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# Majority-Minority Relations in the Ukraine

Oleh Protsyk

## Abstract

Majority–minority relations in Ukraine, as in any other country, are a complex phenomenon. What differentiates the Ukrainian case from many old polities and from some recently established ones is that the identities of both majority and minority groups probably have been settled to a much lesser degree than is usually the case in Europe. The process of defining what it means to be a majority or a minority group in Ukraine goes along with all the other identity-related processes that a newly independent country has to face. The fact that the identity of both majority and minority is still ‘in the making’ has numerous implications for how the Ukrainian state positions itself with regard to various international standards and mechanisms of minority protection and how international bodies—both intergovernmental and nongovernmental—approach the issue of Ukraine’s adherence to these standards and mechanisms.

This article begins with a short discussion on efforts to define ‘majority’ and the effect that these efforts have on the position of a group that hesitantly came to occupy the status of the country’s largest minority group, namely, ethnic Russians. It then structures the subsequent presentation by identifying and analysing the most salient issues related to the general aspects of relations between Ukraine’s majority and minority groups. The article also examines the extent to which these issues have been addressed, or have the potential to be addressed, through the framework of the international regime for minority governance that is currently under construction at the European level.

As recent studies on EU accession conditionality have shown, there is substantial variation in how conditionality on minority matters was applied to individual candidate states in the last wave of EU enlargement and in how these candidate states approached the question of their obligations towards their national minorities.<sup>1</sup> This experience, as well as the lack of short-term prospects for Ukraine to acquire the status of an accession candidate, suggests that the country’s engagement in various aspects of an international regime of minority governance will proceed on principles of voluntary cooperation rather than strict conditionality.

Substantive issue areas discussed in this paper have, over the years of Ukraine’s independence, acquired a high degree of salience in public discourse. They were highlighted further during the course, and in the aftermath, of the dramatic November–December 2004 events, commonly referred to as the ‘Orange Revolution’. A substantial increase in the degree of political pluralism and civic

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<sup>1</sup> G.J. Kelley, *Ethnic Politics in Europe: The Power of Norms and Incentives* (Princeton University Press, Princeton, 2004); G. Sasse, “Minority Rights and EU Enlargement: Normative Overstretch or Effective Conditionality?”, in: G.N. Toggenburg (ed.), *Minority Protection and the Enlarged European Union: The Way Forward*, (Local Government and Public Service Reform Initiative, Open Society Institute, Budapest, 2004), 59–84.

activism are among the main undisputed achievements of the Orange Revolution.<sup>2</sup> This increase could not avoid having a direct bearing on public discussion of majority–minority relations. Informed by this discussion, this chapter concerns itself with the following issues: the administrative-territorial structure of the state and issues of federalism, the effective participation of minorities in public life, language use and language policy, and problems of indigenous status and non-recognition.

As in many other countries in the post-Soviet space, security concerns—defined here in terms of preoccupation with the issues of sovereignty, internal stability, and territorial integrity—have been a very important factor in government decision making on minority-related issues. Although not always articulated explicitly, the fear of separatism, secession, country breakdown and disintegration has shaped the state’s perception of minority issues. Throughout the chapter, efforts are made to illustrate how security-based concerns have shaped policies in specific minority-related areas. It is also argued that the desecuritization of some minority problems by the Ukrainian state can be achieved fully only after the process of Ukraine’s integration into the Euro-Atlantic structures (NATO and the EU), is on a firm footing. In other words, Ukraine’s full incorporation into the multi-layered international regime of minority protection might come as a result rather than as a precondition of its integration into the Euro-Atlantic structures.

## I. CONTESTED DEFINITIONS OF MAJORITY

While 67.5% of respondents in the 2001 national census, and more than 60%, on average, in independently conducted annual representative surveys, routinely chose to state that their native language was Ukrainian,<sup>3</sup> it was still impossible to see a movie dubbed in Ukrainian in the theatre or to find more than a few Ukrainian-language periodicals on a newspaper stand or

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<sup>2</sup> V. Stepanenko, “How Ukrainians View Their Orange Revolution: Public Opinion and the National Peculiarities of Citizenry Political Activities”, 13 *Demokratyzatsiya* (2005), 595–616.

<sup>3</sup> For discussion of census questionnaire and interpretation of responses see D. Arel, “Interpreting Nationality and Language in the 2001 Ukrainian Census”, 18 *Post-Soviet Affairs*: (2002), 213–249; and G. Uehling, “The First Independent Ukrainian Census in Crimea: Myths, Miscoding and Missed Opportunities”, 27 *Ethnic and Racial Studies* (2004), 149–170. Results of the annual surveys can be found in N. Panina, *Ukrains'ke suspil'stvo 1994-2005: sotsiologichnyi monitorynh* [Ukrainian Society 1994–2005: Sociological Monitoring] (Sophia, Kiev, 2005).

Ukrainian-language books in a bookshop.<sup>4</sup> These examples explain some of the frustrations articulated by a number of Ukrainian language rights activists regarding the cultural environment of the ethnic Ukrainian group, a numerical majority in the country.<sup>5</sup> These activists advocated policies aimed at language revival and pointed to the plentiful evidence of historical discrimination against the Ukrainian language. They cited studies that had meticulously documented a large number of legislative and administrative restrictions and bans on the use of the Ukrainian language in one or another sphere of public life in the Russian empire throughout the pre-1917 period, a set of Soviet-era policies aimed at Russification of educational and governmental institutions,<sup>6</sup> and the social consequences of these policies in terms of limiting the upward mobility of ethnic Ukrainians.<sup>7</sup>

Efforts to revive the Ukrainian language are only one aspect of the continuing struggle over competing definitions of what constitutes a majority in Ukraine. The core of this struggle centres over the content of the ethnic identity of the majority group. As we now better understand, successful national identity projects have been based primarily on a combination of civic and ethnic components.<sup>8</sup> Although the distinction between civic and ethnic components increasingly has been questioned,<sup>9</sup> it provides a useful heuristic device for various analytical purposes. While what is conventionally described as the civic component of

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<sup>4</sup> The share of Ukrainian-language books is estimated to vary between 10% and 25%. See O. Kuts, *Language Policy in the Ukrainian State-Building Process* (Kharkiv National University, Kharkiv, 2004); and “Editorial: Braty za yazyk, *Day*, 29 January 2005: at 15. A discussion of the causes and consequences of the weak presence of the Ukrainian language in the media in general and its almost entire absence from the movie distribution industry may be found at ‘Telekrytyka’, a leading Ukrainian website on issues of electronic mass media. See, for example, R. Horbyk, “Kina ne bude z 1 veresnia? [No Movies After September 1<sup>st</sup>?]”, *Telekrytyka*, 26 January 2006.

Available at <http://www.telekritika.kiev.ua/articles/128/0/6543/>.

<sup>5</sup> The 2001 census gives the following details on the ethnic composition of Ukraine: 37.5 million Ukrainians (77.8%); and 8.3 million Russians (17.3%). The distribution of other ethnic groups was as follows: Belorussians, Moldovans, Crimean Tatars, Bulgarians, Hungarians, Romanians, Poles and Jews number between 100,000–300,000 each; Armenians, Greeks, Tatars, Roma, Azerbaijanis, Georgians, Germans and Gagauzians between 30,000–100,000 each; and Estonians, Kurds, Karaims, Komi-Permiars, Kyrgyz and others less than 30,000 each. For these figures, see the web site of the State Statistics Committee of Ukraine, at <http://www.ukrcensus.gov.ua>.

<sup>6</sup> I. Dziuba, *Internationalism or Russification? A Study in the Soviet Nationalities Problem* [ed. by M. Davies; translated from the Ukrainian] (Weidenfeld and Nicolson, London, 1968). On the ambiguities of Russification see A. Kappeler, “The Ambiguities of Russification”, 5 *Kritika* (2004), 291–297.

<sup>7</sup> B. Kravchenko, *Social Change and Consciousness in Twentieth Century Ukraine* (Macmillan Press, London, 1985).

<sup>8</sup> I draw here largely on the works of Stephen Shulman and Tars Kuzio. See, for example, S. Shulman, “The Contours of Civic and Ethnic National Identification in Ukraine”, 56 *Europe-Asia Studies* (2004), 35–56; and T. Kuzio, “The Myth of the Civic State: a Critical Survey of Hans Kohn’s Framework for Understanding Nationalism”, 25 *Ethnic and Racial Studies* (2002), 20–39.

<sup>9</sup> See R. Brubaker, “The Manichean Myth: Rethinking the Distinction between ‘Civic’ and ‘Ethnic’ Nationalism.” in: H. Kriesi *et al.* (eds.), *Nation and National Identity: The European Experience in Perspective* (Ruegger, Chur, 1999). Reprinted as Chapter 6, “‘Civic’ and ‘Ethnic’ Nationalism in R. Brubaker, *Ethnicity Without Groups* (Harvard University Press, Cambridge, MA, 2004), 132–146.

identity is less controversial in the context of the ethnic Ukrainian majority group—there is general consensus in Ukraine with regard to issues of statehood, citizenship, political institutions and the practices of a new state—much less agreement exists as to the content of the ethnic component.

The variation in current attitudes towards the content of the ethnic Ukrainian identity could be summarized usefully through the construction of Weberian-like ideal types representing the key alternative options. Shulman defines two major competing conceptions of the Ukrainian ethnic identity: the ethnic Ukrainian and Eastern Slavic conceptions.<sup>10</sup> The unifying features of the ethnic Ukrainian identity are the Ukrainian language and culture. Its core beliefs include preference for Ukrainian language, culture, history and symbols. This type of identity frequently is associated in the literature with concepts such as indigenism, colonialism and Russification. However, the term ‘ethnic Ukrainian identity’ is criticized frequently by some leading Ukrainian intellectuals who see it as emphasizing the exclusiveness of this type of identity. They dispute the importance of the indigenous component and stress instead the inclusive character of ‘Ukrainianness’, which, from their perspective, requires only the acceptance of a need for affirmative actions to support Ukrainian culture (thus, implicitly recognizing the relevance of two other concepts mentioned above: colonialism and Russification).<sup>11</sup>

The Eastern Slavic identity envisions the majority group as based on ‘Slavic unity’ and jointly constituted by two primary ethnic groups, languages and cultures that are reproduced in Ukraine: Ukrainian and Russian. Ukrainian and Russian history and culture are basically similar. The Russian culture and language are seen both as ‘rooted’ in Ukraine and as an inseparable ingredient of the Eastern Slavic cultural whole. While the primary candidate for occupying the position of ‘other’ in the ethnic Ukrainian reference system is Russia, for the Eastern Slavic identity holders that ‘other’ is Europe.

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<sup>10</sup> Shulman, “The Contours of Civic”, *supra* n. 8. The original argument was based on applying the two alternative conceptualizations of ethnic identity to both Ukrainian and Russian ethnic groups.

<sup>11</sup> The author’s notes from the discussion on the presentation by M. Ryabchuk, “Cultural Wars and Rival Identities: Ukraine as a Post-Soviet Ideological Battleground”, Lecture at Columbia University, March 27 2006.

While the ethnic Ukrainian identity has long been conceptualized in Western scholarship as exclusionary, the perception of this identity recently has become more complex.<sup>12</sup> This is due in large part to the unexpected but empirically strong link between the ethnic Ukrainian identity and the push for democracy in Ukraine. Even opponents of the revolution acknowledge the critical role that ethnic Ukrainian mobilization played in the Orange Revolution events.<sup>13</sup> The latter events were not the only case where that mobilization was important. During the first mass protests against the increasingly authoritarian Kuchma regime in March 2001, the leaders and core groups of the opposition movement came from the ranks or drew heavily on the support of those who can be described as ethnic Ukrainian nationalists. A highly symbolic place in the resistance mythology of that period is occupied by the stories of police raids during which the Ukrainian speaking youth groups were identified and arrested on the streets solely on the grounds of their speaking Ukrainian.<sup>14</sup>

However, the ability to generate a democratization agenda has not led so far to a considerable increase in the civilizational attractiveness of Europe-oriented Ukrainian ethnocultural identity among members of the ethnic Ukrainian group who share the East Slavic orientation. Although changes in voting patterns in several regions of central Ukraine during the 2004 presidential elections were taken by some as evidence of the increased reach of the ethnic Ukrainian appeal, more data is needed to corroborate this claim. At the same time, there is less uncertainty about the fact that the presidential elections and their aftermath increased the salience of ethnic, linguistic and regional differences in the country, and brought the concerns about national unity to the forefront of political debates.

For ethnic Russians, the majority of whom reside in the eastern and southern regions that voted overwhelmingly against Yushchenko, the 2004 presidential elections became another important step in the realization of the changed status of their ethnic group in post-Soviet Ukraine. The dissolution of the Soviet Union brought a dramatic change in the position of ethnic Russians across all of the former Soviet republics.<sup>15</sup> Their acceptance of minority

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<sup>12</sup> See on this D. Arel, "The 'Orange Revolution': Analysis and Implications of the 2004 Presidential Election in Ukraine", Third Annual Stasiuk-Cambridge Lecture, Cambridge University, 25 February 2005.

<sup>13</sup> M. Pogrebinski, *Orange Revolution: Versions, Chronicle, Documents* (Evropa, Moscow, 2005).

<sup>14</sup> Павло Солодько "9 березня 2001 року: спогади і прогнози від ініціаторів "України без Кучми"" 09.03.2006 <http://www.pravda.com.ua/news/2006/3/9/39560.htm>

<sup>15</sup> P. Kolstoe, *Russians in the Former Soviet Republics* (Hurst, London, 1995); J. Chinn and R.J. Kaiser, *Russians as the New Minority: Ethnicity and Nationalism in the Soviet Successor States* (Westview, Boulder, CO, 1996);

status proved to be an especially lengthy and controversial process in Ukraine. The size of the group, its influence, long-standing residence and strong beliefs in Ukraine being a part of Russia's civilizational space led in the past, and continues to lead, many representatives of this group to refuse to accept minority status and to claim to be an integral part of a majority group that they describe as being constituted jointly by the Ukrainians and Russians.

The regular questioning of the legitimacy of Ukraine's independence or territorial integrity by some organizations and prominent individual members of the Russian minority has contributed to the continued securitization of the Russian minority question in Ukraine. Instances such as the November 2004 threats to separate from Ukraine and to join Russia, which were articulated by the ethnic Russian governor and council speaker from two eastern regions of Ukraine,<sup>16</sup> or the January 2006 performance in front of the TV cameras by the international youth organization *Proryv*, which is allegedly financed from the budget of the Russian Federation,<sup>17</sup> during which Crimea was symbolically separated from Ukraine, contributed to the perpetuation of distrust between the central government and Russian minority organizations. Ukraine's Euro-Atlantic integration, which is in itself a highly divisive issue in Ukraine, is seen by many of its proponents as, among other things, a kind of insurance against the risks of country disintegration due to the persistence of separatist claims.

While the radicalism of individual community members or organizations cannot be easily countered, the process of acceptance of minority status by the majority of the ethnic Russian community could be facilitated by a set of legislative and policy signals aimed at the further strengthening of the system of legal guarantees of minority rights at the national level. Recent efforts to revise the 1992 law on national minorities and to achieve progress in finalizing a comprehensive document on ethnopolitical development, as well as to ensure the adequate implementation of the provisions of the Framework Convention for the Protection of National Minorities, which Ukraine ratified in 1998, constitute important steps in this direction.<sup>18</sup> It is even more important to find a compromise on the politically charged issue of a special status

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D.D. Laitin, *Identity in Formation. The Russian Speaking Populations in the Near Abroad* (Cornell University Press, Ithaca, NY, 1998).

<sup>16</sup> T. Kuzio, "Ukrainian Authorities File Criminal Charges of Separatism", 2 *Eurasia Daily Monitor* (2005), 24 June.

<sup>17</sup> Володимир Гринів, "Луценко проти кримського сепаратизму," *Український вибір*, 24.01.06, <http://uv.ukranews.com/cgi-bin/r6/print.pl>

<sup>18</sup> For an assessment of Ukraine's progress in the implementation of the Framework Convention see Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFCNM), 2002 Opinion on Ukraine, ACFC/INF/OP/I(2002)010, 27/11/2002 (hereafter, "2002 Opinion on Ukraine").

for the Russian language. Ukraine's ratification of the European Charter for Regional and Minority Languages, which came into force at the beginning of 2006, presents new ground for the continuation of domestic dialogue on this issue. The successful completion of these steps is essential for improving the dynamics of majority–minority relations and achieving progress in building a political nation, which is a task that continues to constitute a major challenge for the young Ukrainian state.

## **II. ADMINISTRATIVE-TERRITORIAL REFORM, ISSUES OF FEDERALISM AND DECENTRALIZATION**

Ukraine's constitutional framework of a centralized unitary state with one autonomous region has been the subject of many debates throughout the post-communist period. With respect to minority issues, the following three aspects of these debates are of particular importance: the issue of decentralization, the potential benefits of a federal design for accommodating regional differences, and the status of the Autonomous Republic of Crimea and the region's performance in terms of ensuring interethnic accord and political stability.

### *A. Decentralization*

Analysts of ethnic relations in Ukraine have long argued about multiple problems that the excessive centralization of the Ukrainian state has created for minorities. Central government programmes aimed at addressing specific minority issues are designed and implemented without sufficient input from local self-government bodies and without a strong belief on the part of the local communities that they are the ones that the programmes are intended to benefit. Bodies of local self-government lack both competencies and resources to come up with their own initiatives to support minorities' cultural and educational activities. The distribution of powers between local state administrations and self-government bodies also remains ambiguous and contradictory.<sup>19</sup>

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<sup>19</sup> V. Stepanenko, "A State to Build, A Nation to Form: Ethno-Policy in Ukraine", in: A.-M. Biro and P. Kovacs (eds.), *Diversity in Action: Local Public Management of Multi-Ethnic Communities in Central and Eastern Europe* (Local Government and Public Service Reform Initiative, Open Society Institute, Budapest, 2001), 309–346.



Such a state of affairs is partly a legacy of the communist period with its bureaucratized and centralized public administration. The state apparatus was a major obstacle on the way to public administration and local self-government reform. The unwillingness to decentralize also was informed by expectations that such a policy would intensify destructive centrifugal tendencies in a polity that was only recently established and whose regional differences were strong and well articulated. As the discussion in the following section will show, recent thinking about the effects of decentralization on state unity has evolved along different lines, allows for a more constructive approach to the problem of decentralization to gain prominence at the top level of the state apparatus.

Territorially concentrated minorities are likely to benefit greatly if comprehensive local government reform takes place in Ukraine. The analysts suggest that a greater degree of self-governance would allow highly concentrated minority groups, such as Hungarians in the Berehivsky district of Trans-Carpathia, Romanians in rural Bukovyna, and Bulgarians and Gagauzians in the Odessa region to address their specific needs in a more satisfactory manner.<sup>20</sup> Some of these groups—as well as the Crimean Tatars—have made in the past, or continue to make, demands of territorial autonomy. Given the cautious stance of the international community on the issue of territorial autonomy,<sup>21</sup> these demands did not receive substantial support on the national and international levels and might become less of an issue—with the exception of the special case of the Crimean Tatars—if a comprehensive decentralization reform were to take place in Ukraine.

A legislative bill amending constitutional provisions on self-government, one critical ingredient of such a reform, was passed in its final reading by the outgoing parliament in the last few months of its legislative term, which expired in March 2006.<sup>22</sup> The bill, which is part of a comprehensive deal on constitutional reform agreed by the rival political camps during the Orange Revolution events in December 2004, enhances the constitutional prerogatives of local self-government and opens doors to amend other legislative documents—such as the

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<sup>20</sup> *Ibid.*

<sup>21</sup> P. Thornberry and M.A.M. Estébanez, *Minority Rights in Europe* (Council of Europe Publishing, Strasbourg, 2004).

<sup>22</sup> At <http://www.rol.org.ua/eng/article.cfm?deid=13>.

budgetary code, laws on local self-government and local state administration—and to radically change the existing practices of local self-government in Ukraine.

### *B. Debates on Federalism*

Ukraine's regional diversity has been a matter of much political discussion since the breakdown of the Soviet Union. Different regional identities, which are based on the distinct politico-economic, cultural and linguistic experiences of being a part of different states,<sup>23</sup> provide for a rich mix of traditions that create both opportunities and challenges for the elite of a newly independent state. The key question of the state-building process—how the constitutional framework can best serve both the accommodation of regional differences and assurance of the country's unity—has solicited many responses.

Federalism was one of the proposed answers articulated by very different political forces. In the early 1990s, unlikely companions, such as national democrats whose electoral stronghold was in western Ukraine and a number of parties based in eastern Ukraine who claimed to be liberal in their orientation, supported, although not at exactly the same time or with the same intensity, the idea of a federal arrangement for Ukraine. Federalism was also seen as a long-term goal for Ukraine by representatives of some minority groups who, like the Romanian activists from Bukovyna, argued that territorial autonomy for compactly settled minorities could be a stepping stone to such an arrangement.<sup>24</sup>

The Ukrainian elite's political views on federalism, however, evolved substantially in the course of addressing practical issues of state building in the early and mid-1990s. Centrifugal tendencies in the eastern Ukraine, as well as separatist claims in Crimea and Transcarpathia

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<sup>23</sup> Those include: The Polish-Lithuanian Commonwealth, the Russian Empire, the Ottoman Empire, the Austro-Hungarian Empire, Poland, Czechoslovakia, Hungary, Romania and the Soviet Union.

<sup>24</sup> K. Wolczuk, "Catching up with 'Europe'?: Constitutional Debates on the Territorial-Administrative Model in Independent Ukraine", 12 *Regional and Federal Studies* (2002), 65–88; A detailed review of the Ukrainian literature on this topic can be found in T. Kuzio, "Center-Periphery Relations in Ukraine: Regionalism, Federalism and National Integration", in: J. Rose and J. Traut (eds.), *Federalism and Decentralization: Perspective for the Transformation Process in Eastern and Central Europe* (George C. Marshall European Centre for Security Studies, Lit Verlag, Münster, 2001), 329–347; G. Sasse, "The New Ukraine: A State of Regions", J. Hughes and G. Sasse (eds.), *Ethnicity and Territory in the Former Soviet Union: Regions in Conflict* (Frank Cass, London, 2002), 69–101.

exacerbated by the economic crisis of the early 1990s, made the political elite wary of the idea of a federal state. The constitutional bargaining process—dominated by the president, whose power maximization instincts did not favour the idea of a federal arrangement—rather led to the adoption of the 1996 constitution, which established a unitary model of government with one autonomy unit (the Crimea) in Ukraine.

Throughout the period that followed, the federalist idea received little public attention. For example, Kuzio's analysis of the election manifestos of the 30 political parties and blocs that took part in the 1998 parliamentary election did not identify a single programme advocating federalism. The survey results for that period also indicate a low level of support for the federalism idea at the mass level.<sup>25</sup>

This situation changed dramatically as a result of the 2004–2006 electoral cycle in Ukraine. The main change was the emergence of a powerful political organization, the 'Party of Regions', whose programme contains, as one of its cornerstones, a promise of federalization reform. This party, currently led by Viktor Yanukovych, Yushchenko's rival in the dramatic 2004 presidential elections, relies on essentially the same electorate that supported Yanukovych in the presidential elections. The party received more than 35% of parliamentary seats in the March 2006 elections and gained a similar share of seats after new elections were called in September 2007. It set a new precedent for a pro-federalism political party to gain such legislative weight in the Ukrainian parliament.

The strategy that the party adopts in the wake of the most recent parliamentary will determine whether the federalism plans remain on the country's political agenda. The main politically articulated alternative to the federalization plan is the idea of a decentralized unitary state, whose main proponents sit in the headquarters of the pro-Yushchenko 'Our Ukraine' party. Decentralization is envisioned as being coupled with redrafting administrative-territorial borders but without changing the unitary nature of the state. The essence of reforms proposed by the pro-presidential forces is to decentralize powers and strengthen local self-government

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<sup>25</sup> Kuzio, "Center-Periphery Relations", *supra* n. 24; H.A. Miller, F.T. Klobucar and W. Reisinger "Establishing Representation: Mass and Elite Political Attitudes in Ukraine", in: S.L. Wolchik and V.A. Zviglianich (eds.), *Ukraine. The Search for a National Identity* (Rowman and Littlefield Publishers, Lanham, MD, 2000), 213–235.

on the municipal and district levels and to redraft administrative-territorial borders in order to improve the ability of self-government bodies to address the needs of communities.<sup>26</sup>

The idea of redrafting administrative-territorial bodies, which can have significant implications for the situation of minority groups, has proved to be a very controversial issue and the initial attempts in 2005 to gain public support for this particular aspect of the government plan failed. The main opposition force's fierce attacks on the reform plans were conditioned by the perception that territorial redrafting would have a strong impact on their ability to control the political process in stronghold areas of their political support, the eastern regions of the country. The overall opposition to government plans was also strengthened by the fact that the government reform programme avoided concentrating powers at the regional levels, something that many regional elites were interested to see, as well as what the federalism alternative is likely to offer.

The pro-presidential camp criticizes federalism plans on a number of grounds. Federalism is seen as enhancing the potential to consolidate and politically entrench regional differences, which is something that many in the pro-presidential camp believe has not yet happened. Federalism is also seen as having the potential to increase antagonism between different regions of the country and to complicate the prospects of achieving success in the continuing process of constructing national political identity in Ukraine, which is a process that the central elite continues to perceive as one of central importance. Given the weakness of state institutions and the legal system, federalization might also facilitate the capturing of regional-level state institutions by special interests—that is, by the dominant politico-economic groups in the region.

Opponents of federalism also point to the inability of the Donetsk-based elite, the main driving force behind the federalization agenda, to secure the adequate implementation of democratic norms and human rights in their region. The Donetsk region in the eastern part of Ukraine, which is the most populous region of the country and the largest regional contributor to the gross national product, used to come frequently to national attention due to the region's

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<sup>26</sup> For a presentation of the government plans in 2005 by Yuschenko's close associate and the main architect of the administrative-territorial reforms Roman Bezsmertny, see <http://www.niss.gov.ua/Table/Adminref/002.htm>. The presentation is based on a detailed analysis of the situation in some of the Ukrainian administrative-territorial units and also draws on the Polish and French experiences of reform.

dismal record of securing the implementation of principles of political pluralism and free market economics. The region also became a main source of academic studies on state capture and neo-patrimonial practices in post-Soviet Ukraine.<sup>27</sup>

Since neither the pro-presidential nor the opposition camp currently controls a share of seats in the new parliament that will be sufficiently large to allow the full-scale implementation of their vision of reform, the current administrative-territorial organization of the state is likely to be maintained for the near future and to be subjected to comprehensive decentralization tests rather than to a radical redrafting of administrative-territorial borders.

### C. *The Crimean Autonomy Experiment*

As the only region where the majority of the population belongs to an ethnic minority, Crimea was expected to receive special treatment in the framework of the Ukrainian state. Ethnicity became politicized in the region around the time the Soviet Union collapsed due to a large number of factors. These included, among others, a social make-up peculiarly shaped by the Soviet period and the ideological outlook of Crimea's ethnic Russian majority, competing 'ownership' claims on the symbolic and politico-economic situation on the Crimean peninsula on the part of Crimean Tatars returning from their long period of exile and the inability of the new Ukrainian state to address adequately the acute economic crises of the early 1990s.

A long and protracted process of bargaining and negotiation between the central and regional elites, which some authors consider to have been as important to conflict prevention as the eventual institutional outcomes it generated,<sup>28</sup> led to the entrenchment of autonomy provisions in the 1996 Ukrainian Constitution and to the institutionalization of the relationship between the centre and the autonomy. The adoption of the 1998 Crimean Constitution, which helped to clarify certain aspects of this relationship but left some others ambiguously or controversially

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<sup>27</sup> K. Zimmer, "The Captured Region: Actors and Institutions in the Ukrainian Donbass", in: M. Tatur (ed.), *The Making of Regions in Post-Socialist Europe—The Impact of Culture, Economic Structure and Institutions*, Vol. II (VS Verlag für Sozialwissenschaften, Wiesbaden, 2004), 231–347.

<sup>28</sup> G. Sasse, "Conflict Prevention in a Transition State: the Crimean Issue in Post-Soviet Ukraine", 8 *Nationalism and Ethnic Politics* (2002), 1-26. A detailed chronology of events in Crimea during the first half of the 1990s is available in M. Drohobycky (ed.), *Crimea: Dynamics, Challenges and Prospects* (Rowman and Littlefield Publishers, Lanham, MD, 1995).

stipulated, further underscored the fact of Crimea's integration into Ukraine's legal and political space.

There is general agreement in the literature on post-Soviet Ukraine that granting territorial autonomy status to Crimea played a positive role in averting a potential ethno-territorial conflict in Ukraine. The willingness of the central Ukrainian elites to seek compromise as well as the failure of the most radical secessionist forces in Crimea to sustain mass political mobilization and fully to engage Yeltsin's Russia in the dispute over the peninsula played a crucial role in achieving such an outcome. The efforts of international organizations also contributed to the success in avoiding large-scale confrontation and violence. Their involvement in preventing conflict was manifested most pointedly in the 'quiet diplomacy' of the office of the OSCE High Commissioner on National Minorities (HCNM) and the OSCE's long-term Mission to Ukraine whose work, especially during the turbulent years surrounding the election of the first and only president of the Crimean autonomous region, helped to reduce the tensions.<sup>29</sup>

There is much less certainty both in academic and policy-making communities about the ability of the current institutional arrangement to ensure both long-term stability between the Crimean autonomy and the centre as well as interethnic peace and accord inside the region. The problems of both Crimean separatism and interethnic tensions inside the region might temporarily have become less acute after the adoption of the 1996 and 1998 constitutional documents and the realignment of political forces inside the autonomy but these problems keep recurring as the process of post-communist transformation in Ukraine continues to advance.

There was only relatively weak support by the official leadership of the Crimean autonomy for the secessionist rhetoric advanced by some representatives of local self-government from the eastern regions of Ukraine during the dramatic stand-off at the time of the 2004

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<sup>29</sup> V. Kulyk, "Revisiting a Success Story: Implementation of the Recommendations of the OSCE High Commissioner on National Minorities to Ukraine, 1994–2001", in: W. Zellner, R. Oberschmidt and C. Neukirch (eds.), *Comparative Case Studies on the Effectiveness of the OSCE High Commissioner on National Minorities*. CORE Working Paper Series, Working Paper 6, Hamburg, 2002, available at: [http://www.core-hamburg.de/documents/32\\_CORE\\_Working\\_Paper\\_6.pdf](http://www.core-hamburg.de/documents/32_CORE_Working_Paper_6.pdf); K. Buscher, "The Missions to the Republic of Moldova and Ukraine: A Double-Entry Balance Sheet", in: IFSH (ed.), *OSCE Yearbook 1999* (Institute for Peace Research and Security Policy, Hamburg, 1999): 195–210; W. Kemp, *Quiet Diplomacy in Action: The OSCE High Commissioner on National Minorities* (Kluwer Law, The Hague, 2001).

presidential elections. This has been taken by some to be an indication that the autonomous region's elites are satisfied with the constitutional deal that they managed to secure during the 1996–1998 period. Status insecurity caused by the centralized nature of the government, the argument goes, caused regional elites from the eastern regions to mobilize during the Orange Revolution events while the Crimean elites, which are protected by the autonomy status of the region, felt much less threatened and thus lacked reasons to mobilize.

What this argument fails to take into account is the internal dynamic of regional political competition. There is abundant evidence that the logic of ethnic outbidding continues to dominate the political process in the region. In order to attract popular support, parties oriented towards the ethnic Russian majority compete in trying to appear most supportive of ethnic claims, which causes an inevitable spiral toward conflict with other ethnic groups in the region—primarily with the Crimean Tatars—and complicates relations with the national centre.

How the prominence of radical political and civic organizations can affect existing patterns of relations between the national autonomy and the centre is illustrated by the summer 2005 dispute over the opening of a Ukrainian-language school in one of the villages in Crimea. The decision to make Ukrainian the language of instruction in the newly built school led a number of pro-Russian organizations to coordinate rallies and demonstrations aimed at preventing the opening of the school. The issues involved in the case resonated strongly across Ukraine and the case was widely perceived as unfair due to the fact that there are currently 619 Russian language schools in Crimea and only 11 and 6 schools where the language of instruction is Crimean Tatar and Ukrainian, respectively. National newspapers also cited the 2001 census statistics, according to which the share of Crimean Tatars and Ukrainians in the total population of the peninsula is about 12% and 24% (about 10% of the population cited Ukrainian as their native language).<sup>30</sup>

The autonomy's inability to address adequately the plight of Crimean Tatars has been, however, the main failure of the autonomy in the area of ethnic relations to date.<sup>31</sup> The numerous problems relating to the integration of Crimean Tatars, who have been returning to

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<sup>30</sup> See, for example, M. Kasianenko, "Language Wars", 147 *Den'* (2005), 16 August.

<sup>31</sup> N. Belitser, "Crimean Autonomy: Positive and Negative Aspects in Terms of Ethnic Conflict", Paper presented at the International Conference on Regional Autonomy of Ethnic Minorities, Uppsala University, 12–17 June 2003.

the peninsula after many decades of Soviet deportation, have multiple causes located at different levels of the Ukrainian government. These problems range from dismal housing conditions and land ownership disputes to a lack of support for cultural and educational institutions. In attempting to deal with the challenges faced by the Crimean Tatar population, significant resources have already been invested both by the Ukrainian government and by the international community, whose humanitarian presence in the region has been represented primarily through the UN and Council of Europe institutions. However, addressing the problems of Crimean Tatars on the level of the Crimean autonomy has often proved to be highly controversial.

There has been no consensus within the dominant Russian segment of the Crimean population and among the peninsula's population at large about the moral and political responsibility of the central and autonomy governments in Ukraine to ensure the proper social and economic conditions for the Crimean Tatars' return. Russian political and community organizations, as well as some main political parties, such as the Crimean Republican Organization of the Communist Party of Ukraine, whose strong support in the region is not based predominantly on ethnic forms of appeal, campaigned repeatedly against what they portrayed as "exclusionary and unwarranted privileges for one ethnic group".<sup>32</sup> By this they meant various forms of affirmative actions intended to address the problems of the Crimean Tatar community.

The internal dynamic in the Crimean Tatar community has also, however, contributed to the tense character of interethnic relations and to the ability of radical Russian political organizations to mobilize support on ethnic grounds. *Mejlis*, the main representative body of the Crimean Tatars, has long maintained the creation of ethno-territorial autonomy in Crimea as its key programmatic goal, feeding a sense of insecurity and resentment among the rest of population on the peninsula.<sup>33</sup> Crimean Tatar leaders also opted to focus their organizational efforts on strengthening *Mejlis*, which continues to be seen by the majority on the peninsula as an attempt to create representative structures that are parallel to the official Crimean parliament and lower level self-government bodies. Concentrating their efforts on the

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<sup>32</sup> See the speech by Sergei Tsekov, the head of the 'Russian Community of Crimea', which is one of the most influential Russian organizations on the peninsula, at the August 2005 Livadia roundtable on ethnic policy published in *Krymskaya Pravda*, N 153, 19 August 2005.

<sup>33</sup> Yushchenko's appeal to discard this claim.



construction of ethnically defined political structures and discouraging group members from pursuing political careers through mainstream political parties was perceived by the Crimean Tatar leaders as an optimal strategy for meeting the needs of the Crimean Tatars as a group.<sup>34</sup> This strategy, which might be considered a rational response to the largely unfriendly environment the Crimean Tatars faced upon their return to the peninsula, has now nevertheless become part of a vicious circle of suspicion and mutual distrust between the ethnic communities in Crimea.

### III. MINORITIES' PARTICIPATION IN DECISION MAKING

The issue of effective participation of minorities in public life has become one of the focal points of current international discussion regarding optimal methods for organizing majority–minority relations.<sup>35</sup> While the issues of self-governance and territorial autonomy that were touched upon in the previous section could be considered as one dimension of such participation,<sup>36</sup> the inclusion and integration of minorities into institutions responsible for the governance of the state as a whole, as opposed to creating special institutions for minority self-governance, constitutes another important dimension. The latter includes forms of minority participation in public life such as special arrangements for minority representation in electoral and party systems at the central, regional and local levels of government, in advisory and consultative bodies.

#### A. Electoral and Party Systems

The Lund Recommendations, a key recent document addressing the issue of minority participation, considers the establishment of political parties based on ‘communal identities’

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<sup>34</sup> Crimean Tatars have traditionally appeared in the structures and on the electoral lists of the *Rukh* party, one of Ukraine’s oldest national democratic parties. They participate in various types of *Rukh* political activity as *Mejlis* representatives rather than in their individual capacity. *Mejlis*’ long term alliance with the *Rukh* party is partly a result of the need for *Mejlis* to gain political representation at the national level. Their alliance has been also made possible by their programmatic similarities on a large set of issues related to the Soviet past.

<sup>35</sup> See Special Issue. “The Lund Recommendations on the Effective Participation of National Minorities in Public Life-Five Years After and More Years Ahead”, 12 *International Journal on Minority and Group Rights* (2005).

<sup>36</sup> See “The Lund Recommendations on the Effective Participation of National Minorities in Public Life and Explanatory Note”, at [www.osce.org/documents/hcnm/1999/09/2698\\_en.pdf](http://www.osce.org/documents/hcnm/1999/09/2698_en.pdf).

to be one of the legitimate forms of inclusion of minorities into the political process. While acknowledging ethnic parties as one form of organizing politics, the document abstains from wholeheartedly endorsing it. Such a cautious approach, although characteristic of most of the provisions in the Lund Recommendations, in this particular case probably reflects the controversy that the issue of ethnic political parties causes in political science literature. Many in the political science discipline argue that party politics should be structured along ideological rather than ethnic lines, implying that broadly-based parties should represent a whole range of interests, including those of persons belonging to national minorities.<sup>37</sup>

Ukraine opted for party registration requirements that do not prohibit minority-based political parties but are very demanding in terms of securing a wide regional distribution of the support base. To establish a political party, Article 10 of the 2001 Law on Political Parties requires that 10,000 signatures be collected in no less than two-thirds of the regions of Ukraine. The law further specifies that these signatures should be collected in no less than two-thirds of the districts of these regions. Among the few political parties established by ethnic minorities, the Russian minority parties have been the most prominent. Their electoral performance, however, historically has proven rather poor, which reflects a stable pattern of ethnic Russians' voting for mainstream political parties but is also a function of the high degree of fragmentation among political parties appealing to the ethnic Russians.

The Ukrainian electoral legislation has proven much less restrictive than the legislation of some other post-Soviet republics that faced similar challenges of political transformation while aspiring to reintegrate into Europe. Ukraine, which opted for a zero-option citizenship law at the start of its transition, granted the right to vote to the vast majority of its residents.<sup>38</sup> Unlike some Baltic republics, it also abstained from introducing strict linguistic requirements to stand for office. The Venice Commission review of the Ukrainian electoral legislation also mentions that the territorial concentration of minorities was taken into account in the drawing of constituency boundaries.<sup>39</sup>

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<sup>37</sup> For debates on this issue, see, for example, D. Horowitz, "Constitutional Design: Proposals versus Processes", in: A. Reynolds (ed.). *The Architecture of Democracy. Constitutional Design, Conflict Management and Democracy* (Oxford University Press, Oxford, 2002); and A. Lijphart, "The Wave of Power-Sharing", in: *ibid.*

<sup>38</sup> The situation of returning Crimean Tatars was much more complicated. In this respect see Kulyk, "Revisiting a Success Story", *supra* n. 29.

<sup>39</sup> European Commission for Democracy Through Law, "Electoral Law and National Minorities", Strasbourg, 25 January 2000.

The success of the ideological structuring of party competition is, however, far from certain in Ukraine. Introduction of a proportional representation system for the 2006 parliamentary elections instead of a mixed electoral system (which was used in the 1998 and 2002 elections) is likely to contribute to the further regionalization of the party system. The fortunes of the main political parties in Ukraine are much more dependent on parties' ability to cater to regionally concentrated voters than on their success in advancing political programmes based on universal ideologies. Similar to ethnic parties, regional parties can be conceptualized as particularistic parties.<sup>40</sup> While ideological political competition presupposes that party contestation is based on alternative conceptions of public good or alternative ways of achieving desirable collective outcomes, party competition structured along regional lines does not require the articulation of programmatic messages that are universal in their appeal.

#### *B. Special Arrangements for Minority Representation at Different Levels of Government*

While international experience suggests that there are numerous mechanisms for ensuring minority representation at the central, regional and local levels of government, very few of those mechanisms have been tried in Ukraine. This is due in part to the fact that the country's largest minority, the Russians, have enjoyed a higher social status in Ukraine since imperial times and because there is very little reason to believe that they suffer from under-representation in the government structures of post-communist Ukraine. For smaller ethnic minorities, however, the problem of under-representation in government institutions has existed from the very start of Ukraine's post-communist transition.

This problem became especially acute for the Crimean Tatars and other ethnic groups who returned to Ukraine following their deportation in the Soviet period. A brief experiment with using quotas for representation of deported people in the regional parliament of Crimea took place in the middle of the 1990s. The amendment to the electoral law for the 1994 elections to the Crimean parliament reserved fourteen seats for representatives of the Crimean Tatars and one seat each for the other former forcibly displaced people—ethnic Armenians, Bulgarians,

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<sup>40</sup> H. Kitschelt, "Linkages Between Citizens and Politicians in Democratic Polities", 22 *Comparative Political Studies* (2000), 845–879.

Greeks and Germans.<sup>41</sup> This quota system was in place only for one parliamentary term and was abandoned entirely for the subsequent regional elections due to the lack of support for the quota principle from the national parliament, where representatives of the Crimean Russian majority were able to construct situational coalitions of centrist and leftist factions to oppose any calls for quotas in draft electoral laws for the subsequent Crimean elections. The majoritarian electoral formula used in the 1998 regional elections did not allow a single Crimean Tatar representative to become a member of the 100 seat regional assembly. The situation in regard to representation in the regional assembly improved after the 2002 regional election, in which seven Crimean Tatars were able to win elections in single member districts.<sup>42</sup>

No attempts to secure a guaranteed representation of Crimean Tatars or other minorities on the local councils or in the various structures of executive government have found support among national or regional lawmakers. The available data on Crimean Tatars' employment in the government suggests a continuing pattern of under-representation. By the end of the 1990s the share of Crimean Tatars in the staff of the Crimean regional government, individual ministries and departments, and local executive committees did not exceed, with the exception of the Crimean Committee for Nationalities and Deportees and local inter-ethnic relations sections, 1.5–3%.<sup>43</sup> While the situation has been slowly improving in recent years, the Crimean Tatars' representation in structures of the executive government remains well below their 12% share in the general population in Crimea.

### *C. Advisory and Consultative Bodies*

One recent account of the activity of the Office of the HCNM suggests that minority participation in advisory or consultative bodies sometimes might be more effective than

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<sup>41</sup> A. Wilson, "Politics In and Around Crimea: A Difficult Homecoming", in: E. Allworth (ed.), *The Tatars of Crimea: Return to the Homeland: Studies and Documents* (Duke University Press, London, 1998).

<sup>42</sup> N. Belitser, "'Indigenous Status' for the Crimean Tatars in Ukraine: A History of a Political Debate", Paper prepared for the ESRC funded Project "'Fuzzy Statehood' and European Integration in Central and Eastern Europe", University of Birmingham, UK, 2002. Available at [www.iccrimea.org](http://www.iccrimea.org).

<sup>43</sup> Ukrainian Center for Independent Political Research, "The Punished People: Crimean Tatars and Prospects for Integration into the Ukrainian Society", *5 Ethnic Policy Herald* (1999), 17 May. Available at [www.ucipr.kiev.ua](http://www.ucipr.kiev.ua); E. Chubarov, "The Review of Problems of Inequality and Discrimination in Ukraine, The Autonomous Republic of Crimea", Centre of Information and Documentation of Crimean Tatars (2003). Available at [www.cidct.org.ua/en/studii/3-4\(2003\)/4.html](http://www.cidct.org.ua/en/studii/3-4(2003)/4.html).

representation in parliament or other legislative structures.<sup>44</sup> Such bodies can provide minorities with an opportunity to have a direct input into the policy-making process on issues of minority concern, provided that these bodies are representative, adequately funded and regularly consulted by the authorities. Experiences similar to those cited in the abovementioned study compel one to pay close attention to the roles played by the advisory bodies.

Ukraine has a very developed infrastructure of formal advisory bodies on minority-related issues. According to the 1992 Law on National Minorities, advisory bodies composed of members of national minorities can be founded at local councils on a voluntary basis. A network of such bodies has been established in areas with substantial proportions of national minorities. The Council of Representatives of the all-Ukrainian Civil Organizations of National Minorities operates under the State Committee on Ethnic and Migration Affairs, which is the central executive authority in the sphere of inter-ethnic relations. A special Council of Representatives of the Crimean Tatar People was also established in 1999 by President Kuchma to address the specific concerns of Crimean Tatars.<sup>45</sup>

To date, the effectiveness of these consultative bodies has not become the subject of a systematic investigation. Fragmented pieces of evidence, however, suggest that these bodies have not become particularly influential in Ukraine. One source, for example, reported that neither of the two main councils mentioned above held any official session in 2005.<sup>46</sup> This might very well reflect the low level of priority attributed to minority-related issues by the new Ukrainian authorities, which face numerous challenges across a wide range of policy issues.

#### IV. LANGUAGE USE AND LINGUISTIC POLICY

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<sup>44</sup> S. Holt, "The Lund Recommendations in the Activities of the HCNM" 12 *International Journal on Minority and Group Rights* (2005), 168-189.

<sup>45</sup> See Kulyk, "Revisiting a Success Story", *supra* n. 29.

<sup>46</sup> Ukrainian Center for Independent Political Research, "National Ethnic Policy in 2005: Failings and Successes", 1 *Ethnic Policy Herald* (2005).

Each major ethnic group in Ukraine, including the ethnic Ukrainian majority, voices concerns about the status or situation with regard to the use of their language.<sup>47</sup> Debates on the status of the Russian language, however, have been the most politically salient linguistic issue throughout the post-communist period. One indicator of its salience is the frequency with which each issue is raised in the Ukrainian parliament. The head of the parliamentary committee on culture, for example, claimed in the early 2006 that the majority of the eighteen different draft laws that were under consideration in the committee dealt with the problem of the status of the Russian language.<sup>48</sup>

The 1996 Constitution, similar to the 1989 Ukrainian Soviet Socialist Republic language law, which continues to regulate the issue of language use in the independent Ukraine, accords Ukrainian the status of ‘state’ language. The constitution also “guarantees the free development, use and protection of Russian and of other languages of national minorities of Ukraine”.<sup>49</sup> This relegation of Russian to the status of minority language and the practical implications of such a constitutional formulation is what causes the resentment of Russian language rights activists. Their arguments, based on appeals to notions of human rights and liberal values, are well articulated and widely disseminated in Ukraine, as are the arguments of their opponents.<sup>50</sup>

The defenders of the constitutional status quo on the issue of languages see the privileged status of the Ukrainian language as a form of positive discrimination or a sort of affirmative action aimed at strengthening and revitalizing a language that was historically discriminated

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<sup>47</sup> For a recent detailed discussion of language issues in Ukraine see V. Kulyk, “Constructing Common Sense: Language and Ethnicity in Ukrainian Public Discourse”, 29 *Ethnic and Racial Studies* (2006), 281–314; and Stepanenko, V. “Identities and Language Politics in Ukraine: The Challenges of Nation-State Building”, in F. Daftary and F. Grin (eds.) *Nation-Building, Ethnicity and Language Politics in Transition Countries* (Local Government and Public Service Reform Initiative, Open Society Institute, Budapest, 2003), 107–137; Arel, “Interpreting Nationality and Language”, *supra* n. 3; Kulyk. “Revisiting a Success Story”, *supra* n. 29; J.G. Janmaat, *Nation-Building in Post-Soviet Ukraine. Educational Policy and the Response of the Russian-Speaking Population* (Royal Dutch Geographical Society, Universiteit van Amsterdam, Amsterdam, 2000). For an earlier treatment of this topic, see D. Arel, “Ukraine: The Temptation of the Nationalizing State”, in: V. Tismaneanu (ed.), *Political Culture and Civil Society in the Former Soviet Union* (M.E. Sharpe, Armonk, NY, 1995).

<sup>48</sup> Editorial. “Ющенко попросили застосувати проти Януковича й Вітренко всі способи впливу”. [www.ПРАВДА.com.ua](http://www.ПРАВДА.com.ua). 04.03.2006

<sup>49</sup> Article 10 of the Constitution of Ukraine.

<sup>50</sup> For a detailed list of key arguments used by the two sides see Stepanenko. “Identities and Language Politics”. *Supra* n. 47.

against.<sup>51</sup> Granting a similar status to Russian, in their view, will undermine efforts to rehabilitate the Ukrainian language and will further strengthen its key competitor, which has already acquired communicative dominance<sup>52</sup> as a result of the historical persistence of policies aimed at the linguistic assimilation of Ukrainians.

#### A. *Language Use*

The data on regional and socio-linguistic characteristics and on patterns of language use in Ukraine have been examined and studied extensively. Leaving aside problems with the quality and interpretation of the data,<sup>53</sup> there are many general features of the language situation in Ukraine that remain relatively uncontested. In terms of geographical distribution, the Ukrainian language is predominant in the western part of the country and in rural areas across most of the country, whereas Russian is prevalent in cities outside the western part and in the southeastern part of the country. The majority of the country's population is bilingual in Ukrainian and Russian—with a much higher proportion of the bilinguals among Ukrainian-speaking ethnic Ukrainians than among Russian-speaking ethnic Ukrainians and ethnic minorities.

In terms of language use, regular surveys conducted by the Institute of Sociology of the National Academy of Science provide data that allow some observations to be made about continuity and changes in linguistic practices or, as some scholarship suggests, in preferences over linguistic choices.<sup>54</sup> One frequently asked question concerns the so-called “native” language. Responses to this question are provided in Table 1.

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<sup>51</sup> See, for example, an interview with Olexander Maiboroda, the head of the Department of Ethnopolitics at the Institute of Political and Ethnonational Studies, National Academy of Science, published in 140 *Ukraina Moloda*, (2005), 2 May.

<sup>52</sup> On the issue of the communicative dominance of the Russian language see L. Masenko, *Language and Politics* (Soniashnyk, Kiev, 1999).

<sup>53</sup> See, in particular, Janmaat, *Nation-Building in Post-Soviet Ukraine*, *supra* n. 47; Stepanenko, “Identities and Language Politics”, *supra* n. 47; and Arel, “Interpreting Nationality and Language”, *supra* n. 3.

<sup>54</sup> Arel, “Interpreting Nationality and Language”, *supra* n. 3.; Uehling, “The First Independent Ukrainian Census”, *supra* n. 3.

<b>Table 1. What is your native language?</b>												
	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
Ukrainian (%)	62.3	59.4	62.5	62.4	61.9	61	63.8	59.9	63.9	58.9	61.1	64.3
Russian (%)	34.7	37.8	36.1	35.1	36.5	36.1	35.1	38.1	34.5	38.1	35.7	34.1
Other (%)	2.6	2.7	1.4	2.5	1.5	2.9	1.2	1.8	1.5	1.5	1.8	1.5
Ukrainian and Russian (%)	–	–	–	–	–	–	–	–	–	1.3	1.4	–
No answer (%)	0.4	0.0	0.0	0.0	0.1	0.0	0.0	0.1	0.1	0.1	0.1	0.0

Source: N.Panina, *Ukrains'ke suspil'stvo 1994-2005: sotsiologichnyi monitorynh* [Ukrainian Society 1994-2005: Sociological Monitoring] (Sophia, Kiev, 2005).

The responses to this question vary over a rather narrow range. The only data that yields itself to the suggestion of a trend is responses to an option about the native language other than Ukrainian or Russian. These suggest that there is a decline in the share of people whose native language is something other than the two major languages in Ukraine. With respect to these two languages, the latest polls registered a slight increase in the share of people who claim Ukrainian as their native language and a decline in the share of people who identify themselves as native Russian speakers. The shares of native Ukrainian speakers and native Russian speakers were, respectively, at their record high and record low in 2005. The table also indicates that the share of people who claimed both Ukrainian and Russian as their native language (the question was asked only in 2003 and 2004) was very low.

Another question that is asked in the survey concerns the language used predominantly in family communication. Responses are documented in Table 2.



<b>Table 2. Which language do you predominately use at home?</b>												
	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
Mainly Ukrainian (%)	36.7	31.9	36.9	38.2	37.6	36.3	39.1	36.9	38.2	38.1	38.4	41.8
Mainly Russian (%)	32.4	32.8	33.1	34.5	33.4	33.6	36.0	36.7	33.2	36.0	34.3	36.4
Both Ukrainian and Russian (%)	29.4	34.5	29.6	26.8	28.4	29.0	24.8	25.8	28.0	25.2	26.3	21.6
Other (%)	0.7	0.9	0.4	0.6	0.5	1.1	0.2	0.6	0.5	0.7	0.9	0.2
No answer (%)	0.8	0.0	0.0	0.0	0.1	0.0	0.0	0.1	0.1	0.1	0.1	0.0

Source: N.Panina, *Ukrains'ke suspil'stvo 1994-2005: sotsiologichnyi monitorynh* [Ukrainian Society 1994-2005: Sociological Monitoring] (Sophia, Kiev, 2005).

The table suggests that, while the situation with regard to the use of languages in the private sphere is relatively stable, there has been a discernible rise in the number of persons that use predominantly Ukrainian and predominantly Russian in the family setting. The number of respondents in the latter category peaked in 2001 while the number of those in the former peaked in 2005. The increase in membership of both groups over the entire period analysed could be attributed in large part to the decline in the number of people who stated that they used both languages depending on the circumstances.<sup>55</sup> The number of those who claimed to use other languages was well below 1% for most of the period and the annual fluctuations reported in the table do not allow one to make judgments about a long-term decline or increase in the usage of other languages in a private setting.

The fact that the number of persons that claimed to use predominantly Ukrainian peaked in 2005 and the number of persons that claimed to predominantly use Russian also increased to its second highest level recorded in the annual surveys might be a product of the increased salience of identity-related issues in the course and the aftermath of the Orange Revolution events. It is well established in the literature that language is an important marker of identity

<sup>55</sup> Anthropological or socio-linguistic research might be required to shed some light into what respondents actually mean when they claim to use both languages at home depending on the situation. Choosing this option might again reflect the preferences or normative beliefs of respondents rather than the actual practices of their family communication.

in Ukraine and its symbolic significance might have grown both for Ukrainian speakers and for Russian speakers in the politically polarized setting of the 2004 presidential elections.

A similar pattern, although less pronounced and longitudinally inconsistent, characterized the respondents' answers to another question on language-related matters in 2005. The Institute of Sociology's annual survey asked respondents whether they supported granting the Russian language an official status. The respondents' answers in 2005 were distributed as follows: 34.4% (as compared to 34.1% on average for the entire 1994–2005 period) were against, 16.8% (18% on average) stated that it was difficult to say, 48.6% (47.7%) answered yes, and 0.1% (0.2%) did not answer. Since the question did not include an explanation of what the “official” status means and the questionnaire did not contain any other direct questions about language status it is not possible to estimate the level of public support for other more precisely formulated measures of state support for the Russian language that could be envisioned. The available data indicates only that slightly less than half of the population consistently supported granting Russian some sort of official recognition.

Overall, all the survey results cited above point to the fact that no dramatic changes in the patterns of language use or in linguistic preferences has taken place during the post-communist period, which is not counterintuitive given the shortness of the time span analysed and the fact that linguistic attitudes and preferences are among the most constant personality traits. Linguistic policy is an area where short-term fluctuations could more easily occur and where many political battles take place.

### *B. Linguistic Policy*

The rehabilitation and revitalization of the Ukrainian language has been a major, albeit highly controversial, focus of state linguistic policies throughout the post-communist period. The 1989 Law on Languages, which declared Ukrainian the state language, provided an important impetus for such policies. The special status of Ukrainian was reiterated in the 1996 Constitution and confirmed in the 1999 ruling of the Constitutional Court, the highest court in the land.<sup>56</sup> A number of other legal documents, including laws on broadcasting, education,

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<sup>56</sup> For a detailed discussion of these legal documents see Stepanenko, “Identities and Language Politics”, *supra* n. 47.

advertisement, self-government and judicial administration, as well as rules and norms adopted by such regulatory agencies as the State Committee for Television and Radio Broadcasting and the National Television and Broadcasting Council also shape the legal framework in which Ukrainian and other languages defined as minority languages function in Ukraine.

Attempts to revitalize Ukrainian have not proven particularly controversial with smaller ethnic minority groups whose linguistic practices were only marginally affected by them. As Stepanenko notes, ethnic minorities with a high level of cultural and linguistic autonomy, such as the Hungarians, Romanians and Poles, were not threatened by the new state's policies, which were aimed primarily at the de-Russification of Ukraine's public sphere. Among the ethnocultural communities that did have problems with the new policies and voiced protests or concerns about them, however, were ethnic Russians, primarily, as well as the highly Russified minorities such as the Belorussians, Jews and, very importantly, the Russian-speaking ethnic Ukrainians.<sup>57</sup>

The salience of the linguistic de-Russification issue has been raised routinely during national election campaigns. Various political forces competing to position themselves as the representatives of the Russian-speaking population have run their electoral campaigns throughout the postcommunist period on the slogans of granting the status of second state language to Russian. Albeit to a lesser extent, the same issue has also been an important mobilizing factor for political parties appealing to Ukrainian speakers and advocating state support for the Ukrainian language during the early 1990s. As has been frequently noted by analysts of Ukrainian affairs, political attention to the issue of the Russian language status usually has waned after the elections although the issue continues to remain on the public discourse agenda.

Hesitant implementation of the ambitious agenda for the revitalization of the Ukrainian language and the conscious decision on the part of state institutions not to enforce some of the legal and administrative regulations on language use in the public domain are among the main factors explaining the lack of sustainability in collective political actions aimed at the emancipation of the legal status of the Russian language. These factors played a major role in

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<sup>57</sup> *Ibid.*

reducing political tensions and defining the actual (as opposed to formal) language regimes across various public spheres, including mass media and education.

The chosen approach towards implementation of the programme of revitalization of the Ukrainian language, as well as a complex interplay of economic factors favouring Russian-language media products have contributed to the fact that the Russian language continues to dominate the mass media, although there is substantial regional and segmental variation in the extent of this domination. One recent academic study cites figures according to which the proportion of newspapers and magazines printed in the Ukrainian language in 2000 was, respectively, 35% and 12%. The share of Ukrainian-language TV programmes was 18% and the share of Ukrainian-language books on the Ukrainian market was 10%.<sup>58</sup> Another source reports that, in 2001, Ukrainian-language newspapers and books occupied 20% and 25% of the market, respectively. The share of Ukrainian in TV and radio broadcasting was about 10%.<sup>59</sup> Overall, there was a public acknowledgment on the part of the authorities that the use of the Ukrainian language in various media segments by the end of Kuchma's ten-year presidency had diminished even by comparison to the early 1990s.<sup>60</sup>

Given the private ownership of the main electronic and printing media outlets in Ukraine, various regulatory mechanisms have constituted the main tool of government intervention in the sphere of mass media. In order to respond to the voices that consider the existing situation to be highly discriminatory against Ukrainian speakers, a number of measures were adopted by the government during the second term of Kuchma's presidency. Most prominently, these included the short-lived attempts during the 2000–2001 period to enforce existing regulations that required newspapers produced in Russia and circulated in Ukraine to abide by their registration documents, which obliged the newspapers to publish material in Ukrainian, open offices in Ukraine and use more of the Ukrainian language in their editions sold in Ukraine.<sup>61</sup> During the same time period, efforts were made to ensure compliance of Ukrainian TV and radio with the 1993 Law on Broadcasting, which required the broadcasters to produce at least 50% of their output domestically and to use the Ukrainian language for at least 75% of their

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<sup>58</sup> Kuts, *Language Policy*, *supra* n. 4.

<sup>59</sup> Editorial, "Braty za yazyk", *supra* n. 4

<sup>60</sup> Vice Prime Minister Dmytro Tabachnyk's speech at the public hearings on the draft law "On the Development and Use of Languages in Ukraine", 5 December 2005. Available at [http://www.kmu.gov.ua/control/uk/publish/article?art\\_id=3646619&cat\\_id=38176](http://www.kmu.gov.ua/control/uk/publish/article?art_id=3646619&cat_id=38176).

<sup>61</sup> K. Kuzio, "Status of Russian Language Again Threatens Ukrainian-Russian Relations", *RFE/RL Newswire* 5(6), Part II, 10 January 2001.

broadcasting time in nation-wide broadcasts (the law stipulates that broadcasting in the individual regions can be conducted in the languages of minorities that compactly reside in these regions).

These attempts to enforce existing legislation were associated largely with the officials responsible for humanities issues in the cabinet led by Yushchenko. Many of these officials lost their positions after Yushchenko's dismissal from the prime ministerial post in 2001. The Council for Language Policy, a consultative body on linguistic policy issues to the president, also ceased its activity after Yushchenko's dismissal. Interest in these enforcement issues reappeared during discussions over the draft Law on Advertising in 2003 and after the decision by the National Television and Broadcasting Council to review compliance with the Law on Broadcasting in 2004. However, the latter decision was later postponed due to widespread criticism of the measure, including from Kuchma himself.<sup>62</sup>

Thus, at the end of the Kuchma period, the linguistic balance in the mass media was similar to that in evidence at the start of his presidency. However, the continuing dominance of the Russian language was not as uniform as at the beginning of his term. For example, the share of Ukrainian-language advertisements after the passage of the restrictive 2003 Law on Advertising, which required all advertisements to be issued in Ukrainian, had increased sharply. At the same time, the less restrictive provisions on the national content and language use of the 1993 broadcasting law continued to be largely ignored. For example, a five-week monitoring of the musical content of the 17 largest commercial radio stations by the National Television and Broadcasting Council in September of 2005 revealed that the share of Ukrainian language music in these radio stations' musical programs was, on average, less than 10%.<sup>63</sup>

While this might suggest that the first year of Yushchenko's presidency produced little change in linguistic policy in the media sphere, there are, however, important new developments that might prove to have lasting consequences for the patterns of language use in the media. The key actors behind these developments are the regulatory agencies in the media sector and, in

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<sup>62</sup> S. Shulman, "Ukrainian Nation-Building Under Kuchma", 52 *Problems of Post Communism* (2005), 32–48.

<sup>63</sup> Author's calculation based on National Television and Broadcasting Council. *The 2005 Final Report of the National Television and Broadcasting Council*. Kiev. January 2006. Available at <http://www.nradatvr.kiev.ua/index.htm>.

particular, the National Television and Broadcasting Council. Having learned from previous unsuccessful attempts to enforce the laws, the Council adopted a much more open and inclusive dialogue with the media broadcasters, trying to respond to many of their concerns and, at the same time, to achieve a higher degree of voluntary compliance with the existing legal framework. The signing of a memorandum with the leading broadcasting agencies on joint efforts to create a national informational space was one of the important manifestations of the new approach. Among other things, the memorandum envisions a gradual transition to full compliance with the language content norms and the joint development of monitoring criteria.<sup>64</sup>

Besides pursuing the goals of fostering societal integration in Ukraine, the emphasis on the creation of a national information space has, to a significant degree, reflected a new level of awareness of vulnerabilities that unregulated media access can create for the country's political process. In this sense, the regulatory agencies were responding to political authorities' interest in regulating, among other things, the access to the Ukrainian market of state-controlled Russian media, whose approach to covering developments in Ukraine is considered by many politically engaged and neutral media analysts in Ukraine to be hostile and manipulative. If this emphasis is maintained, it will provide more opportunities for the use of Ukrainian in the media.

Linguistic policies in the sphere of education evolved along substantially different lines from those in mass media. The state moved quite fast during the first post-communist decade in changing the language of instruction from Russian to Ukrainian at various levels of education. The official statistics covering, for example, the second half of the decade stated that, during 1995–2001, the number of students studying in Ukrainian has increased from 51% to 76.3% and in Russian had dropped from 49% to 23.6%. The change was most rapid in central Ukraine but affected also, to a varying degree, the eastern and southern regions. The share of students studying in Russian in individual eastern and southern regions in 2001 was, for example, 99.4% in Crimea, 76.4% in the Donetsk region, 50.6% in the Luhansk region and 33.2% in the Odesa region.<sup>65</sup>

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<sup>64</sup> The text of the memorandum is available at <http://www.nradatvr.kiev.ua/memorandum.htm>.

<sup>65</sup> Ukraine Ministry of Education data cited in “The System of Education in Ukraine: The State and Prospects of Development”, 4 *National Security and Defence* (2002).

Government decisions about the choice of Russian or Ukrainian language instruction in individual regions were based on the 1989 census data on ethnic composition and native language and not inherited from the Soviet period patterns of linguistic use in educational institutions. This policy drew, and continues to draw, major opposition from Russian-language rights activists, who accuse authorities of forcing Ukrainian language instruction on Russian-speaking students and pupils.<sup>66</sup> The issue has also become a matter of concern for the HCNM, who continues to be actively engaged in discussions related to minority protection standards in Ukraine.<sup>67</sup>

Outside of the small circles of Russian-language rights activists and politicians from marginal pro-Russian parties, there were relatively low levels of mobilization on the issue of school and university instruction during the Kuchma period. Partly, this can be explained by the similarity between the languages, which eased the transition from one language to another. It was also due, in part, to the way changes were enacted. The change was very often limited only to a switch in label: the school was officially proclaimed to be Ukrainian but the bulk of teaching continued to be conducted in Russian. In-depth studies of behavioural patterns in the Ukrainian educational system provide multiple examples of these practices, which, of course, cast serious doubts on the validity of any government-produced data on the language of instruction.<sup>68</sup>

An increase in the overall level of civic activism after the Orange Revolution has been reflected in a higher degree of mobilization on the issue of Russian language rights, including education-related topics. One of presidential candidate Yushchenko's explicit pledges aimed at alleviating fears of his alleged 'nationalism' during the 2004 presidential campaign—that his government would not shut down a single Russian school—has so far been kept by successive post-Orange cabinets. Yet this recent mobilization reflects the existence of sentiments opposed to what is perceived as the continuing Ukrainization of the educational system, even if this Ukrainization has proceeded along only largely formalistic lines, particularly in the eastern and southern regions of the country.

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<sup>66</sup> Interestingly enough, as Shulman notices, the introduction of radically different content in education materials, especially in the courses on history that directly deal with the interpretation of the Russian role in the Ukrainian history, did not cause much opposition. See Shulman, "Ukrainian Nation-Building", *supra* n. 62.

<sup>67</sup> See, for example, The Letter of The OSCE High Commissioner on National Minorities to Ukraine's Minister of Foreign Relations of 12 January 2001.

<sup>68</sup> Janmaat, *Nation-building in Post-Soviet Ukraine*, *supra* n. 47.

The main claim of this mobilization—to official recognition and formalize the special status of the Russian language in Ukraine—extends beyond the situation in the educational sphere and relates to the functioning of the public administration, court system and cultural institutions. Expectations of the introduction of a Ukrainian-only policy in court proceedings became the latest topic of discussion about the use of Russian in various public spheres.<sup>69</sup>

An important change from the Kuchma period is the emergence of a well-organized and well-financed vehicle for articulating and sustaining these demands: the Party of Regions, a major political party in the Ukrainian party system. For the first time, a non-communist party that enjoys a broad-based, albeit regionally confined, support, which has made this party the winner of the largest share of votes in the 2006 and 2007 parliamentary races, has embraced officially the issue of Russian language rights as a major element in its electoral platform. While this issue has been prominent in all the recent presidential campaigns in Ukraine, the previous parliamentary campaigns tended to be defined less by the positions taken by the major non-communist political parties on the status of the Russian language.

The problem of the status of the Russian language is likely to remain on the agenda in the wake of the 2007 parliamentary elections and will require compromises from both sides in the debates on this issue. The difficulty in finding such a compromise is reflected in the long and tortured process of ratification by Ukraine of the European Charter for Regional and Minority Languages.<sup>70</sup> The content of such a compromise actually might be suggested by the events that started recently to take place in regions of eastern and southern Ukraine, where city and regional councils passed or contemplated passing decisions about granting the Russian language the status of a regional language.<sup>71</sup> By recognizing these decisions through some form of legal entrenchment of the rights of linguistic (rather than ethnic) groups and by not challenging these decisions through the court system, the central government authorities might alleviate some of the existing tensions. Such recognition could also put the central government policy of revitalizing the Ukrainian language on a stronger footing. As this chapter's analysis of the available data on the use of the Ukrainian language—particularly in

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<sup>69</sup> Вячеслав САВЧЕНКО. “Без права на правосудие.” Крымская правда. N157 (23776) 27.08.2005.

<sup>70</sup> Володимир ВАСИЛЕНКО ЯКІ МОВИ В УКРАЇНІ ПОТРЕБУЮТЬ ОСОБЛИВОГО ЗАХИСТУ № 10 (589) Субота. 18 - 24 Березня 2006 року. <http://www.zn.kiev.ua>.

<sup>71</sup> Kharkiv's city council passed this decision in early March 2006. The earlier precedents include 2000 and 2003 decisions of Zaporizhia's city council. Ленур Юнусов, Мария Спалек Что можно Харькову, то нельзя Крыму “Коммерсант”, 09.03.2006.



broadcasting, media and publishing—suggests, there are strong justifications for such a policy to exist. The acknowledgement of the need for affirmative action with regard to the Ukrainian language, and the acceptance of specific policy initiatives undertaken to meet this need, is a step that the Russian-speaking community and its political leaders have to be willing to take in order to arrive at such a compromise.

## V. PROBLEMS OF NON-RECOGNITION AND INDIGENOUS STATUS

An additional complexity in majority–minority relations in Ukraine is introduced by the continued existence of tensions on issues of non-recognition and indigenous status. Here, these terms are used to define two distinct challenges faced by Ukrainian society. The first concerns the problem of recognition of Rusyns, a territorially concentrated group of east Slavic people whose leaders make claims of cultural distinctiveness and oppose the Ukrainian state’s policy of categorizing them as ethnic Ukrainians.<sup>72</sup> The second refers to the demands of Crimean Tatars and some smaller ethnic groups to secure the passage of laws that will grant them the status of an indigenous people.<sup>73</sup>

Unlike other countries of the Carpathian basin, where Rusyns have been recognized at least from the time of disintegration of the communist bloc, Ukraine continues to refuse to grant a separate ethnic status to this group.<sup>74</sup> The official government position is that Rusyns are a sub-ethnic group of the Ukrainian ethnos. In a November 2004 interview, one of the key government officials dealing with minority issues stated that she does not envision any change in governmental policy on this issue despite considerable pressure from international

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<sup>72</sup> On the history of the Rusyns see, for example, the writings of Paul Magocsi, the leading scholar on the Rusyn question. P.R. Magocsi and I.I. Pop, *Encyclopedia of Rusyn History and Culture* (University of Toronto Press, Toronto, 2002); and Magocsi, P.R. (1999.) *Of the Making of Nationalities There is No End* (East European Monographs, Boulder, CO, 1999). On the Rusyn question in the post-communist Ukraine see Arel. “Interpreting Nationality and Language”. *Supra* n. 3; J. Batt, “Transcarpathia: Peripheral Region at the “Centre of Europe”, Working Paper 27/01, The ESRC “One Europe or Several?” Programme, Sussex European Institute, 2001; T. Trier, “Inter-Ethnic Relations in Transcarpathian Ukraine”, *ECMI Report* No. 4 (European Centre for Minority Issues, Flensburg, 1999), available at: [http://www.ecmi.de/download/report\\_4.pdf](http://www.ecmi.de/download/report_4.pdf).

<sup>73</sup> Belitser, ““Indigenous Status” for the Crimean Tatars ”, *supra* n. 42.

<sup>74</sup> Rusyns are recognized in Slovakia, Poland, Romania and Hungary, as well as in other countries where Rusyn diaspora groups are found. Rusyn activists claim that the largest share of Rusyn people reside in the Transcarpathian region of Ukraine.

organizations and Rusyn groups both in Ukraine and in neighbouring countries where Rusyns are recognized.<sup>75</sup>

The preoccupation with maintaining territorial integrity, which is one of the traditional security priorities of a state, is one important factor in explaining the Ukrainian authorities' approach towards dealing with the Rusyn question. Rusyn autonomy demands are often perceived by the Ukrainian officials as concealed successionism. The unwillingness of the Ukrainian academic and cultural elite to accept Rusyns' claims of cultural distinctiveness is another such factor.<sup>76</sup> Yet the lack of progress in addressing the Rusyn issue also has a great deal to do with attitudes amongst the potential members of the Rusyn community.

One of the important debates in the academic literature on the Rusyn issue concerns the question of how broad-based the recent revival in Rusyn identity actually is.<sup>77</sup> Scholars disagree about whether this revival is based on genuine popular support for claims articulated by Rusyn activists or whether it is confined to a small group of cultural figures and would-be ethnic political entrepreneurs. If a basic test of graduation into a separate ethnic group is whether elites are capable of mobilizing a broad-based support for claims made in the name of this group, then there is little evidence that Rusyns have yet passed this test. Even in the aftermath of the Orange Revolution, when the public atmosphere became especially conducive to the articulation of various types of collective claims and active participation in the political process, so far very little has happened outside of narrow intellectual circles in the potential Rusyn community.<sup>78</sup>

Although the effects of the efforts of the Ukrainian state aimed at weakening the Rusyn elite's ability to communicate its message should not be underestimated, some scholars also point to the specific legacy of confusion, doubt and fatalism among the Rusyns in relation to the

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<sup>75</sup> The author's interview with Tetiana Pylypenko, director of the Department of Nationalities State Committee of Ukraine for Nationalities and Minorities. 1 November 2004, Kiev.

<sup>76</sup> On the discussion of official academic attitudes in Ukraine, see Arel. "Interpreting Nationality and Language". *Supra* n. 3.

<sup>77</sup> H. Lane, "Rusyns and Ukrainians Yesterday, Today, and Tomorrow: The Limitations of National History", 29 *Nationalities Papers* (2004), 689–696.

<sup>78</sup> One notable event was the introduction into the Ukrainian parliament of a resolution on Rusyn recognition by the ethnic Hungarian MP from Transcarpathia Istvan Gaidos in November 2005. The lack of public attention to this matter underscores the lack of activism on the part of the proponents of the Rusyn cause. See Editorial, "Национальность "русин" признают наконец официально?", 19 November 2005, available at <http://www.ua-reporter.com/news/14429>.

question of their identity. This legacy, which is a product of the extraordinary complexities of the history of the region, undermines the Rusyns' will and ability to assert themselves collectively as an ethnic community.<sup>79</sup> The evolution of Rusyn identity continues to be a fascinating research topic for scholars interested in studying the impact of cultural activities and cultural groups on the process of identity formation, the effects and limits of cultural assimilation and the implications of political democratization on the articulation of identity claims.<sup>80</sup>

It is difficult to judge the level of grassroots support for Rusyn identity claims in Transcarpathia. In the lifetime of a single generation, the region has been under the rule of many states. Some local scholars argue that the local population learned to withhold information about their ethnic identity and it is difficult to produce reliable figures about Rusyn identification in Transcarpathia with traditional survey methods. While Rusyn activists claim that more than 850,000 people use the Rusyn language in interpersonal communication in the Transcarpathian *oblast*,<sup>81</sup> these scholars estimate that around 10% of the population in the region, which amounts to slightly more than 120,000 people, might have a stable Rusyn ethnic identification.<sup>82</sup> Since Rusyns are not recognized as an ethnic group, the 2001 Ukrainian census did not provide an option for individuals to identify themselves as Rusyns. The published census for nationalities within Ukraine as a whole thus contained no figures for Rusyns. The only published data appeared in the 2003 Transcarpathian statistical bulletin, in which 10, 090 Rusyns were listed as an ethnographic (not ethnic) group. In Magocsi's interpretation, when asked the question about their *nationality*, these persons answered Rusyn. The statistical authorities later placed the data about Rusyns under the category "distinct ethnographic groups of the Ukrainian ethnos."<sup>83</sup>

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<sup>79</sup> Batt, "Transcarpathia: Peripheral Region", *supra* n. 72.

<sup>80</sup> The impact that the historical writings and other academic activities of the main scholar of Rusyn identity Paul R. Magocsi has had on the articulation of ethnic claims and on the activities of Rusyn organizations has also become the subject of a number of studies. See, for example, M.F. Ziac, "Professors and Politics: The Role of Paul Robert Magocsi in the Modern Carpatho-Rusyn Revival", 35 *East European Quarterly* (2001), 213–233; and C.M. Hann, "Intellectuals, Ethnic Groups and Nations: Two Late-twentieth-century cases", in: S. Perival (ed.), *Notions of Nationalism* (Central European University Press, Budapest, 1995), 106–129.

<sup>81</sup> See "Appeal to Parliamentary Assembly of the Council of Europe on the Problem of Official Recognition of the Subcarpathian Rusyns". Regional Parliament of Subcarpathian Rusyns/Regional Society of Subcarpathian Rusyns, 15 May 2004. Original in Russian at

[http://www.karpatorusyns.org/more.php?id=123\\_0\\_1\\_0](http://www.karpatorusyns.org/more.php?id=123_0_1_0)

<sup>82</sup> The author's interview with sociologist Alexander Pelin, Uzhgorod State University, 8 November 2004.

<sup>83</sup> Personal correspondence with professor Paul R. Magocsi, December 2006.

In some respects, the problem of Rusyn recognition represents an interesting moral dilemma for the ethnic Ukrainian majority. The Rusyns are in a situation that the ethnic Ukrainians faced themselves a century ago when the Russian imperial state denied their claims for cultural distinctiveness. This moral dilemma, however, has not been actualized in contemporary Ukraine. The lack of grassroots mobilization on the part of Rusyns themselves is probably the main factor in explaining why the Rusyn issue has not become a moral issue (conceptualized in terms of the need to recognize the cultural aspirations of a distinct group) for Ukrainian society at large, but instead has continued to be defined largely in terms of the security concern it is perceived as presenting for the Ukrainian state.

Unlike the issue of recognition for Rusyns, there are no difficulties in finding a sizable and mobilized constituency for claims of indigenous status.<sup>84</sup> Crimean Tatar leaders, who preside over a well-organized and vocal ethnic community, have been the main force advocating the granting of an indigenous status to their people as well as, potentially, to Karaims and Krymchaks, which are the two other autochthonous groups of Crimea. The position of indigenous status advocates in Ukraine evolved by taking into account provisions and definitions found in the Convention Concerning Indigenous and Tribal Peoples in Independent Countries.<sup>85</sup> According to one leading analyst of this topic, the Ukrainian version of ‘indigenusness’ proceeded from the notion that indigenous people constitute a type of minority that differ from other national minorities because its members have neither a kin-state nor another territory on which they had been permitted to form and develop as an ethnos.<sup>86</sup>

Receiving the status of indigenous people is seen by Crimean Tatars as the basis for resolution of the various types of problems they face, such as representation in legislative and executive bodies at different levels of government, legalization of their ethnic representative institutions, land rights, and language and education issues. Crimean Tatar leaders, as well as various Ukrainian civil society organizations that support the Crimean Tatars’ claims, have tried a number of strategies to secure the political and subsequent legal endorsement of indigenous

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<sup>84</sup> One can think of the somewhat unexpected link between issues of non-recognition and indigenous status in the Ukrainian case by contemplating the potential for recognized Rusyns to claim indigenous status along with the current claimants of this status: the Crimean Tatars, Karaims, and Krymchaks.

<sup>85</sup> International Labour Organization (ILO) Convention 169, 1989. The Convention that came into force in 1991 has not been ratified by Ukraine.

<sup>86</sup> Belitser, “‘Indigenous Status’ for the Crimean Tatars”, *supra* n. 42.

status claims. Although the 1992 Law on National Minorities did not contain any mention of indigenous groups, the first draft of a ‘Concept of Ethno-Politics’, which was envisioned as a major legal document defining principles for the ethnopolitical development of Ukraine, by 1993 had introduced the distinction between minority and indigenous groups. However, neither of the subsequent drafts of this document, including the one that was discussed by civil society and government representatives in February 2005, succeeded in gaining legislative support.<sup>87</sup> As Belitser notes, the effort put into these drafts, nevertheless contributed to the introduction of the concept of indigenous people in the 1996 Ukrainian constitution.<sup>88</sup>

Largely in parallel to the efforts to draft a comprehensive law on ethnopolitical development, Crimean Tatar rights activists have developed legislative proposals focusing on the issues specific to the Crimean Tatar community. Neither of two key legislative initiatives in this respect—drafts on the status of the Crimean Tatar people and on the rights of deported persons—has become law, although numerous attempts to secure their passage were undertaken.<sup>89</sup> The repeated failures in attempts to pass these laws and some other related legislative provisions have frustrated the Crimean Tatars, who see these failures as evidence of the lack of solidarity and support for their concerns on the part of national deputies. Nevertheless, the Crimean Tatars continue to regard the national level legislative body as the most appropriate forum for addressing their concerns; Crimean autonomy institutions are perceived as weak and sometimes even as hostile to the Crimean Tatars’ cause.<sup>90</sup>

To date, the Crimean Tatar’s quest for a comprehensive program of affirmative action has received a mixed response in Ukraine. While much has been done by the state authorities and international community to address the socio-economic issues of the Crimean Tatars’ reintegration in Crimea, little has been accomplished in terms of accommodating their key legal and political demands. These demands have proven to be controversial both at the national level, as the fate of the abovementioned legal bills indicate, as well as in the international arena, where key institutions such as the Council of Europe and the OSCE have

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<sup>87</sup> For a description of the latest initiatives in this respect see the project on ‘Conceptual Principles of National Ethnic Policy: Practice and Theory.’ <http://www.ucipr.kiev.ua>.

<sup>88</sup> Belitser, “‘Indigenous Status’ for the Crimean Tatars”, *supra* n. 42.

<sup>89</sup> A compromise-based version of the law “About the Restoration of Rights of Persons Deported on the Basis of Nationality” was adopted by the parliament in June 2004. The president, however, subsequently vetoed this law.

<sup>90</sup> The authors’ interview with Rafat Chubarov, member of the Ukrainian Parliament and deputy head of the Crimean Tatar organization *Majlis*, Kiev. 4 November 2004.

tended to avoid explicit endorsement of indigenous status claims.<sup>91</sup> At the domestic level, this situation has been complicated further by the permanent campaign on the part of the Communist party and some pro-Russian political parties and civil organizations to discredit the Crimean Tatar's movement. Yet achieving progress on many of the Crimean Tatars' key concerns regarding their status will require compromises and modification of the positions of both the majority and the Crimean Tatar minority. Given the Crimean Tatars' interest in engaging and appealing to European institutions on the topic of indigenous rights, finding ways to accommodate claims of a special status for the Crimean Tatars might represent an important test for the emerging European regime of minority protection.

## VI. CONCLUSION

Majority–minority relations in Ukraine face many challenges. As this chapter has demonstrated, these challenges have multiple sources and are rooted both in the country's pre-independence history and complex post-communist transition. Neither the identity of the majority group nor the acceptance of a new status by the largest minority group has been settled. Debates continue to centre on the very basic principles of state organization, including issues such as what territorial and administrative structures should be put in place to accommodate very substantial regional differences. Decentralization holds the promise of improving the situation of minorities but the implementation of decentralization plans is still in the early stages. Linguistic issues remain a major source of contention with very significant implications for the national political process. The deepening of the democratization process in the aftermath of the Orange Revolution has heightened the expectations of different segments of society that their multiple and diverse concerns will be addressed and resolved promptly by the new Ukrainian authorities.

All this has a somewhat unsettling effect on efforts to foster interethnic cooperation and accord. At the same time, it also provides an opportunity to advance majority–minority dialogue in order to achieve some shared understanding on what measures should be undertaken to address both the ethnic Ukrainians' concerns about the status of their long-

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<sup>91</sup> See more on this in Belitser, ““Indigenous Status” for the Crimean Tatars”, *supra* n. 42

suppressed cultural identity and national minorities' fears of exclusion and discrimination in areas as diverse as participation and representation in government, education and language use. This domestic dialogue is likely to be more successful if Ukraine manages to sustain its current course on deeper integration in various European structures and if its EU partners take substantive efforts to accommodate the country's European aspirations.

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