of drug dealing to prevent victims from filing complaints**

61.5% of respondents who had had contact with law enforcement bodies noted rights violations including threats, prejudicial attitudes, psychological pressure, blackmail and a violation of legal procedures (79). Police habitually collected and filed “confidential data” about LGBT individuals including home addresses, phone numbers, finger-prints and photos (79). This activity occurred in violation of the European Convention on Human rights and Article 32 of the Constitution of Ukraine (79). One respondent, in January 2007, was detained by police and called a “faggot” after being caught kissing a friend “at a solitary stopping point for public transportation in Zaporizhe;” when the respondent threatened to lodge a complaint, the office withdrew a package containing white powder and countered that “if [they were] to write a complaint, then [they would] become arrested as drug-sellers” (80). Four lesbians also reported detention and insulting behaviour by police after posting LGBT leaflets (79-80). They were only released after obtaining a lawyer’s assistance and submitting a bribe (80).

- **Pervasive discrimination based on sexual orientation in educational sphere**

In the education sphere, approximately 75% of respondents reported feeling subjected to prejudice by teachers and other pupils (81). In one particularly prominent incident, a student distributing gay rights information was “sent down, allegedly for the lack of a document about secondary education” (82). Although “in court it was not possible to prove that [the respondent] was discriminated against on the basis of his sexual

orientation”, his private conversations with the school director showed this motivation (82). A court awarded the student compensation (82).

- **Violations of privacy rights by police and co-workers and hospital workers**

23.4% of respondents noted violations of their rights to privacy (82). Without permission, third parties divulged information about sexual orientation; violators included police, work colleagues and others. 13.5% of respondents stated that medical personnel had reported their health condition or sexual orientation to third parties (83).

The LGBT community also had difficulty in making use of services. 22.5% of respondents reported discrimination in this sphere (83). Two bars in Donetsk and Lviv withheld services to LGBT patrons, one of which had promised to let its space for an LGBT event and later, only agreed to honor its agreement if the organizer paid double the rent (83).

- **Community and domestic violence against homosexuals occurs**
- **Police have failed to properly investigate hate crimes against LGBT persons**

40% of LGBT Ukrainians reported “physical or moral pressure” from the community at large; almost all respondents who did not conceal their orientation “faced prejudiced relations” (83). One adolescent, after continual harassment from his stepfather, committed suicide in March 2007 in a village in Kherson (83). In the Public Prosecutor’s investigation, lack of proof and testimony prevented further investigation into the stepfather’s culpability (84). Another openly gay man living in a village in Cherkasy was beaten and raped by three villagers (83). Police only responded when they were called by the hospital. They did not initiate criminal proceedings because they did not consider there to be sufficient proof against the assailants; police only suggested that the victim obtain a medical certificate documenting his injuries three weeks after the attack, by which time his injuries had gone away (84).

- **Services oriented to the LGBT community are limited to the leisure sector**
- **No state funding for LGBT community initiatives**
- **HIV/AIDS prevention services will only be successful if initiated from within the LGBT community itself**
- **HIV transmission is linked to LGBT-oriented discrimination**

Only “services in the leisure sphere” exist for Ukrainian homosexuals (85). Throughout the country, there are approximately 10 clubs catering to LGBT persons (85). Less than ten public and charitable organizations exist of Ukrainian homosexuals (85). The state does not fund LGBT organizations but the National Programme Overcoming HIV/AIDS Epidemic in Ukraine will carry out prevention work among men who have sex with men (86). Because homosexuals distrust outside initiatives and have refused HIV/AIDS services that have “attempted to extend their activities to the MSM group”, Nash Mir avers that prevention services will only be successful if initiated by the LGBT community itself (86). The report also noted that LGBT-related discrimination was a key factor in HIV transmission among MSMs.

4. Nash Mir Gay and Lesbian Centre, “Statements make by Ukrainian government and political leaders on gay and lesbian issues (in 2006-2007)”, online: <http://www.ilga-europe.org/europe/guide/country_by_country/ukraine/statements_made_by_ukrainian_government_and_political_leaders_on_gay_and_lesbian_issues_in_2006_2007>.

- **Public statements by members of Ukraine’s political community that are both homophobic and display an opposition to the LGBT rights movement**

MPs Yulia Tymoshenko and Alexandr Turchinov justified their categorical opposition to same-sex marriage on grounds that homosexuality is a sin. In November 2006, the Chair of the parliamentary Committee on Human Rights, National Minorities and International Relations, Leonid Grach, stated that he had a duty to protect the Ukraine from moral evils like homosexuality. A socialist MP stated that demands of LGBT persons were “anti-societal and anti-state” and that he would not “support political ideas and demands” of the LGBT community.

In a ruling on Ukraine’s Labor Code in May 2007, the Legal Department of the Supreme Court of Ukraine stated that that inclusion of sexual orientation as a prohibited ground of discrimination gave “additional privileges” to LGBT persons and would “cause injury to the moral principles of society and assist destruction of labor relations.”

5. Nash Mir Gay and Lesbian Centre, “Report on the Situation of Homosexuals in Ukraine in 2006,” online:

- **Diminishment in national levels of homophobia**
- **Strong church opposition to LGBT rights**
- **Progress in state’s position to LGBT community in terms of identifying homophobia as a problem to be addressed but lack of “real actions”**
- **Draft of Labour Code prohibits discrimination on basis of sexual orientation**
- **Collection of personal information concerning homosexuals (fingerprinting addresses) by Police**
- **Detention, humiliation and interrogation of LGBT events promoter and lesbian by Security Service of Ukraine**
- **Community violence against LGBT persons**
- **More freedoms and possibilities for LGBT persons in Kiev**

A poll by the Kiev International Institute of Sociology found that “the level of homophobia had slightly fallen from 34.9% in 1991 to 28.5% in 2006.”

The Ukrainian churches, however, were particularly vocal opponents of gay rights. The group “Love Against Homosexuals” continued to lead small street protests. The All-Ukrainian Council of Churches and Religious Organization wrote, in November 2006, an open letter condemning same-sex unions.

Responses to a letter submitted by Nash Mir to various governmental ministries “show[ed] marked progress in the official position of the state regarding sexual minorities [and that] Authorities don’t deny that there is a problem in this sphere and that it should

be solved. However, there is still a huge divide between the cautious declarations represented here and real actions.” The Ministry of Labour and Social Policy responded that, in a draft of the Labour Code of Ukraine, “it is foreseen to prohibit any discrimination in the sphere of labour, in particular . . . on the basis of . . . sexual orientation.”

There was evidence that “regional subdivisions of the Ministry of Internal Affairs (police) continue to keep and use 'albums' in which confidential information about local homosexuals is collected. These 'albums' contain personal facts, contact information, photos and fingerprints.” SBU (Security Service of Ukraine) agents also detained a lesbian and an LGBT events promoter in 2006. While interrogating the promoter, the agents “used psychological abuse in the form of humiliation and insulted him with foul language. During all this, they said things like “gays don’t have the right to live on Earth”, and “they should be isolated and sent to Siberia.” After the promoter refused to collaborate, the agents threatened to interfere with his events and, after 5 hours, released him.

There were also reports of community-based violence against LGBT persons. An effeminate villager reported being regularly insulted and humiliated and, in summer 2006, was beaten by 5 drunk men. Another gay couple in a village had their home vandalized. Another gay man in Donetsk was murdered and robbed by a heterosexual individual who posted personals ads on homosexual websites in order to enter their homes and steal from them.

The 2006 report noted that there were more freedoms and possibilities for LGBT persons in Kiev and that there were some LGBT-oriented venues in Kiev, Karkhov, Donetsk and Odessa.

6. Nash Mir Gay and Lesbian Centre, *Gay Rights are Human Rights*, (Kyiv: Nash Mir Gay and Lesbian Centre, 2005).

- **Openly gay individuals experience higher levels of discrimination**
- **Discrimination by private actors included humiliation, physical and sexual violence**
- **LGBT persons are vulnerable in family life**

54.4% of LGBT respondents to a 2005 survey said they had experienced prejudice or had been exposed to discrimination on the basis of their sexual orientation (26). Of those who said they did not conceal their sexual orientation, 76.3% reported experiences of discrimination (27). Of individuals reporting experiences of discrimination, 42.8% reported at least one violation of their rights to confidentiality and privacy; 23.4% reported that information on their sexual orientation was disclosed without consent (32).

Private actors were frequently cited as agents of discrimination. 40% of respondents reported “subjection to moral pressure, humiliation or insults” (40). 6% reported exposure to sexual harassment and 9.1% reported physical violence; sexual violence at

the hands of private actors was also reported (40-41). It was also common for family members to disown LGBT members (65-66).

- **LGBT-related discrimination appears to be common in the labour sphere and has encompassed harassment and physical and sexual violence**

Of the 417 respondents who were employed or tried to gain employment in the last few years, 78.2% indicated “they faced certain violations of their rights, discrimination, and/or prejudice in the workplace” (33). 35% of respondents also reported harassment by colleagues, including sexual harassment, physical violence and rape (33-34).

- **LGBT persons frequently report rights violations by law enforcement**
- **These violations range from the procedural to refusals to investigate to physical and sexual violence**

283 respondents reported encounters with law enforcement and, of these, 61.5% noted “some violation of their rights” (35). The most common violations are procedural (34.3%) but 11.3% of respondents reported the use of torture during interrogation (36). 8.9% reported police refusal to investigate rights violations, 19.1% reported coercion to identify other homosexuals, 12% claimed administrators has refused to prosecute a perpetrator, 11.3% complained that a complaint about a violation was unconsidered, 4.2% reported prejudicial actions of officers of the court and 1.4% reported violations of court procedure (36). When respondents had interacted with law enforcement, 55.8% stated they were subject to moral pressure, 8.1% to sexual harassment, 19.1% to physical violence and 2.5% to sexual violence (37).

- **Many LGBT individuals report discrimination in the educational sphere**

Of the 324 respondents who had recently pursued studied, 27.7% were educationally discriminated against (37). Of persons whose orientation was known, only 10.8% stated they were not subject to discrimination or prejudice (37). Violations included subjection to moral pressure, humiliation, insults sexual harassment, physical violence and sexual violence (37).

- **Health care, service and business sectors are also sites of discrimination**

In the health care sector, 16.6% of respondents reported experiences of discrimination (39). 22.5% of respondents “who indicated that they had dealings with the service industry mentioned that they had encountered prejudice in this sphere” (39). Some reported denial of services or refusal of accommodation (39). LGBT persons also faced discrimination in the business community (40).

- **LGBT Ukrainians who experience rights violations frequently do not take action to secure their rights**
- **When action is taken, many individuals are not successful**
- **Lack of effective mechanisms for the protection of the rights of LGBT Ukrainians**

Of respondents who reported a rights violation, 48.4% took no action (42). Of respondents who did take action, 48% informed the violator that their rights had been violated, 20.6% applied to the police for defence, 10.9% to the administration of the establishment for which the violator worked, 9.3% appealed to a social organization and 10.5% filed a suit or complaint (42). 26.8% “indicated that they applied other methods to rectify a violation of their rights,” including physically violent action (43). 35.9% reported that their attempts to defend their rights were unsuccessful. According to the report, effective mechanisms for the protection of the rights of sexual minorities are “non-existent” (44).

- **Both the Ukraine Constitution and other pieces of legislation do not sufficiently ensure and protect the rights of LGBT Ukrainians**

The Ukraine Constitution and other Ukrainian legislation, the Nash Mir report states, do not provide sufficient procedures “for the protection or restitution of violated rights of” LGBT Ukrainians (66). Because neither the Constitution nor any other pieces of legislation “define the legal status” of LGBT Ukrainians, Nash Mir asserts, this group “lack[s] the real opportunities to fulfil their specific needs and demands, and because of the lack of the full opportunity to enjoy their rights and freedoms, they are also hindered from fulfilling their responsibilities to the state” (65).

- **Nash Mir Gay and Lesbian Centre conducts interviews demonstrating rights violations**
- **Consumer rights of LGBT restaurant patrons violated in Kiev**
- **Dentist ejected two lesbians from his clinic despite having already commenced the procedure**

The Nash Mir report also conducted a series of interviews documenting particular instances of rights violations of LGBT Ukraine citizens. The consumer rights, for example, of LGBT Ukrainians have been violated. One individual stated that he have been ejected in March 2002 from a Kiev restaurant when patrons objected to the presence of gay patrons. In 2004, a dentist, according to one testimony, ejected a lesbian couple from his clinic; the member of the couple had already received an anaesthetic injection by the time the dentist learned of their sexuality (92-93).

- **Testimonies show that LGBT Ukrainians are vulnerable to humiliation, harassment, beatings, blackmail and unfair dismissal in the workplace**

One interviewee testified that, when her employer began to suspect she was lesbian, he began a campaign of harassment that resulted in the dismissal of the employee without payment of the balance of her wages (71). Another interviewee was refused a promotion unless he made a heterosexual marriage and was eventually forced to resign due to his homophobic working environment (73). The interviewee had “no avenues by which to lodge a complaint” (73). A transsexual, in 2001, also reported being dismissed when her employer in Poltava became aware of her gender identity (75). One gay man, in Lugansk, was also dismissed when another employee apprised the manager of the interviewee’s sexuality; the employer notified the man that he would ensure that he

would be unable to find work in the city (77). When one participant in Nash Mir's study became the object of homophobic complaints, he was compelled by his superiors to vacate his position as a dance instructor (80). According to Nash Mir, "all opportunities to apply for work in governmental and municipal arts" became closed to him (80). Another interviewee worked as a teacher until, in late 2001, the school principal learned of his sexual orientation (84). The principal threatened to publicize the interviewee's sexuality, note it on his teaching record and accuse him of child molestation unless he submitted his resignation (84). To "avoid a repeat of [this kind of] situation", the interviewee left the teaching profession (84).

Harassment by fellow employees also affected the rights of LGBT Ukrainians to work. One effeminate interviewee was humiliated, physically threatened and beaten by co-workers until he resigned in summer 2003 (80-81).

- **Testimonials show harassment by teachers and supervisors**

One student, at the Lugansk Taras Shevshchenko Teacher's University, was repeatedly failed by his physics teacher on the basis of the teacher's stated belief that "people of perverse sexual orientation should not be teachers" (74). The student was suspended in 2002 for "academic failure" (74). A graduate student in Kharkov was also harassed by his supervisor who broadcasted his sexuality to other faculty members and students and attempted to blackmail him (85). The professor informed the interviewee that he would not be able to find a career "in light of his reputation" and threatened to notify any future employers about his sexuality (85).

- **Testimonial shows mistreatment of LGBT Ukrainians by police including wrongful detention, harassment and sexual assault**

In September 2004, after leaving a gay club in Kiev, two gay men were beaten and robbed by four men (71-72). When they reported the matter, they were taken to a local police station where they were ridiculed on the basis of their sexual orientation and locked in a holding cell "until 'circumstances were clarified'" (72). They were released "without any statement" regarding the robbery or beating having been taken (72). In May 2002, two openly gay men were wrongfully detained by police in Southern Ukraine on suspicion of murder and were only released by the efforts of Kiev-based journalists (78). The men "removed" charges when a prosecutor promised to dismiss the police who had detained them (79). In 2000, a teenager in Cherkass was identified as gay by a police officer who then raped the young interviewee (82). A transsexual also reported that, in 2001, she was detained by police and subjected to physical and sexual force (93). Police in Dnipopetrovsk, according to one testimony, also kept an album of personal information about members of the homosexual community in the city (95).

- **Testimonials also revealed that LGBT Ukrainians, even in tolerant areas such as Kiev, were subject to eviction on the basis of their sexual orientation**

Another interviewee was evicted, in 2003, from his apartment in Kiev when his landlady discovered he was gay (76). She stated that, because she shared a bathroom and kitchen

with the interviewee, she might contract HIV or another STI from him (76). Another gay couple were forcefully evicted, on a day's notice, when their landlord discovered them in bed together (86).

Ukrainian Helsinki Human Rights Union

1. Ukrainian Helsinki Human Rights Union, "Ukrainian State and society against gays and lesbians: a brief report for 2008," *Ukrainian Helsinki Human Rights Union*, online: <<https://helsinki.org.ua/en/index.php?print=1234346434>>.

- **Film about same-sex relationship deemed in breach of law on protection of public morality**
- **Sexual orientation is not prohibited grounds of discrimination in new draft of Code of Labour Laws; author considered homosexuality an illness**
- **MPs and Head of Secretariat of Parliamentary Committee sign letters denouncing the gay rights movement**
- **Action plan by LGBT NGO ignored**
- **LGBT publication under criminal investigation by Kyiv Prosecutor's Office**

In February 2008, the National TV and Radio Broadcasting Council prohibited the showing of a film about a same-sex relationship except between 23.00 and 6.00. It did so on the advice of the National Expert Commission for the Protection of Public Morality who asserted the film "could cause harm to people's physical, intellectual and moral—psychological state, including that of children and young people." Two members of parliament, in March 2008, write letter denouncing the gay rights movement as a threat to national security. Head of Secretariat of the Parliamentary Committee also signs a similar letter. In May 2008, the anti-discrimination article in the new draft Code of Labour Laws was read and did not "include sexual orientation as prohibited grounds for discrimination; one of the author stated in an interview "that he considered that homosexuals are in breach of all moral norms, and that homosexuality is an illness." In September 2008, an action plan prepared by the Ukrainian Organization of Lesbians and Gays receives no constructive responses. In February 2008, an LGBT-oriented publication is subject of criminal investigation by the Kyiv Prosecutor's Office; although heterosexual pornographic magazines are freely distributed, the paper is charged with Article 301 of the Criminal Code (distributing pornography).

ILGA-Europe

1. ILGA-Europe, "Nikolev local authorities ban action commemorating International Day Against Homophobia," (16 May 2008) online: <http://www.ilga-europe.org/europe/guide/country_by_country/ukraine/nikolaev_local_authorities_ban_action_commemorating_international_day_against_homophobia>.

- **LGBT NGO prevented from holdings peaceful anti-homophobic event**
- **Local authorities cite appeals by religious groups and fears of disturbance of the civil order**

Although the Ukrainian laws do not require approval by local authorities for “informational actions”, the Nikolaev Association for Gays, Lesbians and Bisexuals were prevented from carrying out such an event in commemoration of the International Day Against Homophobia. The written notification issued to the LGBT group noted appeals against the event by leaders of religious groups who represented ten of thousands of parishioners in the area. The notification states that the action would create a threat to civil orders, disturb public peace and incite mass riots and conflicts.

Media Reports Detailing Rights Abuses of LGBT persons in the Ukraine

1. Interfax, “Gays and lesbians hold congress near Kiev” (1 June 2009), online: <<http://www.interfax-religion.com/?act=news&div=6083>>.

- **Budget of LGBT-oriented social services is substantial in Ukraine with services going to thousands of gays and lesbians**

66 gays and lesbians representing 18 Ukrainian regions, 25 cities, 27 organizations and 10 groups met in Kiev with 17 delegates from partner organizations in Russia and Belarus. The agenda addressed sexual health, discrimination of rights, lacks, activity of Ukraine’s 5 LGBT public centres, education, planning, fundamental documents of the LGBT movement and interaction with opponents.

“The budget of social services offered to gays and lesbians is rather substantial in Ukraine, Sheremet said. In his words, such services are given to thousands of gays and lesbians.”

2. Amnesty International, “Mixed weekend for LGBT Marchers,” us.oneworld.net (18 May 2009), online: <<http://www.asylumlaw.org/docs/sexualminorities/LatviaRussia051809.pdf>>

- **Municipal authorities in Myklovyiv ban LGBT public events**

“Municipal authorities in Mykloayiv City, Ukraine, banned LGBT groups from holding public events as part of a “Rainbow spring 2009” festival for the second year running. The organizers had planned to mark International Day Against Homophobia on Sunday.”

3. Rex Wockner, “Kiev gay bar raided,” *International News #783* (27 April 2009), online: <<http://www.asylumlaw.org/docs/sexualminorities/UkraineRex042709.pdf>>.

- **Under dubious guise of investigating a murder, 80 gay men at a club are detained, taken to a police station and fingerprinted**

Officers from the Ukraine’s Ministry of Internal Affairs invaded gay club under the guise of investigating the murder of a gay male. 80 persons were detained, taken to a police station, subjected to “rude and offensive treatment” and “force”, fingerprinted, photographed and “ordered to sign a letter stipulating that they had no problems with how they were treated by the officers.” Because police already had a photo of the murder suspect, the Council of LGBT Organizations of Ukraine claimed, the real motive of the

operation “was not to identify the personality of the murderer but to threaten the LGBT community and collect personal data on visitors of the gay club.”

4. Hilary White, “Ukraine: ‘Homosexuality does not Correspond to Moral Principles of Society,’” *LifeSiteNews* (3 August 2008), online:

<<http://www.asylumlaw.org/docs/sexualminorities/Ukraine080308.pdf>>.

- **Parliamentary committee characterizes the gay rights movement as a threat to national security, in contradiction with national interests**
- **Only 15% of Ukrainians support gay rights movement**

The Committee on the Issues of Freedom of Speech of the Ukrainian Parliament stated that “the state must oppose the increasing promotion of ‘homosexuality, lesbianism, other sexual perversions, which do not correspond to moral principles of the society.’” The parliamentary committee characterized the promotion of homosexuality as a “threat to national security”, in “contradict[ion with] national interests” and subversive of “the authority of rights and freedoms of human beings and family.” In the staunchly Christian country, according to a recent poll, only 15% of the public were in support of the LGBT movement.

5. Rex Wockner, “Activists denounce prosecution of Ukrainian gay newspaper,” (7 April, 2008), online:

<<http://www.asylumlaw.org/docs/sexualminorities/UkraineRex040708.pdf>>.

- **Gay publication charged with distributing pornography**

The International Gay and Lesbian Human Rights Commission and the International Lesbian and Gay Association-Europe protested the criminal charges launched by the Kiev Public Prosecutor against an LGBT publication. Article 301, with which the publication is charged, prohibits the distribution of pornography.

6. PinkNews.co.uk, “Ukrainian gay paper faces criminal charges,” (31 March 2008), online: <<http://www.asylumlaw.org/docs/sexualminorities/Ukraine033108.pdf>>.

- **Kiev Office of Public Prosecutor charges LGBT publication with pornography**
- **The newspaper deals with many other issues, apart from pornography**
- **Although the paper’s distribution is extremely limited, newspaper kiosks selling similar heterosexual-oriented material have not been issued charges**

The publication of Nash Mir, the Ukraine’s oldest LGBT NGO, is criminally charged with the distribution of pornography by Kiev’s public prosecutor. The newspaper, the only publication catering to Ukrainian LGBT persons, “publishes articles about the life of homosexuals, provides legal and psychological counseling, places personals from gays and lesbians, and also has erotic pictures and articles.”

The paper is distributed to readers in the gay community and is not accessible to a wider readership: it is posted in “sealed envelopes to a closed list of subscribers”. In contrast, pornographic publications catering to heterosexual men can be purchased at newspaper

kiosks. In December 2007, the National Expert Commission of Ukraine on the Issues of Public Morality deemed the LGBT publication pornographic; newspaper kiosks selling heterosexual erotica, however, “have an ‘OK’” from the National Expert Commission.

7. Rex Wockner, “Ukrainian Parliament human-rights chief denounces gays” (19 February 2007), *International News*, online: <www.asylumlaw.org/docs/sexualminorities/UkraineRex021907.pdf>.

Leonid Grach, head of the Committee on Human Rights, National Minorities and International Relations, called homosexuality an “‘evil’” from which Parliament must defend society.

8. Prima News, “City Council in Ukraine Bans Homosexuals,” (15 November 2006), online: <<http://www.asylumlaw.org/docs/sexualminorities/Ukraine111606.pdf>>.

- **City Council bans performances by LGBT artists**

City Council members in Ternopol, Ukraine enacted a city ban on LGBT performers when a gay Moscow performer visited to perform in a concert. Council members said the performer “‘ignores common human morals’” and said that “‘the influence of Moscow homosexuals may create the same negative situation as exists in The Netherlands, ‘where homosexuals are trying to play a leading role in the country’s parliament.’”

9. Novomedia.org, “Ukrainian Scholars Criticize Homosexuality on Biblical Grounds,” (26 December 2005), online: <<http://www.asylumlaw.org/docs/sexualminorities/Ukraine122605.pdf>>.

Scholars of the Ukrainian Academy of Sciences released, on 23 December 2005, a protest against homosexuality, lesbianism, pedophilia and same-sex marriage. The statement cited several biblical passages, denounced current scientific theories of homosexuality and labelled homosexuality a social evil.

10. Rex Wockner, “Ukrainians protest homophobia” (23 December 2005), *International News*, online: <<http://www.asylumlaw.org/docs/sexualminorities/20080613143721.pdf>>.

Ukrainian LGBT activist protest homophobia and picket university from which a student was expelled, allegedly on grounds of his sexuality. Students from the same university’s Military Cossack Institute held a counter-protest.

11. “Protest action against homosexuality was held in Kiev,” (19 September 2005), *forUm*, online: <<http://www.asylumlaw.org/docs/sexualminorities/Ukraine020806.pdf>>.

The Ukrainian group, “Love Against Homosexuality”, led a protest action in Kiev against homosexuality and distributed 3,000 leaflets.

12. Tomek Kitlinski, “New Ukraine, Old Homophobia”, *The Gully* (28 January 2005), online: <http://www.thegully.com/essays/gaymundo/050128_electio_gay_ukraine.html>.

- **Gay activist reports physical attacks across Ukraine**
- **Mob attack on 2003 Pride parade**

According to gay activist Vladislav Topchek, physical attacks on LGBT persons pervade the Ukraine and, in terms of levels of homophobia, there was no difference between the industrial, largely Russian-speaking eastern Ukraine, and the pro-European Community, Catholic western part of the country.

On September 21, 2003, a mob attacked a gay pride parade carrying signs reading “Deviants Get Out of Ukraine” and “*Homiki* are the cause of AIDS.” One of the parade organizers, Natalia Nahorna, stated that the LGBT community is “totally excluded from Ukrainian politics.”

13. Nash Mir, “Nash Mir Group is Violently Protested at UN INFO Fair,” (22 September 2003), online:

<[http://www.asylumlaw.org/docs/sexualminorities/Ukraine%20CU%20\(SO\).pdf](http://www.asylumlaw.org/docs/sexualminorities/Ukraine%20CU%20(SO).pdf)>.

- **Violent homophobic protest in Kiev at human rights information fair**

At an information fair in Kiev operating under the aegis of the UN, a group of twenty hoodlums threatened and then attempted to demolish a booth occupied by a leading LGBT NGO. The NGO’s coordinator was injured. Police entered the conflict before it could escalate. A picket was then formed by the NGO’s information stand; picketers uttered extremely homophobic remarks.

14. Nash Mir, “New Community Centre for Lesbian and Gay People in Lugansk is Harassed by Unlawful Acts Aimed at Rejecting them” (24 September 2001), online:

<[http://www.asylumlaw.org/docs/sexualminorities/Ukraine%20CU%20\(SO\).pdf](http://www.asylumlaw.org/docs/sexualminorities/Ukraine%20CU%20(SO).pdf)>.

In Lugansk, a landlord evicted its tenant, an LGBT community centre less than one month after its opening. The group was offering HIV prevention services to gay and lesbian individuals and was serving as a community centre.

15. Rex Wockner, “Ukrainian Authorities Pick on Gay Group,” *International News* (22 May 2000), online:

<[http://www.asylumlaw.org/docs/sexualminorities/Ukraine%20CU%20\(SO\).pdf](http://www.asylumlaw.org/docs/sexualminorities/Ukraine%20CU%20(SO).pdf)>.

The Ukrainian Tax Inspection Agency ruled that a Ukrainian LGBT NGO must pay 30% tax on its grants “because it does not engage in educational, cultural, scientific and health-care activities.” The NGO claims that its grants ought to be tax free because it performs these very services.

16. Evgenia Mussuri, “Police Raid Kyiv Clubs,” *Kyiv Post* (28 October 1999), online:

<[http://www.asylumlaw.org/docs/sexualminorities/Ukraine%20CU%20\(SO\).pdf](http://www.asylumlaw.org/docs/sexualminorities/Ukraine%20CU%20(SO).pdf)>.

Police raided a gay Kyiv nightclub called the Cage and a straight club called Al Capone. They used excessive force, took personal details.

Part II: Rights abuses of children in Ukraine

Government Reports

Canada

1. Immigration and Refugee Board of Canada, *Domestic Violence in the Ukraine*, (September 2008), online: <<http://www.irb-cisr.gc.ca/en/research/rir/?action=record.viewrec&gotorec=451003>>.

- **Organizations existing to counteract domestic violence (crisis centres, shelters and bodies that enforce protection orders) exist**
- **Law on Preventing Family Violence does not compel perpetrators of violence to leave family home**
- **Victims may seek compensation**

"The 2001 Law on Preventing Family Violence lists the organizations that are involved in the fight against domestic violence, such as crisis centres, shelters and the bodies that enforce protection orders (OSI 2006). While the law prohibits perpetrators of violence from re-offending, it does not force them to leave the family home (OSI 2006). However, the Housing Code provides for tenants who regularly violate "the rules of living together" to be evicted from municipally-owned housing (ibid.). Currently, the Civil Code allows for the possibility of victims to seek financial damages if they have been the victim of a crime, and a Bill on Compensation of Victims of Violent Crimes has been drafted, although it is yet to be passed (ibid.)."

- **Persons threatened with domestic violence may submit verbal or written reports to the local branch of the Committee on Youth and Family Affairs of Ukraine, Local Department for Youth and Family Affairs, Neighborhood police and local department of juvenile criminal police**

Under the Procedure for Consideration and Review of Reports of Acts or Threats of Domestic Violence (an April 2003 decree by Ukraine's Cabinet of Ministers), persons who are threatened with domestic violence may submit a verbal or written report to the following authorities:

1. Local branch of the Committee on Youth and Family Affairs of Ukraine;
2. Local Department for Youth and Family Affairs;
3. Neighborhood police officer; or
4. Local department of juvenile criminal police. (stopVAW 11 Apr. 2006)"

- **Although no section of the national budget is specifically designated to address domestic violence, the state allocates funds to NGOs**

"The Ministry of Family, Youth and Sports Affairs is responsible for gender issues, including the prevention of domestic violence (OSI 2006). In 2004, the government issued a decree establishing tighter cooperation between government institutions in the fight against domestic violence (stopVAW 10 Apr. 2006, 3). There is no section of the national budget specifically designated to alleviate domestic violence, although the state

does set aside funds to support non-governmental organizations (NGOs) involved with "children, youth, women [and] family" (OSI 2006)."

United States of America

1. Bureau of Democracy, Human Rights and Labor, *2007 Human Rights Reports: Ukraine*, online: <<http://www.state.gov/g/drl/rls/hrrpt/2007/100590.htm>>.

- **Ministry of Interior reports 8,209 underage victims of crime including 132 victims of rape, 52 victims of intentional bodily injury and 46 victims of trafficking**
- **In 2006, Ministry of Interior issued 1.5 million official warnings with regard to domestic violence**
- **Complaints related to child prostitution, child pornography and molestation**
- **Police often did not investigate parents who alleged abused their children**

"Children continued to be victims of violence and abuse. During the year the MOI [*Ministry of Interior*] cited over 8,209 underage crime victims, of whom 132 were rape victims, 52 suffered from intentionally inflicted bodily injuries, and 46 were victims of human trafficking. In 2006 the MOI cited 80,000 families for violence against children, issued approximately 1.5 million official warnings with regard to domestic violence, and initiated over 1,000 criminal cases concerning child abuse. There were also many complaints of abuse of children related to child prostitution, pornographic video sales, child molestation, and illegal child labor. Police often did not investigate parents who allegedly abused their children.

Human rights organizations reported police violence against minors, including sexual violence. For example, in April 2006 the Zaporizhzhya regional prosecutor initiated a criminal case against police officers for the illegal detention and rape of a child. At year's end the investigation was ongoing. There also were numerous cases of teachers abusing children. In 2006 the prosecutor's office in Kherson opened a criminal case against a teacher at a boarding school accused of slamming the head of a sixth-grader against a desk and beating two other pupils outside of class hours."

2. Bureau of Democracy, Human Rights and Labor, *2006 Human Rights Reports: Ukraine*, online: <<http://www.state.gov/g/drl/rls/hrrpt/2006/78846.htm>>

- **NGOs report that police often do not investigate parents who allegedly abuse their children; in Kirovhrad, the local prosecutor initiated a criminal case against such an officer**
- **Police officers reported to have committed acts of violence (including sexual violence) against minors**
- **Numerous cases of teachers abusing children**

"Children continued to be victims of violence and abuse. In 2006 the Ministry of Internal Affairs cited over 80,000 families for violence against children, issued approximately 1.5

million official warnings with regard to domestic violence, and initiated over 1,000 criminal cases concerning child abuse. There were also many complaints of abuse of children related to child prostitution, pornographic video sales, child molestation, and illegal child labor.

According to NGOs, police often ignored legal requirements and did not investigate parents who allegedly abused their children. For example, a police inspector in Kirovohrad region refused to initiate a criminal case against a father who beat his child regularly and did not remove the child from the father. The local prosecutor initiated a criminal case against the police officer.

Human rights organizations reported police violence against minors, including sexual violence. For example, in April the Zaporizhzhya regional prosecutor initiated a criminal case against police officers for the illegal detention and rape of a child. At year's end, the investigation was ongoing.

There also were numerous cases of teachers abusing children. The prosecutor's office in Kherson started a criminal case against a teacher at a boarding school accused of slamming the head of a sixth-grader against a desk and beating two other pupils outside of class hours. Human rights organizations reported similar incidents in Vinnytsya, Khmelnytsky and Chernivtsi."

3. Bureau of Democracy, Human Rights and Labor, *2005 Human Rights Reports: Ukraine*, (8 March 2006), online:
<<http://www.state.gov/g/drl/rls/hrrpt/2005/61682.htm>>.

- **43% of minors, according to newspaper poll, report they have been victims of some kind of violence**
- **Although government is publicly committed to defending children's rights, budgetary considerations severely limit its ability to ensure these rights**
- **In 2002, 300 criminal cases of parental neglect**
- **In Donetsk, 2 adults sentenced for forcing 11 foster children to work in mine**
- **In 2004, 6,200 parents fined for abusing children**
- **Commercial sexual exploitation of children remains a problem**

Children continued to be victims of violence and abuse. The Voice of Ukraine newspaper reported that, in response to a January 2004 poll by the State Institute of Family and Youth, 43 percent of minors said that they had been victims of some form of violence.

"The government was publicly committed to the defense of children's rights, but budgetary considerations severely limited its ability to ensure these rights. Few government bodies or NGOs aggressively promoted children's rights, except for a small number of faith-based organizations that primarily worked with orphans and street children. [...]

During 2003, 300 criminal cases were opened against parents for neglect of parental duties. The majority of complaints of abuse of children related to child prostitution, pornographic video sales, child molestation, and illegal child labor. For example, the media reported on February 9 that 2 adults in the Donetsk Region town of Snizhne were given suspended 4-year prison sentences for forcing their 11 foster children to work in an illegal coalmine. The MOI [Ministry of Interior] reported that during 2004, 6,200 parents received administrative sanctions, predominantly in the form of fines, for abusing their children. [...]

The commercial sexual exploitation of children remained a serious problem. According to domestic and foreign law enforcement officials, a significant portion of the child pornography available on the Internet continued to originate in Ukraine."

Non-governmental Organization Reports

ILGA-Europe/International Gay and Lesbian Youth Organization

1. Judit Takács, *Social exclusion of young lesbian, gay, bisexual and transgender (LGBT) people in Europe* (April 2006), online:

<<http://www.iglyo.com/content/files/2006-Report-SocialExclusion.pdf>>.

- **Testimonial of 20 year old Ukrainian male detailing taunting, verbal abuse, threats of physical violence and death and threats with a knife**

I have come across random people who were hostile to me. This includes taunting, verbal abuse, threats of physical violence and death, and in one instance a knife was pulled on me while walking home alone. People, who perceived I was gay, yet did not know me, did these things. ... These encounters were awkward, made me feel belittled, nervous and ostracized. ... The fact that such encounters have happened to me at all make me upset, and shows a layer of prejudice that exists (how large this is I don't know) but I count myself lucky that no physical harm has ever befallen me. (Ukraine M20)

Representing Children Worldwide

1. Representing Children Worldwide, *Ukraine* (November 2005), online:

<<http://www.law.yale.edu/rcw/rcw/jurisdictions/euroe/ukraine/frontpage.htm>>.

"Ukraine ratified the Convention on the Rights of the Child on February 27, 1991. [...] the Convention forms part of the Ukrainian law."

"A child who has been subject to abuse or neglect in Ukraine has the right to apply for protection from child protection services or other local government authorities. The Guardian and Care departments of each local District Education Department are the child protection agencies of Ukraine. A child who is 14 years old can apply directly to the court to protect her interests. A Ukrainian child has the right to be heard by state officials

on any matter relating to the child. A child capable of expressing her views must be heard by the court in any proceeding relating to the child's care, place of residence or termination or restoration of parental authority. The court in an abuse and neglect proceeding will rule in the best interest of the child even if the decision contradicts the child's wishes.

In Ukraine, a petition to remove a child from her parents because of abuse or neglect is accompanied by a written statement from the Guardianship and Care department of the local District Education Department. A judge decides whether to remove an abused or neglected child from her family. The court is statutorily required to consult the child on her wishes during the proceedings. The child's wishes may also be represented by a third party such as a representative of the Guardian and Care department. The court then decides based on the child's best interests. The child is required to be represented during the removal proceedings. The court's decision to remove a child from her parents terminates all of the parents' rights and responsibilities with regard to the child except their material support.

All Ukrainian children are guaranteed equal access to free legal assistance by the state."