

PARIAH OR VICTIM ?

A Reappraisal of Human Rights And Democracy in

BELARUS

THE BRITISH HELSINKI HUMAN RIGHTS GROUP

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ABBREVIATIONS

BDG	Beloruskaya Delova Gazeta (Belarusian Business Gazette)
BPF	Belarussian Popular Front
FSU	Former Soviet Union
VC	Venice Commission

INTRODUCTION

In the past two years Belarus has gone from being one of the least-known ex-Soviet republics to one of the most notorious. Its government is portrayed as oppressive; its President, Alyaksandr Lukashenka, is reviled as a modern dictator and regularly compared with Hitler and Stalin.

This view is held almost unanimously by the international community - the United States in particular seems to have an extreme animus against Belarus. And, in the last few months, European institutions like the Council of Europe have expelled the country from its 'waiting room' for aspiring entrants. Although Belarus is regarded as close to its neighbour, Russia, leading Russian politicians and large swathes of the Moscow media are among President Lukshanka's enemies.

Despite the fact that human rights groups like Amnesty International have had little or nothing to say about Belarus the ostensible reason for international concern is, to quote the US government, the "catastrophic situation in the area of human rights". This includes:

Lack of media freedom

Harassment of members of the opposition and the violent suppression of its peaceful rallies

Illegal referendum held on 24th November 1996 that increased the powers of the President to unacceptable levels and introduced changes to the 1994 constitution incompatible with European standards relating to the separation of the powers

The purpose of this report is to examine these allegations in the light of the author's own observations in Belarus since 1994 and those of other observers from this Group.

The British Helsinki Human Rights Group has visited Belarus on six occasions in the past three years. Observers attended the 1994 presidential elections and all three rounds of the 1995 parliamentary elections. They also observed the conduct of the constitutional referenda in both 1995 and 1996 - in the latter case they were among the few Westerners who monitored the poll. Finally, in March 1997 a three man mission including a psychiatrist with experience of prison work in the UK visited prisons and mental hospitals in Belarus in an attempt to broaden the debate on human rights' issues.

Members of the Group have travelled widely in Eastern Europe and the Former Soviet Union and have first hand experience of the development of civil society in these countries. They are also aware of the terrible legacy of the Communist and Fascist crimes that continues to haunt this part of Europe. It is against this background that they have based their conclusions about the position of human rights in Belarusian society today.

BELARUS: THE HISTORICAL BACKGROUND

Of all the ex-Soviet republics Belarus has appeared to be more a province of Russia than a real country, its independence merely illusory.

The territory of present-day Belarus has belonged at different times to Poland, Lithuania and Russia. Nevertheless, in line with other countries in the region a nationalist movement grew in the nineteenth century which led to a brief period of independence in 1918 that was crushed within months by the Bolsheviks. In 1922 the Belarusian Soviet Socialist Republic was formed and Belarus became one of the first signatories of the treaty establishing the Soviet Union.

Nowadays, it is frequently reiterated that Belarusians never wanted to leave the Soviet Union and had independence "thrust" upon them. The results of Gorbachev's referendum of preserving the union held in the Spring of 1991 (82% in favour) are held up as evidence for this as is the failure of the Popular Front to promote enthusiasm for reviving the Belarusian language and culture.

While it is true that Belarusians feel economically disadvantaged by independence and many, particularly among the less well-educated, think that reintegration with Russia would be an answer to their problems the

situation vis-à-vis independence and national identity is less clear than usually presented.

In fact, in its early period Communist rule served to *promote* Belarusian national identity. Lenin took the view that the most effective way of spreading Communist ideas was via the conduit of the various national languages in the new empire. During the 1920s ethnic consciousness was encouraged and the period between the wars saw a gradual development of an indigenous socio-economic structure in Belarus with its own capital and commercial centre in Minsk. Between 1927-1938 the number of books published in the Belarusian language increased from 1.3% to 12.3%¹. Education in the Belarusian language only came under threat with the imposition of compulsory study of the Russian language in the 1938 Soviet education law.

After the Second World War both Khrushchev and Brezhnev accelerated Russification but the results were mixed. In a study conducted in 1980 the authors concluded: "The most surprising results of our analysis is the apparently low proportions of Belorussians and Ukrainians undergoing ethnic reidentification. Given the historic patterns of assimilation of these two Slavic nationalities by the Russians ...higher rates of ethnic identification would be expected". They went on to say that "all nationalities whose official homelands are of union republic status showed low rates of ethnic reidentification between 1959 and 1970. The most surprising result of our estimates is the low rate of ethnic reidentification by Ukrainians and Belorussians".

Of course this did not affect creeping Russification. In Minsk the percentage of Belarusians claiming Russian as their native language apparently increased from 35.4% in 1970 to 39.3% in 1979. The increase was similar in all the cities. In 1979 a respected Russian academic assured the Academy of Sciences of the USSR that there was no Belarusian language teaching in Minsk; in early 1989 77% of Belarusian schoolchildren were taught in Russian and 20.6% in Belarusian.

However, identification of nationhood with the indigenous language is not always accurate. Belarusian continued to be taught in the countryside as it is today by teachers (we met one near Lanojsk) who are not necessarily interested in or committed to political independence.

INDEPENDENT BELARUS

Belarus, like the other Soviet republics, started to rediscover its ethnic and linguistic identity in the period of *perestroika* under Gorbachev. A Popular Front emerged led by intellectuals and writers including the historian Zyanon Pazniak and while demands for Belarusian independence were less publicized than in the nearby Baltic States the effects of the Chernobyl disaster on the territory of Belarus and the discovery of mass Stalinist graves at Kurapaty near Minsk promoted more critical attitudes to the country's Soviet identity.

Although the Popular Front was banned from holding its first congress in Belarus (it took place, in fact, in the nearby Lithuanian capital, Vilnius) there were demonstrations in Minsk against the Communist controlled government. In 1990 following the example of other Soviet republics the Belarusian Supreme Soviet adopted a wide-ranging declaration of sovereignty. Independence was hastily declared as in other republics after the failed coup in August 1991.

The elections in 1990 were less genuinely multi-candidate than in some other parts of the Soviet Union (including Russia) and they returned a predominantly Communist parliament dominated by factory managers and collective farm chairmen with only a small number of clear oppositionists. But in the summer of 1991 this group was suddenly discredited by its failure to condemn the Moscow *Putsch* and the chairman of the Supreme Soviet, Mikalai Dzemyantsei, was forced to resign.

The academic and moderate Belarusian nationalist Stanislau Shushkevich took over as Speaker of the new parliament but he was to be in a state of permanent conflict with conservative deputies from the start. The *casus belli* of his fall was the desire of his opponents like the Prime Minister Vyacheslau Kebich and Alyaksandr Lukashenka to sign a security pact with the CIS which Shushkevich viewed as an abrogation of Belarusian sovereignty since Belarus had been declared a neutral state. But Shushkevich also favoured tougher economic reforms and privatization.

Shushkevich stonewalled the parliament until January 1994 when he was forced to resign after allegations of corruption. It is said that these were untrue and a device to force his resignation. Power anyway had been in the hands of prime minister Vyacheslau Kebich and deputies like Mechislau Hryb who had taken over from Shushkevich as parliamentary chairman.

In March 1994 parliament voted to create the post of president and adopted a new constitution. Elections to the presidency were set for June 23rd 1994 and after several possible candidates dropped out six runners were left in the contest. The field appeared to be dominated by Premier Kebich, the favourite to win. He certainly had many cards stacked in his favour including an almost total monopoly of the media and strong contacts with the old party apparat.

However, opinion polls always put Alyaksandr Lukashenka a close second. In the event, Kebich suffered a humiliating reverse when Lukashenka nearly won in the first round outright with 45% of the popular vote. Lukashenka confirmed his standing when he won overwhelmingly (80.1%) against Kebich in the run-off.

FROM LUKASHENKA'S ELECTION TO THE 1996 REFERENDUM

In Spring 1994 the Soviet-era parliament passed a new constitution that transformed Belarus into a presidential republic. Alyaksandr Lukashenka's victory in the June 1994 presidential elections came as something of a surprise to the international community and to many Belarusians. As an MP Lukashenka had developed a reputation as a fighter against corruption, otherwise he was unknown. He had not been a senior member of the Communist establishment: Lukashenka was "never within the Nomenklatura of the Party".¹ According to one observer he was a mere 'corporal' in its apparatus.

ALYAKSANDR LUKASHENKA'S ELECTION AS PRESIDENT

Lukashenka was born in the Mogilev region of Belarus in 1954. After serving with the border guards on the Western frontier of the USSR he rose to become president of a collective farm in his native district of Shklov. He entered parliament in 1990 and when Belarus declared independence became chairman of its anti-corruption commission. It was said that his heroes included Felix Dzerzhinsky and Yuri Andropov but the unease that surrounded this level of hero-worship deepened when it was reported in 1995 that Lukashenka was an admirer of Adolf Hitler (see later).

During the 1994 election campaign his farm was portrayed on state television as a run-down affair and the overall impression was that as the media and apparatus of state were in the hands of Prime Minister Kebich - Lukashenka did not stand a chance. However, he won decisively in the second round of voting with over 80% of the vote.

Interestingly, despite the allegations of dictatorship made against Lukashenka no one has ever doubted the validity of his election victory.² At the same time it is probably true to say that many members of the political establishment, including deputies in the Belarusian parliament and former leading apparatchiks, were unhappy with his elevation to power. Lukashenka was an 'outsider' and an unpredictable one at that.

In the Autumn of 1994 accusations of corruption began to be made against Lukashenka himself by parliamentary deputy Sergei Antonchik. The affair sparked the first stand-off between Lukashenka and his adversaries due to the administration's censorship of newspaper reports of the allegations. It is difficult to assess the merits of Antonchik's report. It seems to have sunk without trace and even commentators hostile to the President have suggested that it was a device to discredit him.³ Attempts since then to tar the President with corruption charges have failed to take off. The worst allegations produced by *Svaboda* editor Ihar Hermanchuk⁴ was the number of buildings in the capital, Minsk, taken over by the administration and its purchase (with state funds) of several chairs from the Vatican.

Some foreign governments adopted a wait-and-see approach to Lukashenka. Despite allegations of his anti-Western stance one commentator noted that "one of the first actions of his administration was to double the budgetary appropriation for the foreign service earmarked for establishing and expanding Belarusian embassies and consulates through the world. Lukashenka's Belarus has continued to join in a number of prestigious international organizations".⁵ But the US seems to have been suspicious from the start. In Russia where his support has been portrayed as rock-solid elements of the political establishment and the main media outlets have always been hostile. When the 1996 referendum came to be held this hostility was near universal. When addressing a public meeting in Spring 1997 Lukashenka is reported to have warned his audience that "we are alone".

In a perverse echo of Soviet practices against dissidents, members of the Belarusian opposition have begun to question the President's sanity. Parliamentarians told members of this group in November 1996 that Lukashenka was "mad". "Many members of the country's democratic opposition believe that Lukashenka is not in full possession of his mental faculties".⁶ In May 1996 BPF deputies asked the Council of Europe to set up a commission to examine his sanity!⁷

However, opinion polls in Belarus have shown consistent support for the President. This tends to be written off by commentators in the West as 'populism', i.e. popularity of someone they don't like. Anyway, Lukashenka's popularity can be attributed to the prevailing dictatorship that prevents any expression of dissent.⁸ But many criticisms of this so-called dictatorship seem unfounded. Photographs of Lukashenka - regularly described by journalists as the "tyrant of Belarus" and "the new Hitler in the centre of Europe" - are supposedly in all public offices.⁹ But during a recent visit to Belarus members of this Group recall seeing few photographs of the President in official buildings; those on display were of different poses and not one official picture.

Lukashenka resembles certain other politicians who have drawn the wrath of the establishment - Lech Walesa and Margaret Thatcher spring to mind. The intelligentsia regards him as a "buffoon".¹⁰ Pazniak, among others, has criticized Lukashenka's "pidgin Russian",¹¹ an opinion echoed by members of the Minsk intelligentsia. Walesa, it will be recalled was sneered at for his working-class Polish (and of course, for not speaking French). The establishment in the West likes to portray leaders from humble backgrounds, such as Vladimir Meciar, Walesa and Lukashenka as bumpkins whose only support comes from [ignorant] peasants and [superannuated] pensioners. With no connections to the prevailing academic and political nomenclatura in both East and West all can easily be dismissed.

INTEGRATION WITH RUSSIA

Lukashenka is portrayed as the initiator of plans to unify Belarus with the Russian Federation. In fact, members of all political parties (apart from the BPF) favour some form of integration with Russia. The process began before Lukashenka came to power: in April 1994 former Prime Minister Kebich signed an agreement on monetary union with Russia to establish a free trade and a rouble zone. The signing of a Union Treaty with its attendant charter in May 1997 is only the latest stage of a long-drawn out process which, admittedly, has been long on rhetoric and short on results. The President is constantly misrepresented as favouring the recreation of the Soviet Union although he has always stressed that integration with Russia should be between two sovereign states. Even before the 1994 presidential elections he said that "reforging broken economic links with Russia did not mean surrendering Belarusian independence".¹²

While politicians in the West throw up their hands in horror at the prospect of integration (even though other ex-Soviet republics have moved in the same direction) it is not a totally absurd idea. Belarus has no natural resources and no automatic market for its goods outside the CIS; an economic union makes sense. The problem for Belarus will come if it becomes impossible to avoid the down-side of economic involvement with Russia. Ordinary Belarusians have responded favourably to Lukashenka, in part, because the level of mafia business activity and corruption is less in their country than in neighbouring Russia. The President obviously feels he can control activities like the purchase of land by Russians but even his political skills may be outwitted by some of the more ruthless Russian businessmen.

PARLIAMENTARY ELECTIONS 1995

The first elections to the Belarusian parliament since independence were held in May 1995 at the same time as the first referendum on amending the constitution. Only 18 deputies were elected in a system that demanded a turn-out of 50%+1, despite much ballot rigging, multiple voting and misuse of the ambulant box. Returning on 28th May for the second round of voting BHHRG observers noted large blocks of names in the electoral register ostensibly filled in by people who had voted at home. Foreign observers criticized the elections as did the presidential administration - the Public Prosecutor considered over 30 complaints.¹³ Most of the candidates including those standing for the Agrarian or Communist Parties were connected with the running of local collective farms, factories and, in some cases, the security services. It was obvious in many places that people were voting for their boss something they might have felt, quite naturally, to be in their

best interests. 102 more seats were filled.

The Belarussian Popular Front was wiped out as a parliamentary force in these elections (it failed to win a single seat in all 3 rounds). No doubt the Front suffered from the predominance of local bosses but it was not entirely blameless itself. Well-meaning (at this stage, anyway) but badly-organized the BPF had failed during its five years in parliament to enthuse people much with its brand of nationalism. But the Front was not to be wiped out altogether. Events over the next few months were to bring it back into the limelight if only in an extra-parliamentary capacity.

THE BELARUSSIAN POPULAR FRONT

None of the Popular Fronts in the Soviet republics became political parties as such - the whole notion of party had been discredited during the Soviet era. The Fronts preferred to operate as umbrella movements under which any group, including Communists, could gather providing they accepted the stated policies of national revival, privatization and democratization but without the discipline of a party structure.

Without the formal structure of a party it is difficult to say how many people support the Popular Front. According to the Front's own figures about 1 million voted for the BPF in 1990 and it claims to have about 10,000 volunteers helping around the country. The problem is that many of its supporters live in the large cities, particularly Minsk, where voter apathy is high. Coming mainly from the educated classes they are more prone to disenchantment and less receptive to pressure from those around them to vote. It is hard to see what evidence existed three months before the parliamentary elections in 1995 for commentators to say "that the Popular Front is gaining ground in traditional communist strongholds in the countryside".¹⁴

However, the BPF has remained in existence longer than most of the other Popular Fronts in the FSU. In inhospitable circumstances it was an effective and moderate opposition force. It also possessed a charismatic leader, Zyanon Pazniak, an archaeologist with no connections to the former Communist regime. In 1988 he led excavations in Kurapaty forest outside Minsk where it was alleged over 200,000 people had been killed by the NKVD in the 1930s.

Despite putting forward a moderate programme for privatization and economic reform many people viewed the Front as responsible for their falling living standards since independence. It is probably now too late for the organization as presently constituted to gain any serious political power.

THE POPULAR FRONT AND THE 1995 ELECTIONS

The Front has always been critical of Lukashenka for what it saw as his increasingly dictatorial role including imposing his own appointees on local and regional councils and increasing disproportionately the budgets of the interior and security ministries. However, a bombshell exploded when Lukashenka proposed holding a referendum at the same time as parliamentary elections in May, 1995. The opposition viewed the questions posed in the referendum - on changing the state symbols, according the same status to the Russian and Belarussian languages, strengthening economic ties with Russia and granting the president the right to dissolve parliament - as unconstitutional. On 11th April 15 deputies went on a hunger strike to protest against the president's actions. This was broken up the next day with some force by the presidential guard.

Representatives of the Group visited the offices of the BPF before both rounds of the elections in June 1995 and also interviewed Zyanon Pazniak in the Minsk courtroom during an adjournment in the hearing of a libel action he had brought against Lukashenka.

The Front fielded 47 candidates in 36 constituencies in the first round of the elections. It is claimed by the party that around 20% of the electorate support them. However, after the results of the second round of voting were released no Popular Front candidate had succeeded in winning a seat in parliament. Even where a BPF candidate came first the result was invalidated by a less than 50% turn-out.

Members of the Group were not entirely surprised by the Front's failure. They visited few polling stations with BNF candidates and rarely met BNF party observers. Quite simply, the countryside is another world: little has changed and the factory and *kolkhoz* where most people work determines their political orientation. However, the Front was not itself blameless for the debacle it suffered. On a visit to its offices on the eve of

the May 28th 1995 poll there was little sign of activity - at 5.30 p.m. everyone seemed to have gone home. This is not unusual for opposition parties in the FSU. While not wishing to doubt the integrity of their members it is often difficult to avoid the feeling that democratic movements in the FSU are pale imitations of political parties.

THE BPF SINCE 1995

There was little response to the 1995 referendum results: a small demonstration took place near the presidential administration building and the new flag was burnt. Otherwise, all was quiet. Although it could be argued that the president's control over the media during the campaign had stifled criticism (as well as preventing parliamentary candidates the proper tools for campaigning) no one denied that the populace as a whole supported the referendum.

Assumptions about the passive nature of the populace received something of a jolt when Minsk metro workers went on strike on 17th August, 1995. The strike organized by the Association of Free Trade Unions lasted five days but was declared illegal on 22nd August when the ringleaders were arrested. This incident marked the beginning of the public stand-off between the opposition and the president. He accused the BPF of participation in the events and also demonstrated his suspicions (not for the last time) that outside forces were involved accusing both the Americans and the Polish Solidarity Trade Union of having given financial assistance to the strikers.

The opposition hoped that the August 1995 strike would fan the flames of workers' protests but by the beginning of 1996 it was obvious that this was not going to happen. The demonstrations that began on 25th March 1996 ratcheted up anti-government protest. Since then a growing number of MPs including former high-profile members of the Soviet establishment in Belarus have cooperated with the BPF in an attempt to remove Lukashenka from power. The strategy seems to be double-edged: the BPF gets people out for rallies and demonstrations while the parliamentarians deal with the political niceties including soliciting support from European institutions in Brussels and Strasbourg. Occasionally, those MPs who have closer contacts with the nationalists take to the streets themselves - Genadi Karpenka was detained for a short time on March 25th 1997. But there still seems to be little support for the demonstrations from ordinary Belarusians either in Minsk or elsewhere in the country.

THE BELARUSIAN PARLIAMENT

Long before the election of Lukashenka the Belarusian parliament was criticised. One observer wrote in spring, 1995: "Parliament's inability to follow a routinized procedure, its flagrant violations of its own rules, and its shameless trail of broken promises has undermined the assembly's reputation as a democratic institution. The present Supreme Soviet may rightfully be called the major inspiration of popular anti-parliamentarianism in Belarus."¹⁵ "Parliamentarians took care to protect their personal interests; many obtained free apartments, bought cars and consumer goods at reduced prices."¹⁶ "Many citizens of Belarus, including the deputies, look askance at Parliament. They do not take seriously the laws it adopts. Indeed very few people consider parliament's laws to be binding."¹⁷

At this stage people were prepared to give Lukashenka the benefit of the doubt: "As far as reform is concerned," wrote Vera Rich, "Lukashenka does have some basis for complaint. In August 1994 parliament endorsed Lukashenka's reform package but has since consistently refused to vote him the sweeping executive powers to implement it by decree (...) In October 1994 parliament took advantage of Lukashenka's absence in Moscow to undermine his price-control rules ...unless the new parliament proves either more compliant with Lukashenka or can force him out of office Belarus seems set for a long period of stagnation."¹⁸

By Spring 1995 things seem to have been no better "The meeting hall of the Supreme Soviet is constantly only half-full ...voting takes place for absent deputies."¹⁹ "According to numerous polls voters in Belarus neither rely on nor respect the present parliament as an institution."²⁰ By late 1995 things had not improved much. A sociological survey found: 37% indifferent to the multiparty system, 29% opposed and 33% in

favour. Overall 73% do not want a multitude of parties."²¹ As most high-profile members elected in 1995 were in the previous parliament it is probable that things continued into 1996 in a similar vein.

Lukashenka said that the main reason for his confrontation with parliament is that he restricted the privileges of deputies.²² Several of the president's decrees aimed to remove some of the perks accorded to parliamentarians and this, no doubt, exacerbated an already tense situation: "the fleet of deputies cars was cut down a third and the funding of their foreign trips was taken under control."²³ Mechyslau Hryb complained that his official car had been removed. "The number of travellers on state expenses reached such proportions that the president had to take all officials' business trips abroad under his control."²⁴ The president also complained that deputies spent too much time running companies.

In an interview in the summer of 1996 he said that in the five months since it began to function the Supreme Soviet had adopted only 5 laws.²⁵ Later adding, "At the first session of the 13th Supreme Soviet ... I proposed making the Supreme Soviet cheaper, holding two sessions a year making each one or one and a half months long. In fact, the first session of the new Supreme Soviet took six whole months. They passed a total of 6 laws, of which the most important was [on] the transplantation of body parts".²⁶

Lukashenka refused to sign the 1996 budget passed by parliament. He did not agree with the Supreme Soviet's decision to exempt food producers at collective and state farms from income tax. There was a two-fold increase in spending to finance the Supreme Soviet.²⁷ Later, he accused them of obstructing the passage of new laws and impeding economic reform.²⁸

PARLIAMENT 1995-6

During the period when it lacked a working majority (only 120 out of 260 deputies had been elected by July 1995) the old parliament under its speaker Mechislau Hryb declared that it was still the authentic legislative body. It continued to pass laws throughout the autumn months and appealed to the Constitutional Court for clarification of its status. The President on the other hand refused to accept the legitimacy of the old body and effectively governed by decree. Parliament's attempt to change the election law so that a turnout of 25% rather than 50% would ensure election was rejected by him (an appeal by deputies to the Constitutional Court was originally upheld but later rescinded) on the grounds that a legislature could not be elected by two different procedures. The matter was defused on 10th December 1995 when enough deputies were elected under the prevailing system to ensure a new parliament.

The revived Communist Party of Belarus and its sister party the Agrarians dominated the intake with 42 and 33 members respectively. There were also 96 independents. The overwhelming majority of MPs had been members of the Communist Party in Soviet times. Some had held senior posts - for example Piotr Krauchenko (party secretary for Minsk), Mechislau Hryb (police chief Vitebsk) and Syamyon Sharetsky. Like Lukashenka Sharetsky had been the director of a Collective Farm but as one of the youngest recipients of the Order of Lenin (at the age of 29) he had undoubtedly been a more senior player in Belarusian Soviet politics.

The election of Staneslau Shushkevich, Genadi Karpenka and Staneslau Bahdankevich in the third round of voting on 10th December 1995 produced the core of a centrist rump, albeit one divided between several small parties. However, despite the free market credentials of such people "most [deputies] are believed to have left-wing allegiances."²⁹ Syamyon Sharetsky was elected as the new Speaker.

Despite their differences all these people were united in two ways: First of all, they supported further integration with Russia. "It is my strong opinion" said Sharetsky "that the deepening of economic integration with Russia is a positive and unavoidable process."³⁰ In Moscow in September 1996 Gennadi Karpenka said that Belarus would not be able to improve its economy without integration with Russia.³¹ Secondly, they distanced themselves to a greater or lesser extent from the BPF which is the only true opposition party in Belarus.

Many of the high-profile former Communist apparatchiks became thrusting new democrats. Although "Gryb has little association with democratic circles"³² we learn that "Conservatives such as [Gryb] are emerging as defenders of Belarusian sovereignty and moderate economic reform."³³ But Gryb had no reason to support the president, something probably not unconnected with investigations into his own allegedly corrupt behavior in 1994 (ironically, fully publicized at the time in the opposition press).³⁴ Syamyon

Sharetsky, speaker of the newly-elected parliament, also belatedly trumpeted market reform.

FROM JANUARY 1996 TO THE NOVEMBER REFERENDUM

The damaging stand-off between parliament and president did not end with the December elections. The new speaker, Syamyon Sharetsky adopted a more conciliatory tone to begin with but, rightly or wrongly, Lukashenka now regarded parliament and the Constitutional Court as institutionally hostile.

On the one hand, Lukashenka complained that his legislation, including implementation of the referendum results in 1995, remained largely ignored by the parliament; on the other the deputies claimed that he was determined to by-pass them and rule by decree. Of course, not all MPs were anti-president: in the absence of the BFP the main opponents gathered around centrists like Karpenka and Shushkevich. As 1996 wore on leading members of the Agrarian and Communist factions became more vocal.

However the Communist Party leadership received much unfavourable feedback from the grass roots for its anti- presidential policies (this was confirmed in conversations at polling stations during the referendum). Viktor Chykin secretary of the Communist Party Central Committee said that some leaders (meaning Novikov and Kalyakin) were ill-advised for signing joint statements with the BPF as part of the round-table.³⁵ However, the party's ambitious leader Sergei Kalyakin has been a leading antagonist of the president. The party has said it would like to see the office abolished - in fact, the draft Constitution put before voters by the parliament in September proposed just that.

It is probably true to say that the bad publicity Lukashenka received in the foreign press meant that their attacks on the president had a greater impact abroad than at home. Probably emboldened by sympathy from organizations like the EU parliamentary assembly - a trade ban against Belarus was demanded by EU parliamentary committee for foreign affairs in June 1996 - Sharetsky began to adopt the mantle of opposition leader.

Lukashenka's threat to hold a referendum to increase presidential powers proved to be the glue that held the opposition together. During the first half of 1996 the president regularly mooted the idea of the referendum, something he claimed was necessary to break the gridlock that obtained in the country. On the 15th August he announced that it would take place in the Autumn. The amended constitution would be published in September (a draft was published on 31st August). Although at least 54 MPs supported the president his opponents in the parliament responded to this by setting up a 'round-table' consisting of representatives of all the parties including the BPF. On 28th August it signed a statement condemning the "acute socio-economic crisis" in Belarus and demanded that parliament start impeachment proceedings against the president.

There were still 62 seats to be filled in the parliament and MPs anticipated another (4th) round of elections to be held at the same time. Lukashenka was determined to stop the by-elections. Anyway, the amendments he was proposing would cut the number of MPs from 260 to 130. This has been portrayed as a flagrant breach of democratic principles even though other Soviet republics with similar election rules (the need for a 50% + 1 voter turn-out) have abandoned repeat elections to their legislatures - in November 1994 elections to 49 unfilled seats in the Ukrainian parliament, the *Verkovna Rada*, were put off indefinitely.³⁶

The parliament appealed to the Constitutional Court on the grounds that the president's amendments amounted to a new constitution a proposition with which it agreed. It also refused to accept the date proposed by Lukashenka (7th November) for holding the poll. After much debate the president conceded to the deputies' demands and the poll was set for 24th November. Late in the day the necessary number of signatures was gathered by the parliament for impeachment proceedings to begin against the head of state.

In a last minute attempt to mediate the Russian Prime Minister, Viktor Chernomyrdin brokered a deal between Mr. Sharetsky and the president on 22nd November which stipulated that the results of the referendum should be purely consultative. This was subsequently turned down by the Supreme Soviet, though the president was mistakenly blamed by the Western press.

After the referendum attempts to impeach Lukashenka were abandoned when 12 deputies withdrew their names from the petition. A new assembly was convened made up of those members of the existing parliament who were prepared to accept the new political status quo. This left 42 MPs in a rump parliament

which was effectively powerless - and homeless - as the administration had closed the parliament building for 're-decoration' soon after the referendum. However, these deputies are still regarded as the 'legitimate' assembly by organizations like the EU and Council of Europe.

The view seems to have taken hold (and is avidly promoted by some journalists) that Lukashenka somehow 'appointed' the present parliament. In fact, it consists of MPs who were elected in 1995. There seems to be no reason why this group of deputies (the majority) has any less legitimacy than the 42 'rebels' elected at the same time who refuse to join their colleagues in the legislature.

COMMENT

Most countries in Western Europe have opted for some form of parliamentary democracy rather than presidential rule - Great Britain with its long and proud history of parliamentary government is particularly averse to a system that seemingly embraces one-man rule. However, one method of government, however successful, may not apply to all circumstances; historical imperatives and social conditions often dictate their own particular solutions acceptable to the majority.

The return to power of Charles de Gaulle in 1958 and the adoption of the Constitution of the Fifth Republic were such events. In October 1993 many people (including the then British prime minister John Major) congratulated Boris Yeltsin when he attacked the parliament building in Moscow leaving several hundred people dead. Alyaksandr Lukashenka has not received such forbearance for his attempts to break the stalemate in Belarus - despite the fact that no one has lost his life in the process.

It may be difficult to accept, but it is the Belarusian parliament that has delayed and impeded economic reform more than the presidential administration. Apart from anything else, deputies have spent a huge amount of time in the past two years debating how to unseat the (democratically-elected) president rather than pass legislation. Lukashenka has often taken the initiative himself: in 1996 he backed the Ford company in a dispute with local workers over plans for a joint venture to assemble Escorts in Minsk.³⁷

Support for the opposition (the policy of European governments and organizations) is fraught with difficulties. The BPF has no parliamentary presence and a prickly relationship with those that do. Last summer Pazniak refused to speak to Shushkevich at a conference in the USA.³⁸ He also dismissed the Communists "who look upon Lukashenka's regime as their own regime."³⁹ But leading Communists like Gryb and Kalyakin are accepted as partners by European politicians. It is difficult to believe that European politicians support Mr. Kalyakin in his avowed desire to restore the Soviet Union.⁴⁰

HUMAN RIGHTS IN BELARUS

On 26th Feb 1997 the Belarusian Helsinki Committee described the human rights situation in Belarus as being "on a par with Iran and Iraq."⁴¹ A correspondent to *The New Europe*⁴² had a similar message, she was utterly "flabbergasted by the crimes against humanity that are occurring in Belarus". She recommended that Russia "an up-and-coming democracy" should "take over". "A tyranny in the centre of Europe" is the way journalists and human rights groups now describe Belarus. Is this in any way true?

The BPF has always complained that the Belarusian language and culture were ignored and down-graded by the authorities but allegations of serious human rights abuses in the republic have only been made since 1996. Alleged ill-treatment of demonstrators, suppression of the media and the president's abuse of the constitution are the main areas of complaint.

DEMONSTRATIONS

The first serious demonstration took place on 23rd March 1996 when the BPF organized an "unprecedented" rally in Minsk.⁴³ Although originally called to mark the anniversary of the founding of the short-lived Belarusian People's Republic in 1918 organizers turned it into a protest against the treaty of union with Russia also signed on 23rd March. As "the April 1995 referendum registered a vote of 83.3% in favour of closer economic integration with Russia the anti-integration rally was unexpected."⁴⁴ Some observers were surprised at the outburst of activity in Minsk "which has a reputation for being politically apathetic because it tends to have the lowest voter turn-out for elections."⁴⁵

Apparently, up to 30,000 people took part although it is difficult to assess accurately how many people participated in these and subsequent demonstrations: figures given range between the low thousands up to 40,000 although there are discrepancies between figures given respectively by the police and organizers of the demonstrations. At the time of the referendum on 24th November, 1996, groups of mainly elderly people gathered outside the parliament numbering no more than 100 at a time. Even though the winter weather was unpropitious one would have thought the presence of journalists as well as some foreign politicians in Minsk was a good time to demonstrate the level of support for the opposition on the streets. It is probably true to say that the demonstrations do only attract numbers in the low thousands at most. After a year during which the disaffected have been presented with regular opportunities to take to the streets, few have done so.

The Front's previously woolly and non-confrontational approach has become a thing of the past. Russia's NTV reported this conversation with a leader of the BPF youth organization: "people in the republic who are ready, should the need arise, to take up arms" Q. "Where do the people of Belarus get their weapons from?" A. "They do have them."⁴⁶ A member of the BPF Council warned those currying favour with Lukashenka that "none of them will escape just trial" when the regime falls.⁴⁷ Vintsuk Vyachorka, secretary of BPF, stressed the importance for the Front of "working more actively among students and workers and of surrounding itself in the centre and in the localities by public organizations."⁴⁸

The next demonstration took place on 2nd April 1996. The authorities claimed that the participants had not kept to their planned route (something they would reassert on future occasions) although only "minor scuffles" took place.⁴⁹ But a much larger rally was held in Minsk on 26th April to commemorate the tenth anniversary of the Chernobyl accident. Allegations that the police have resorted to brutality during these marches have been made. Large numbers of people have been arrested including leading personalities in the BPF. The 26th April demonstration drew the largest crowds so far and also received the most publicity. This was partly due to the actions of the two leaders of the BPF Sergei Naumchyk and Zyanon Paznyak who left the country soon afterwards alleging that a warrant was out for their arrest. After sojourns in Poland, the Czech Republic and the UK, the two men went to the USA where they were successful in their application for political asylum as the first citizens of the FSU to be granted political asylum since the end of the Cold War. Georgia's former president, Zviad Gamsakhurdia was even denied entry as a visitor to the US and UK in 1991. This attracted much attention and damaged the reputation of Belarus internationally, something, no doubt, it was intended to do.

The Chernobyl March was also filmed by the opposition.⁵⁰ It makes interesting viewing as the conduct of some of the demonstrators was inappropriate to the commemoration of a tragic nuclear accident. For, while some riot policemen undoubtedly strike out at the demonstrators, they were on the receiving end of much violence themselves - young men threw missiles, bottles and used flag-poles as lances in charges on the police. Numerous policemen have been injured in these confrontations even provoking Mr. Sharetsky's displeasure. After the Chernobyl demonstration when 30 policemen as well as 19 participants had to seek medical help he criticized the "flawed methods" of the BPF as the "main cause" of the confrontation.⁵¹ "Several policemen appeared to be hurt by stones" reported one journalist.⁵² The violence continued into 1997. On 23rd March, 70 demonstrators smashed police car windows with chunks of ice.⁵³ At a news conference BPF spokesmen admitted demonstrators had thrown stones and bottles at the police at a rally on 2nd April 1997 which, they claimed, was in "necessary self-defence."⁵⁴

The BPF have always used these occasions to complain about their treatment at the hands of the police and in custody. Its leaders have also regularly predicted that participants in these demonstrations would receive sentences of up to three years in prison. This has yet to happen: in April 1997 the BPF acting leader Vasil Novikaw **asked** to go to prison alleging that he was unable to pay the fine imposed by the court. This attempt at self-victimisation was refused by the prosecutor.⁵⁵

There have also been complaints from the authorities about the involvement of non-Belarusians in the demonstrations. 7 Ukrainians, members of the extreme radical-nationalist UNA/UNSD were arrested after taking part in the Chernobyl March in April 1996 - they stood trial in Minsk but later in the year were repatriated after an agreement was reached for them to complete their sentence in Kiev. In August 1996 Dmytro Korchynsky deputy chairman of UNA was reported as saying that "the task of the UNA in Belarus is to prepare a wide front of struggle with a single leadership". The organization claimed to have sent aids on "underground activities and street actions" to Belarus.⁵⁶ UNA/UNSD does not usually exact much sympathy from the human rights community and is prohibited in Ukraine which makes international concern for the well-being of these people all the more bizarre.

Complaints about the treatment of the Ukrainians while in custody were denied by the Ukrainian authorities. The consul at the Ukrainian embassy in Minsk said "the conditions of [their] detention were on the whole acceptable and no complaints had been made."⁵⁷ It was later alleged that their Belarusian lawyer had applied for asylum in Ukraine on account of his "persecution" by the authorities, something he vehemently denied: "There were no threats, nor anonymous letters or calls."⁵⁸

The situation has taken an ominous turn during similar marches held in 1997. American nationals have now been accused of taking part in (and helping to organize) anti-presidential meetings. Lukashenka himself said that representatives from foreign embassies had taken part in the rallies - something he repeated on other occasions.⁵⁹ On 16th March 1997, Peter Byrne head of the Soros Foundation in Minsk was expelled from the country. Part of the accusations against him concerned his part in the demonstrations. An American diplomat was arrested for taking part in a later demonstration on 23rd March. Serge Aleksandrov, first secretary of the US Embassy in Minsk, is of Belarusian descent. The Belarusian authorities say that he did not reveal he was a diplomat for three hours after his arrest at which time he was released. The State Department denied that he had taken part in the demonstration - when it was alleged he was directing operations using a megaphone from the sidelines - saying that he was merely performing his duties as a diplomat observing what was going on.

Many of the allegations made by the BFP against the authorities have turned out to be untrue or exaggerated. Predictions that the BFP was "about" to be banned have proved consistently false. Despite its lack of election success the party still occupies spacious offices in central Minsk from where it gives regular press conferences attacking the president and the government. Compare this with Azerbaijan where the Popular Front was ejected from its central Baku offices soon after President Alyiev came to power in 1993. Sentences imposed on those arrested at the demonstrations have been mild and mainly the result of administrative fiat. While this method of dealing with public order offences is declared "Stalinist" by some commentators it is a commonly used procedure in some Western and most post-Communist countries. No one has received sentences (apart from the Ukrainians) of more than a few days. Allegations that people are not allowed to show Belarusian symbols are untrue⁶⁰: **more** red and white flags are in evidence now (carried by people at rallies) than they were when it was the state's legal emblem.⁶¹

Similarly, allegations of brutality and violence are vague and unsubstantiated - reflecting the heated atmosphere. On polling day in June 1995 one member of this group noted that a man in a polling station despite claiming to have been badly beaten up showed no marks of physical violence. Doctors who examined Pazniak and other MPs after the March 1995 parliamentary sit-in refused to confirm their allegations of brutality publicly.⁶² The absurdity of some of the allegations casts doubt on the veracity of all of them: someone called 'Steve' who witnessed the 23rd March 1997 demonstration in Minsk wrote that one participant had lost 16 kg. (a physical impossibility) in a week while on hunger strike in police custody; all the fingers on his left hand were smashed too. Steve also reveals *en passant* that stones, mud and bottles were thrown when the demonstrators were told to keep to the prescribed route - **not** in response to any violence directed towards them.⁶³

The participants in these marches tend to be older people (who may genuinely support the BFP), others are students and the young. At a press conference held at the BFP headquarters on 16th March 1997 a boy of 15 (he looked even younger) gave 'evidence' of the brutality that had taken place at a rally the previous weekend. At times he stopped for prompting from the leadership of the BFP. The authorities have complained on numerous occasions about the manipulation of young people like this by the organizers of the demonstrations. There is a strong suspicion that some of them (and their older colleagues) may be paid to take part in the demonstrations.

Foreign journalists seem to have accepted the accounts of persecution without question: "At night they (the opposition) carry on now as they did then (in the Soviet era) they criticize the system in their kitchens and in the morning they return docilely to work not daring to say anything."⁶⁴ Allegations are made of assaults by "unknown" thugs i.e. the police. "Two men dressed in civilian clothes, their faces hidden under black hats waited for me in front of the lift at my apartment...without a word they struck me and I fell whereupon they kicked me twice and left without saying anything."⁶⁵ The wife of the Radio Free Europe correspondent in Minsk alleged that unknown men had attacked her at night in her apartment.⁶⁶

On the other hand, journalists have to admit that the republic is generally a peaceful place: "Apart from a demonstration of 2000 anti-referendum protesters in central Minsk yesterday the republic was quiet."⁶⁷ When

police stood by as demonstrators burnt an effigy of the president bearing a sign reading "Friend of Russia"⁶⁸ one might speculate how Stalin, with whom Lukashenka is frequently compared, would have reacted.

The president issued a decree relating to demonstrations and meetings. This has been presented as a sinister anti-libertarian act although all countries have rules relating to public order. Organizers must apply to the state authorities 2 weeks before the event and provide a route and venue. The prosecutor's office maintains that participants regularly deviate from these plans deliberately seeking conflict with the authorities. Those arrested tend to be fined or they can be detained for up to 15 days. The procurator claims that commercial entities pay people to take part. Others are students from well-connected families, in particular from the Institute of Theatre and Fine Arts. Science and technology students tend not to get involved.

In 1996 a poet from Vitebsk called Vladimir Adamovich was charged with public order offences for writing a poem "Kill the President - and how to do it". He was also alleged to be bringing arms into the republic. He was released on bail in early 1997 and given a non-custodial sentence in June - his time in custody on remand being taken into account. Over the past year he was the **only** "political prisoner" produced by the opposition.

THE MEDIA

The EU, Council of Europe and US State Department have reserved most of their criticism towards what they say is the absence of media freedom in Belarus. "According to the European Parliament Belarus's disregard for freedom of speech and the press is the main obstacle to its entering the European Union."⁶⁹ It has even been suggested that media repression is similar to "the darkest periods of the USSR."⁷⁰ The Committee to Protect Journalists in New York puts Belarus among the top ten oppressors of media freedom in the world placing it alongside North Korea and China.⁷¹

Television in Belarus is state-run and totally supportive of the president. It recommended 'yes' votes to the constitutional referenda in 1995 and 1996 and failed to give air-time to the opposition in the 1995 parliamentary elections. The European Media Institute criticized it on both occasions. Belarusian Radio is also controlled by the presidential administration. An independent station radio 101 was taken off the air in October 1996 ostensibly for using an air-wave needed by the government. The authorities say they have no objections to the station continuing if it obtains private funding. The Mass Media Centre in Minsk renamed the Television and Broadcasting Centre is trying to unite local TV stations into a unified network to create an alternative to state TV.

However, this is only part of the story. Russian ORT and NTV are received widely and Polish and Lithuanian stations can be seen in the West of the republic. **All** such stations are hostile to the Belarusian government. The European Media Institute reported that Russian television's coverage of the 1996 referendum was 100% negative. The British journalist Jonathan Steele compared the coverage devoted to Lukashenka's referendum with Russian television's coverage of the 1996 presidential elections. This slavishly supported Boris Yeltsin and rarely showed his rival Gennadi Zyuganov.⁷² However, despite passing complaints from some election observers the Russian presidential elections were hailed by the international community as a democratic triumph.

In fact, all programmes about Belarus shown on Russian TV are hostile to Lukashenka, often in a propagandistic or mendacious way - one film transposed Lukashenka on to images of concentration camps. In March 1997 the president removed the press credentials from NTV's Alexander Stupnikov for his distorted reports of opposition demonstrations. But critics of Belarus do not seem to distinguish between a vigorous and critical press and a politicised propagandistic partisan tool.

There is a wide variety of newspapers available in Belarus. The government-owned *Sovietskaya Belorussia* has the largest circulation. Although there are other government papers and periodicals several of the leading newspapers are run by the opposition. Oddly, after criticizing the lack of a free press, an EU delegation to Belarus interviewed the editors of 8 newspapers, 6 of which were run by the opposition.⁷³

When members of the BHHRG first went to Minsk in 1994 the newspaper *Svaboda* (the mouthpiece of the BFP) published once a week and claimed to have a circulation of 20,000. In October 1995 it was recording sales of 70,000. By January 1996 the paper was printing twice weekly with a print run of 93,000.⁷⁴ By April

1997 it was producing 4 editions a week. This hardly constitutes censorship. The paper would respond that it is 'censored' by having to print in near-by Lithuania. But the state-run printing house in Minsk says that it will print the paper and that *Svaboda's* attitude is a form of self-censorship resorted to for foreign consumption. In any case, the printing in Lithuania is of a better quality. *Svaboda* operates from offices in central Minsk from which, despite alleged persecution, it has never been evicted (contrary to US State Department claims that the paper had "been forced to move without compensation").⁷⁵ The paper is widely available including at kiosks in government-owned buildings (although there is some question of interference with street-vendors) as are *Narodnaya Gazeta*, *Beloruskaya Delova Gazeta* and the English-language *Minsk Economic News*.

BDG employs 70 journalists on 2 papers (*Imya and BDG*). Its editor said that there was no system of formal censorship in the country - censorship took the form of bureaucratic interference over things like tax and licences. He started to print the paper in Vilnius when the presidential administration interfered and began his own distribution system when the state postal system cancelled his contract. It took him two months to recover his old circulation. Defamation laws are another way in which pressure is put on the print media but the courts have upheld his case and the judges are trying to be independent (in 1995 Pazniak won a defamation case against the president). Sheremyet criticized *Svaboda* for being too "emotional"; the paper had also given hostages to fortune by making false customs declarations for anti-referendum leaflets it had printed in Lithuania.⁷⁶

Narodnaya Gazeta is the parliament's paper. There was heated argument when it was turned into a joint-stock company part of which is owned by the presidential administration. The paper has a reputation for publishing a wide array of views and opinions.

Publications with circulations over 100 have to register with the authorities another bone of contention but a situation no different to other ex-Soviet republics. In fact, the situation in other republics is remarkably similar even those that have been accepted as members of the Council of Europe like Ukraine where "the idea of media independence seems alien to the prevailing political culture."⁷⁷ Complaints about the independence of the Russian media have recently become more vociferous and even that model post-Communist democracy, Hungary, has come under attack from the American press watch-dog Freedom House for its media monopolies.

FOREIGN MEDIA

As already stated despite the supposed rapprochement between the two countries the Russian media, both television and newspapers, are unwaveringly hostile to the Belarusian government, Lukashenka in particular. Much of its material is misleading or untrue. Since so many foreign correspondents in Moscow take their information about Belarus from these sources it is small wonder that their facts are distorted.

For example, Russian newspapers have reported that Lukashenka "appointed" the new parliament and that opposition newspapers are "banned". When Lukashenka said that people might "yet" return to their land abandoned after the Chernobyl disaster this was reported as an order for them to proceed there forthwith.⁷⁸ Russian TV crews regularly film public demonstrations in a tendentious way. News outlets in other former Soviet republics are not averse to spreading disinformation either: on 13th December 1996 the Georgian news agency *Sakinform* reported that Lukashenka had met with the envoy of the separatist Abkhaz leader Vladislav Ardzinba something hotly denied by the Belarusian government.⁷⁹ In the summer of 1997 a fresh dispute broke out between the Russian media and the Belarusian authorities when several journalists (including two Belarusians) were arrested, allegedly, for illegally crossing the border between Belarus and Lithuania. After much publicity they were released the following October.

Unfortunately, some of the worst distortions have appeared in the foreign press. Lukashenka has been accused of "praising the Belarus armed forces for shooting down an American balloon"⁸⁰ when, in fact, he made strenuous apologies to the families of the deceased, president Clinton and the American people. It is stated regularly that he appoints all the deputies to the new upper chamber⁸¹ when, according to the Constitution he can nominate eight (out of 64). It is said that access to the centre of Minsk is prohibited when the president is in residence⁸² but members of this Group have never had trouble moving about the city centre on numerous occasions when Lukashenka has been in town. Apparently members of the Popular Front are in prison or living in secret or abroad⁸³ even though BPF leaders give regular press conferences in their headquarters with no apparent hindrance. A number of articles by Matthew Brzezinski that appeared in the *Wall Street Journal Europe* between 22nd-30th November 1996 offer a good example of the genre. (See

appendix 1)

But the most serious example of media distortion came after Lukashenka gave an interview (about the Belarusian economy) to the German paper *Handelsblatt* in November 1995.⁸⁴ Although the printed version of the interview contained no reference to Hitler at all, the *Handelsblatt* was frequently cited as the published source of apparently pro-Nazi sentiments by Lukashenka which were widely "quoted" in the anti-Lukashenka media in Belarus and Russia, and then the wider world. Dr. Markus Ziener, the correspondent who conducted the interview, told the British Helsinki Human Rights Group that a tape of the interview had been quoted out of context and with the sequence of comments altered by the Russian media. He had written to both ORT and *Izvestia*, who had used these "quotations", to point this out as well as seeking to put the record straight with numerous inquirers, but none of the media who had used this controversial material had reported his version of events. Undoubtedly the so-called *Handelsblatt* interview has contributed to the media image of Lukashenka as a new Hitler arising in central Europe. However, none of this seems to have affected the president's popularity at home: Lukashenka has repeatedly emphasised Belarus's losses at the hands of the Nazi invaders in the Second World War and championed the rights of Soviet war veterans and victims of the Nazis. Whatever Lukashenka actually said, one thing is clear: no right of reply exists in the Russian media or those Western news agencies which repeat material uncorroborated from Russian sources - which strangely echoes the era of Soviet-inspired *dezinformatsia* during the Cold War.

The irony of this situation is that were it not for Belarusian state television and radio there would only be one monolithic view of what is happening in the republic (though transcripts of these two outlets appear in digests like the BBC/SWB). Otherwise agencies like Reuters, AFP, Radio Free Europe and Interfax as well as the local agency, Belapan, present a uniformly hostile picture as does **all** the Western press. The authors of this report have read only one newspaper article that has shown an alternative understanding of what seems to be the real situation in Belarus over the past two years.⁸⁵

CONCLUSION

It is right that restraint should be shown by the authorities during public rallies and demonstrations. Undoubtedly the police in Belarus have been heavy-handed at times when attempting to control crowds at public meetings - something they were never trained to do in the past. It seems that police methods are improving - confrontation was kept to the minimum during the Chernobyl demonstration on 26th April 1997.

However, the Belarusian police have been provoked by demonstrators and suffered injuries themselves. Such situations happen frequently in the West often with far more serious consequences. CS gas spray and water canon are used to disperse demonstrations regularly in countries like the UK, France and Germany but no one has suggested that these countries should be expelled from the Council of Europe for doing so.

The demonstrators claim they experience further problems with the law enforcement bodies and allege the courts and the judiciary with no tradition of independence continue to take their orders from the executive. But the picture is anything but bleak. The courts have been prepared to rule against the president in cases brought by oppositionists (Pazniak's libel case is a good example). Genadi Bykov of the Independent Trade Unions said that 70% of cases brought by the Union on behalf of employees have been successful.⁸⁶ The one and only so-called political prisoner Vladimir Adamovich regularly attended opposition rallies while on bail and eventually received a non-custodial sentence.

There is a danger that in Belarus the opposition almost wishes to see an authoritarian regime in action so that its claims to victimhood and the status that confers in the West will be recognized. The international community should avoid promoting the polarization of Belarusian politics by one-sided and sometimes naive acceptance of propagandistic claims. Of course, in the absence of a well-informed and objective foreign press corps reporting on Belarus, it is difficult for European parliamentarians and officials to form an accurate picture of politics and human rights there. Nonetheless, external agencies should think twice before glibly accepting and repeating terms of abuse like "Stalinist" or comparisons with North Korea and Iraq.

PRISONS AND HEALTH CARE

The BHHRG sent three observers including a doctor to visit prisons, mental hospitals as well as officials of the Procuracy and Ministry of Health in Belarus in March 1997. As criticism of the human rights situation in the country has accelerated it seemed essential to examine the work of such institutions as well as the media and the constitution.

HEALTH-CARE

The difficult economic situation in the republic has, inevitably, affected the provision of health-care. Things are further exacerbated in Belarus by the effects of the Chernobyl disaster which has consumed large amount of public funds both for pathological and psychosocial treatments. Of course, a lot of help has come from abroad both in the form of joint research projects (with countries like Germany and Japan) on the long-term effects of radiation. Drug abuse and alcoholism have also risen over the past five years. In July 1996 reports started to circulate of an AIDS epidemic centred around the south-eastern city of Svetlahorsk.

The economic malaise means that there is little foreign currency to buy drugs and equipment. The Belarusian authorities seem almost at sea themselves as to what their priorities should be. However, it seems that financial and other help from agencies like the UN is not being sensibly deployed and rumours of corruption surrounding some of the charities set up to help the victims of the Chernobyl disaster may not be entirely far-fetched.⁸⁷

PSYCHIATRIC CARE

There are 13 psychiatric hospitals and 17 dispensaries (out-patient centres) in the country. The lack of money means that the treatment offered is mainly behavioral or physical (physiotherapy, for example). However as the disciplinary underpinning of psychiatric care is Pavlovian behaviorism as it was under the Soviet system it is difficult to know whether the availability of drugs widespread in the West would be effective without a change in the diagnostic structure.

The Ministry of Health says that the vast majority of patients in psychiatric care are voluntary but provisions exist under Article 31 of the 1993 Law on Health for compulsory admission. Two doctors must apply to a special commission consisting of the chief doctor (or his deputy) at the hospital in question backed up by documentary evidence. There is no system of social workers to mediate between the patient and the hospital. If a person insists that he is being held against his will he can appeal to the Procurator - legal representation is available. These rights are enshrined in the Health Law as well as other pieces of legislation. A patient is informed of his rights on arrival at the hospital and cannot be treated against his wishes. In such cases medical staff try to involve the patient's relatives in persuading him to cooperate. Someone can only be detained against his will if he is a danger to others. It seems that someone cannot be detained against his will if he only represents a danger to himself something which is possible in the UK. Dispensaries and day hospitals are used widely as in Soviet times.

NOVINKI MENTAL HOSPITAL, MINSK

The Novinki Hospital is the largest psychiatric hospital in the country (it has 2320 beds) covering a catchment area of 4m. The chief medical officer Dr. Sokol said that the hospital has 34 departments including intensive care, alcohol and drug abuse as well as 3 geriatric wards and wards for Second World War and Afghan veterans. There is a special ward for criminals with mental problems, however he emphasized that only 60% of those under investigation would turn out to be mentally ill as many "pretend" to be mentally unstable to avoid long prison sentences or, at worse, the death penalty.

Epileptics are treated both with drugs and, occasionally, surgery. Ordinary epileptics go to the neuro-pathological hospital but some patients with mental problems are also epileptic. Depressive illnesses are treated with neuroleptics and the major tranquillisers as in the West. ECT (shock therapy) is widely used which is not the case in most other parts of the FSU. They still have insulin coma therapy (not seen in the West for a long time) but it is not used widely,

Diagnosis for schizophrenia (including its subclassification oligophrenia) embraces a wider range of dysfunctional behavior including 'slow' (or sluggish) schizophrenia a variant developed in the 'fifties' by A.Z.Snezhnevsky of the Moscow Institute of Psychiatry. 23% of the patients in the Novinki were schizophrenics and there are two or three wards of children aged between 10 and 15 with schizophrenia. While they seemed to be well-treated and in good spirits it is unheard of for children of this age group to be classified as schizoid in the West where diagnosis begins c. the age of 15 and where they would probably be considered at best badly behaved at worst hyperactive.

The hospital is a huge complex that seemed efficiently run and remarkably clean - the all-pervading Soviet smell of cheap ammonia-based detergents was markedly absent. However, large amounts of space (and time) seemed to be devoted to (harmless) but pointless treatments of little clinical value more suitable to a health farm than a hospital. Swimming pools, gyms, hyperbaric oxygen chambers as well as generous provision for physiotherapy could all be usefully scrapped and the money saved spent on more up-to-date and effective therapies.

CONCLUSION

Until the diagnostic system changes in the former Soviet Union it will be impossible to make useful comparisons with Western medicine, particularly in the area of psychiatry. The Novinki Mental Hospital in Minsk is clean and well-run. However, better psychotherapeutic techniques could save money and redirect staff to more useful work.

HIV/AIDS

On 2nd December 1996 (to commemorate World AIDS day) several leading Western newspapers carried long articles identifying Belarus as having the most dramatic increase in HIV infection. The problem is most acute in the south-eastern city of Svetlahorsk.⁸⁸

The problem there began in 1996 when HIV was first detected in intravenous drug users. At first the police used compulsory testing in the risk group (it has now ceased). The majority of victims use a home-made narcotic known as MAC made locally from poppy straw. As the people making the home-grown stuff had been persecuted the market became receptive to ready-made drugs from both local and foreign sources towards the end of 1995. The drug dealer operating from some hole-in-the-wall keeps his opiates in a phial into which the user dips his already used needle and syringe. One shot costs 2\$ at the most and is still regarded as cheap. HIV is transmitted in this way. The drug problem had been growing over the past ten years and the HIV problem was complicated by Hepatitis B and C. Syphilis can also be transmitted by injecting. It has increased by six-fold in one year, 25% of the victims are women. 8 out of 250 cases are also HIV positive.

By May 1996 the problem had become acute. Some people suspect that the first cases came from Ukraine (where there are said to be 5000 cases) but the Belarusian sub-type of HIV is not the same as that detected in Ukraine.

Representatives of the UN in Minsk said that they had asked the Svetlahorsk authorities to draw up a list of what they needed including things like disinfectant which is the last thing needed (sterile techniques should be used in the first place). The UN had recommended a methadone programme and needle exchanges but the formalities had still not been completed and local authority funding seemed to run only to prophylaxis measures such as health education. Both Israel and Germany have sent help. In due course - when the HIV becomes full-blown AIDS there could be 2,500 people needing care and the hospital in Svetlahorsk only has 1000 beds in all. No one has died of HIV yet but some have died of septicaemia.

Dr. Latcham talked to Dr. Svyatoslav Samoshkin at Svetlahorsk Hospital about the problems faced by the medical staff there. He writes: "It was then we learned that the hospital had no facilities to do a white cell count. This is a basic medical procedure which determines the kind of infection someone is suffering from and is, for example, the easiest way of telling whether something is viral or bacterial. It is vital in the monitoring of HIV because the lowering of the level of white cells suppresses the immune system and the body's ability to combat infection which is the definition of AIDS. It seems ludicrous to be recommending

methadone, needle exchanges and other luxuries when there is not even the basic equipment, such as a Coulter Counter for measuring a full blood count (which included the white cell count), how anaemic or otherwise patients are. Blood samples have to be sent to Minsk (4 hours away) for confirmation.

"It also seems ludicrous to be financing methadone when there is no hepatitis B immunization programme which is something that can be done. Immunization for hepatitis C which is a multitude of viruses is more difficult". In fact, the local people of Svetlahorsk had reacted strongly against the methadone and syringe exchange programmes seeing it as misuse of valuable financial resources which should be used for more necessary medical requirements.

CONCLUSION

After the November 1996 referendum several journalists visited Svetlahorsk. Their subsequent articles about an AIDS epidemic only added to Belarus's negative image. Allegations of dictatorship and human rights abuses were compounded by a picture of the squalor and hopelessness of the drug culture.

In fact, there are many worse places in the ex-Communist world than Svetlahorsk but the desire for good copy turned this uninteresting town into a post-Soviet Sodom and Gomorrah. The result has been to over-exaggerate the AIDS problem in the republic. At the same time outside advice and assistance from bodies such as the UN has been inappropriate.

PRISON SYSTEM

Belarus is in the process of drafting a new criminal code and a code of criminal procedure. The present legislation dates from Soviet times and is ineffective. The aim is to cut the prison population and replace it with fines and shorter periods of administrative detention - up to three months. A lawyer now has the right to participate in the criminal process from the moment a person is detained. A suspect can be held for 3 days but must then either be released or charged.

VITEBSK COLONIES 1 AND 2

This is a male labour colony, one of 3 in the country, on the outskirts of Vitebsk. It contained 605 inmates at the time of our visit aged between 14 and 21. The turn-over in one year is meant to be 90%. A recent amnesty by the President had led to the release of 68 prisoners. 250 had been released for good behavior. Serious breach of prison discipline merited 10 days in disciplinary isolation. Prisoners can receive one food parcel every two months - an extra one for 'good behavior' and they can go out to see their parents towards the end of their sentences. Orphans (there were 25) are under the care of local enterprises. There was a medical department for minor ailments - the seriously ill are taken to the city hospital - and 2 psychologists and a psychiatrist. There was no sign of TB in the hospital - immunization has lowered the risk. The prison authorities also denied that there was a drug problem in the hospital. Anyone coming in with a serious drug or alcohol problem is sent for a three month detoxification course.

The prisoners slept in long dormitories containing about 30 beds, which seemed to be clean. There was no evident problem of overcrowding. During the day they worked in large sheds making what appeared to be carpentry tools. It was a cold day but the sheds seemed adequately heated.

There was an abundance of Orthodox clergy in this colony. A priest, Father Vladimir, has been working there for two years. We were taken to the chapel where a service was being held for the prisoners - no doubt, with our visit in mind. The authorities in Belarus probably think that Westerners will be impressed by this development not realising that most of their visitors come from wholly secular societies where the omnipresence of clergy in prisons is likely to be a source of mild amusement. No one could tell us whether or not the new emphasis on religion had reduced recidivism although the priest in this colony had baptized 50 inmates and even conducted a wedding. Unfortunately, the Orthodox church has always tended to overstep the boundaries between religion and politics. Prison officials said they valued their new depoliticized status in discussions held after the visit but Bishop Dmitri of Vitebsk's mind was on East/West relations and he was loud in his denunciation to us of NATO expansion.

The Group also visited Vitebsk No.2 a colony for young offenders with 500 inmates. This was a similar institution to Vitebsk No.1. It seemed to be well-run: the prisoners slept in attractive dormitories which were brightly painted and again contained about 35-40 beds.

VISIT TO ITK 1 (Opanskogo Street, Minsk) including the Republican Hospital

A large colony with 3600 male inmates mainly first offenders serving sentences between 3-15 years. 1200 are employed in construction work and furniture making. There is also a large piggery which supplies food to the prison.

The authorities allow family visits twice a year (they last 3 days) and they can also have two shorter visits a year. Extra visits are allowed for good behavior.

There was much overcrowding in the dormitories - 105 men to a room. The prison hospital was also overcrowded. Officially, it had 310 beds but there were far more. It was admitted that there were 3 times more prisoners than intended. The hospital included 6 ITU beds, 50 neurological beds and 30 psychiatric beds. All the prisoners are examined for syphilis and HIV twice a year (3 people had HIV in the colony at this time). An HIV programme had been set up 6 months previously because HIV had been spread by drug abusers from Svetlahorsk. There is also an inoculation programme for TB. They said that it was rare for prisoners to use drugs in the prison although they do manage to get hold of drug substitutes. Drug abusers are treated there.

The prison has a special person in charge of rehabilitation. When 6 months of the sentence is left he will try to find the discharged prisoner appropriate work. He also helps the prisoner to get a residence permit but if he has nowhere to live they try to find hostel accommodation. Officials had taken part in Council of Europe sponsored projects now reduced because of the referendum.

Unlike the colonies in Vitebsk this prison needed more facilities (or fewer prisoners). While overcrowding had not reached Romanian proportions⁸⁹ there were too many people in one room. The prisoners also complained that there was not enough work for them.⁹⁰

MINSK CENTRAL REMAND PRISON

This is situated near the parliament building in the centre of the city in a castellated building which was, allegedly, built in 1825 for a nobleman but looks as though it has always been a prison. The British prison Wormwood Scrubs is evidence of the popularity of the castellated style in the 19th century.

At the time of our visit there were 2700 prisoners. 675 had already been sentenced and were waiting to be sent to colonies. The average time spent there ranged from 2 months to 1½ years. On average a prisoner stays on remand for c. six months. The inmates are locked up 23 hours a day with one hour for exercise. There is also a 110 bed hospital.

The cells ranged in size from the isolator (containing one person) to larger rooms with 7 or 8 prisoners. There is also a punishment block which had 3 inmates at the time. The prisoners are checked for all kinds of diseases. One room of the hospital was completely occupied with men suffering from syphilis including one man suffering from tertiary syphilis showing the Holmes AD pupil.

This prison also contained 'death row'. This is situated in the dungeon of the building. There were 3 convicted killers in one cell one of whom had apparently put his eyes out in an attempt to persuade the authorities that he was innocent (something that happens all too often in British prisons). It seemed that their offences were very different and it was wrong to keep them together. More seriously, the conditions under which these men were kept were totally unacceptable. The cell (though clean) was more like a cave than a room and was barely lit by a small window in the vaulted ceiling. Their food lay on mats on the floor without plates. As these men face the awful prospect of execution the authorities in Belarus should forthwith establish humane and proper conditions for their incarceration.

CONCLUSION

The US State Department's 1997 Human Rights report speaks of "poor conditions" in Belarusian jails and ill-treatment of inmates. This is something of an exaggeration. According to Dr. Latham the conditions in all the institutions visited were better than those seen in other ex-Soviet republics. Relations between staff and prisoners were not strained. We gave the prisoners the opportunity if they wished to speak to us privately but no one seemed worried about speaking in front of the staff. Of course, no visitor can be sure about what happens in his absence but the atmosphere did not seem threatening or cruel. The fact that Amnesty International, despite its stated opposition to Belarus's policies on the death penalty, has not felt it imperative to investigate the countries' jails speaks for itself. No allegations of torture have been made (though these have been made against Russia).

Overcrowding is a problem particularly in ITK 1 and should be addressed, particularly in the hospital block. However, everyone seemed to have their own bed and in the juvenile colony an attempt had been made to make the dormitories relatively homely.

The most serious shortcoming of the system is the treatment of those prisoners under sentence of death. As if the ultimate punishment is not enough the conditions on Belarus's death row are totally unacceptable. Until or unless the death penalty is abolished proper accommodation in clean, well-lit cells should be provided for these prisoners.

Very short notice had been given to the Belarusian authorities before the BHHRG visit and the Group itself had named some of the institutions it wanted to inspect. The request to see the central remand prison in Minsk was made less than an hour beforehand which should pre-empt any suggestion that a Potemkin village had been prepared for us.

THE CONSTITUTION

It took three years for the Belarusian Supreme Soviet to pass the country's first post-Communist constitution in 1994. The document consisting of 149 articles is semi-presidential in form although the parliament retained important competences with regard to legislative initiatives and the making of public appointments. It also enlarged the number of seats in parliament from 160 to 240.

Parliamentary procedure in Belarus has been notoriously shambolic - the debates over the 1994 constitution being no exception. According to one source: "several meetings had to be cancelled because a majority of deputies failed to show up". "Although deputies were often caught red-handed voting for absentee colleagues, no one was ever punished and voting results have never been reviewed."⁹¹ "A shaky quorum (sometimes 1/4 of the seats were vacant), forced the constitution makers to vote on each paragraph and in some cases on single words separately." And "147 deputies voted in favour of a strong president/head of government, 101 votes were cast for a weak president/head of state, and 130 voted against introducing this office at all. At that time there were 288 deputies present, which means that up to 90 deputies voted simultaneously for two or three mutually inconsistent concepts."⁹² The debate dragged on into 1994 and the constitution was adopted by parliament in the spring of that year after the Speaker, Mecheslau Hryb, a former regional police chief and an advocate of a strong presidency dragooned deputies into voting for it.

Alyaksandr Lukashenka the surprise winner in parliamentary elections held in the summer of 1994 proposed holding a referendum to amend the constitution in January 1995. Despite objections from a handful of BPF deputies in the parliament this idea failed to attract the attention of organizations like the Council of Europe or the EU which later complained strongly about President Lukashenka's second constitutional referendum in November 1996.

The debate in 1996 was dominated by the question of whether or not the draft amendments to the 1994 Constitution proposed by the president were so fundamental that they constituted a new document. By autumn, 1996, parliament itself had produced a competing draft which sought to remove the office of president altogether. On 4th November the Belarusian Constitutional Court ruled (8 to 3) that both drafts were effectively new constitutions and that the results of the referendum should only be advisory.⁹³

Apart from reducing the number of MPs the amended constitution introduced a second chamber, the Council of the Republic. Membership of the upper chamber would consist of 64 deputies, 8 from each region

elected by regional councillors, with a further 8 appointed by the president. This was consistently misrepresented by the press and some academics⁹⁴ to mean that the president would appoint all members of the Council.

BELARUSIAN CONSTITUTION AND THE CONSTITUTIONAL COURT

According to Article 6 of the 1994 Constitution (unchanged in the amended document), "The state shall rely on the principle of dividing power into legislative, executive and judicial power. State bodies, within the limits of their powers, shall be independent. **They shall cooperate among themselves and check and counterbalance one another**". According to Art. 127 (2) (Art. 116 of 1996 draft), "The Constitutional Court shall be entitled, at its discretion, to examine the question of whether the enforceable enactments of a state body or public association conform to the Constitution, the laws, and instruments of international law ratified by the Republic of Belarus".

Two things seem apparent from these two clauses: 1) As stated Article 6 can only be interpreted as meaning that the state bodies themselves must work out any disagreements that arise over the application of the doctrine of the separation of powers, for 2) Art. 127 does not explicitly accord the Court the final say in such disagreements only the possibility of "examining" any alleged breaches of the rules. In fact, in February 1996, Mr. Tikhinya talked of "proposing to introduce the relevant changes to the Constitution and the law on the Constitution to (...) give **the court the right to interpret the Constitution**."⁹⁵ It is surely within the understanding of ordinary democratic principles that an unelected body such as the Belarusian Constitutional Court should not override the legislative competences of either the parliament or the presidency. "A judge lacks the credentials of democratic legitimacy which alone could give him the authority to settle political conflicts."⁹⁶ Only recently the Slovak government's appeal to its constitutional court was objected to by opposition politician Jan Carnogursky on the grounds that the court should not be able to replace the will of the people.

The workings of constitutional courts in developed democracies reveal that interference in the political domain is rare, even in the United States where the Supreme Court has extensive powers. The main task of both the German and Italian courts is to examine appeals of a judicial nature - 90% of cases in Italy concern concrete litigation. Although the Constitutional Court in Germany has wide powers it has been loathe to intervene in clashes between different public bodies and between 1951 - 83 only 27 such cases were heard in Germany (interestingly in 1995-6 alone 27 cases were referred to the Constitutional Court in Belarus). For example, the German Court did not prevent President Carstens dissolving the Bundestag in 1983 in an arguably unconstitutional way when the majority voted itself out of office to force fresh elections!

The situation in France is even less helpful to the advocates of arbitrary powers to a constitutional court. The Constitution of the Fifth Republic makes no reference to the setting up of a constitutional court - the primary function of the Constitutional Council was "to shield the executive from parliamentary encroachment."⁹⁷ Between 1959 and 1974 neither parliament nor president had appealed to it. When the Constitutional Court in Russia handed down decisions hostile to the executive it was disbanded for 18 months after 1993. Unsurprisingly, perhaps, it has avoided political questions since then.

In other words a wholly unusual situation is being forced onto Belarus, one which could completely block the conduct of government. Despite the aura of sanctity that surrounds institutions like constitutional courts the possibility has to be faced that the Belarusian Court which has been seized mainly by parliament to rule on the constitutional propriety of presidential decrees and orders is biased against the executive. Such bias seems to have been ignored by international bodies like the Council of Europe who are prone to view everything in a formalistic way. In discussions held between members of this Group and the former Constitutional Court President, Valery Tikhinya, the possibility of bias seemed real.⁹⁸

Mr. Tikhinya, a former head of the Procuracy from the Communist era was generous in his use of apocalyptic vocabulary. During an interview in Minsk after the holding of the November referendum he referred to the situation in Belarus as a "legal Chernobyl" and the country as a "Haiti in the middle of Europe". As the same observations also appeared in several newspaper articles at the time⁹⁹ it could be concluded that Mr. Tikhinya's remarks were rather well-rehearsed. It was apparent that many important delegations had made its way to the Court and listened to a thoroughly biased account of the political situation in Belarus. While acknowledging that most appointments to constitutional courts world-wide have a political flavour Mr. Tikhinya's obvious support for the opposition made him an extreme case. When tackled

on his lack of objectivity he replied that the "legal Chernobyl" meant that he had to take a political stance.

Interestingly, the President of the new Court Grigori Vasilevich (interviewed on 13th March 1997) made no comments of a political nature. As he is a presidential appointee he could have added his own political gloss to the proceedings but the interview (recorded as was the one with Mr. Tychnya) dealt with matters solely relating to the new constitution and its interpretation.

CRITICISMS OF THE NEW CONSTITUTION

The first question to be decided is whether or not the amendments brought into force by the 1996 referendum effectively override the 1994 constitution thus constituting a new document. According to Mr. Tikhinya 60% of the 1994 constitution has been changed - he reported that 'legal experts' from Europe and the US shared his view that the amendments effectively added up to a new document. The new court in which 4 judges from the old court remain members (6, including Mr. Tikhinya resigned after the referendum) say, on the contrary, 65% of the 1994 constitution remains unchanged. It is easy to check up on this by consulting both documents. On balance, the latter is the more accurate assessment. This is not to say that the changes made are not of a fundamental kind but the majority of articles remain untouched, including those dealing with fundamental human rights. The Russian Constitution of 1977 was amended hundreds of times but was still regarded as operative until 1993. Radical departures in practice from Russia's in any case presidentialist 1993 constitution have not prevented Russia joining the Council of Europe.

The presidential amendments as well as those proposed by the Belarusian parliament were examined in the pre-referendum period by the Council of Europe's constitutional experts, the Venice Commission. The Commission's report issued on 18th November 1996 acknowledges that both sides had since revised their versions. Nevertheless, their comments are worth examining if only because they contain many double standards when it comes to constitutional interpretation. An EU Mission produced a report on the situation in Belarus on 24th February 1997. It also considered the constitutional changes. We have considered the articles in the 1996 amended document which caused them the most concern and compared them with similar provisions in other constitutions.

Article 13: The Venice Commission (VC) laments the prominence given to social rights in the 1996 draft of this article. They criticize, in particular, worker participation in the management of enterprises although this is part of German law and a key element in the Maastricht Treaty's Social Protocol. In fact, although the VC says these provisions "bear worrying resemblances to the former Communist regimes" many countries have long lists of social rights in their constitutions. Article 7 of the 1993 Russian Constitution declares that "Russia is a social state" and produces a long litany of them. But further afield non-Communist Brazil has 37 sections dealing with workers' rights in its 1988 Constitution. The desirability of this trend is debatable; that it is widespread and not confined to Belarus incontrovertible

Article 16 and 31: Religious freedom. There is no change between the 1996 and 1994 version of Article 16. The new provision in Article 31 which grants religious freedom in areas "not prohibited by law" is criticized by the VC as being too broad and potentially oppressive. The recent influx of sects like Aum Shinrikyo into the FSU has led many individual Russian republics to pass laws restricting religious activity - a tough new law on religion was passed in Russia itself in September 1997. In Belarus churches were desecrated by Satanist groups in 1996. It is against this background that the law has been changed.¹⁰⁰

However, Article 31 is not dissimilar to Article 9 of the European Convention of Human Rights: "Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals..." Article 55 (3) of the Russian Constitution is a broad provision which allows for the curtailment of basic rights in order to protect society. Such a provision could be used to reduce religious freedom although the passage of the new law on religion in Russia could do this explicitly.

Article. 80 The residency requirement for the President (ten years in both documents) is criticized. But this is a common constitutional provision. It is the same in Russia. In the US the president must not only be a US citizen but have been born a citizen and been a resident for 14 years.

Article 84. Deals with the competences of the presidency. Appointments made by the president with the consent of the Council of the Republic. The president of France is the guardian of the independence of the

judiciary and makes appointments to civil and military posts. He appoints the prime minister as does the Russian president - see Article 83 of Russian Constitution. The US president makes appointments in consultation with the Senate. The Romanian president has the power to appoint prefects: the newly elected Emil Constantinescu replaced many of them with his own candidates after he won the presidential elections in November, 1996.

The procurator general in Belarus - as in France and Russia - is a presidential appointment, see (Art.84)(9). The presidents of these countries initiate the appointment and dismissal of the chairman of their respective constitutional courts with the consent of their second chambers. According to Art. 128 of Russian Constitution the president proposes all legal appointments including all members of the constitutional Court (in Belarus the President appoints six members of the Court).

Article 84 (22): declaration of a state of emergency. This is criticized by the VC because in such circumstances basic rights can be suspended, according to Article 63. But this is the same with the Russian constitution, see Article 88. In the US the president can revoke the right of habeas corpus if he declares a state of emergency.

Article 91. The new Council of the Republic consists of elected representatives of the regions as well as Minsk. The VC deplores the absence of a list of the regions as well as rules governing their structure. Unlike, say, Germany (the Basic Law lists its federative components) Belarus is not a Federal State. Article 24 of French Constitution talks about the territory of France (a unitary state) and those living overseas without elaboration.

Article 94: This deals with the president's powers to dismiss parliament. It means according to the VC that the "assemblies are "constantly under a threatening control" as the notion of violation is not determined and the constitutional court's independence is "not guaranteed". See the French Constitution Art. 12 which gives the French President the power to dissolve the National Assembly after "consultation" with the prime minister and the presidents of the two houses - something done by President Chirac in April 1997 even though a French general election was only one year away.

Article 95: decrees that parliament shall sit for 170 days per annum. This is considered to be too short a time by the VC. But this Article seems no different to Article 28 of the French Constitution which also specifies when sittings should take place and for how long - 170 days.

Article 97: The VC complains that the competences accorded to the parliament are too narrow although this clause contains a long list of items for consideration (including budgetary, social security, educational, military, housing, family, labour and health matters). Art. 97, (10) could be taken as extending the House's activities. [It] "may take decisions on other issues which are determined by the Constitution". Perhaps the VC was looking at the wrong draft.

Article 99: draft laws concerning the increasing and/or decreasing of state expenditure may only be introduced with the "consent" of the president. This is criticized for being restrictive by all the experts on the grounds that **all** legislation involves expenditure in some way. It is interesting to note that the American president is proposing similar legislation (the so-called line-item veto) as a way of cutting back Congress's control of financial legislation. See also Art. 40 of the French Constitution: "Private members bills and amendments are not admissible if their adoption would result in reducing public resources, or in creating or increasing a head of public expenditure".

The VC (and EU report) claim that Western constitutions contain "checks and balances" that are not present in the Belarusian document. But Arts. 5 and 16 of the French Constitution and Art. 85 (2) of the Russian Constitution are, on the contrary, catch-all provisions that might well give the executive free rein in practice.¹⁰¹

Article 106 (5): The House of Representatives may be dissolved by the president if it fails to accept his nominee for the post of prime minister or if it passes a vote of no confidence in the government. Similar provisions are contained in Articles 111 and 117 of the Russian Constitution.

Article 116: has not removed the need for presidential edicts to conform to the law (as stated by EU): According to Art. 116: "Supervision of the constitutionality of enforceable enactments of the state shall be exercised by the Constitutional Court ... [it] shall produce a ruling on...the conformity of laws, decrees and

edicts of the President to the constitution".

Article 129: This establishes a government watchdog the State Supervisory Committee. As its members are appointed by the president it is open to criticism for likely bias. However, perhaps such an organization is better than nothing: there is no mention of any supervisory organizations in the Russian or French constitutions.

Article 138: amendments to the constitution. The procedure enacted here is criticized for being confined to initiatives of the president or 150,000 voters. However, according to Art. 139, any such amendments have to be "debated and approved" by both chambers of parliament.

THE REFERENDUM IN BELARUS

The conduct of the two referendums held in Belarus since independence - in May 1995 and November 1996 - provide interesting illustrations of the underlying tensions between the president and the parliament.

In February 1995, President Lukashenka proposed holding a referendum simultaneously with parliamentary elections that year. The president referred back to his campaign manifesto in which he had originally set out his plans. The questions were: 1. Should the Russian and Belarusian languages have equal status? 2. Should the national flag be changed back to the Soviet emblem? 3. Do you support closer economic ties with Russia? 4. Should the president be given powers to dissolve the parliament? Earlier in the year Yeltsin and Lukashenka had signed a treaty of friendship and cooperation between Russia and Belarus which was ratified by the parliament on 12th April, 197 deputies voted for - there were four abstentions and 1 against. The BNP deputies did not take part.

The proposed questions in this referendum were all, in theory, capable of challenge for unconstitutionality. Genadi Karpenka told members of this Group that he thought as much in discussions held in Minsk in June 1995. Why then did the dog of the constitutional court fail to bark? In fact, the constitutional court had until then been remarkably supine; it only ruled against one of the president's decrees for the first time on 14th April in a matter unconnected with the forthcoming referendum.

These questions were put to various people during the Group's visit to Minsk in November 1996. Mr. Shushkevich replied that the court was 'inexperienced' in the early days of 1995 and therefore unwilling to act. Mr. Tikhinya himself said that the reason for their failure to act was that the questions in the 1995 referendum were only of a consultative nature. Which was not the case: after much debate in the parliament the president had agreed to make the last question regarding dissolution of parliament consultative; the rest were binding.

At this time the BPF had 27 deputies in the parliament who opposed the referendum. Their protest and hunger strike during which they sat under the speaker's chair was broken up by force by the police on the night of 11th April 1995. It was the only sign of serious opposition to the poll. Demonstrations failed to take place although there was a small-scale protest outside the presidential administration during which the old flag was displayed on 24th May.

This is all in marked contrast to the events of 1996. In August of that year the president proposed holding another referendum with 4 questions for the voters to answer. By now the forces opposed to the president were united in opposition. Bitter arguments took place between the two branches of power over when the poll should be held: the president wanting 7th November the parliament 24th. In a compromise decision 24th November was agreed. But the debate about the legal status of the referendum was much more ferocious than it had been the previous year and the constitutional court was seized of the matter by parliament. On 4th November it ruled that the results of the referendum should only be consultative.

Lukashenka was unwilling to accept the court's verdict and the matter remained unresolved until Prime Minister Chernomyrdin arrived from Moscow on 21st November in an attempt to diffuse the situation. A deal was hammered out between the different parties which involved a commission being set up to examine a new constitution. In the meantime the referendum would go ahead but the results would only be of a consultative nature. The president, Mr. Sharetsky and Valery Tikhinya agreed to the compromise but parliament turned it down the following day. It is interesting to note that the European Union's fact-finding mission to Belarus fails to mention this crucial fact (also ignored or distorted by much of the press). Their report talks about the "subsequent violation of this agreement" without saying by whom.¹⁰²

The 4 questions in the presidential referendum were: do you agree/disagree 1. To transfer Independence Day to 3rd July ? 2. to adopt the president's amendments to the constitution of 1994? 3. with the unrestricted buying and selling of land? 4. with the abolition of the death penalty? The parliamentary questions were do you agree/disagree with 1. the constitutional amendments put forward by Communist and Agrarian deputies? 2. the direct election of local administrators? and, 3. the independent financing of all branches of power? It seems to have been generally accepted that the parliamentary questions were a ploy no one took seriously. The EU mission noted that: "the proposal to amend the constitution moved by deputies of the Supreme Council seems to have been primarily intended to counter the presidential draft."¹⁰³

In fact, much of the debate about the consultative (advisory) versus binding character of the referendum was arid formalism. Consultative referendums have often been held in Europe. Both Sweden and Finland used such a device in their EU referendums the results of which were treated as *de facto* binding. Do fellow members of the Union therefore regard the results of these polls as invalid?

As one expert notes: "The notion of an "advisory referendum" does not receive much support [in the chapters above.] If a particular referendum were genuinely seen as only advisory, with parliament really free to disregard the result, it would be little more than an expensive opinion poll or mid-term poll, with voters able to vote "irresponsibly" (or not at all) safe in the knowledge that the politicians will make the final decision after considering the questions carefully. Although several countries (Denmark, Finland, Italy, Norway, Sweden and the UK) have held referendums that have formally been only advisory, it is clear that in practice these develop their own momentum and become effectively binding. No parliament in Europe has explicitly disregarded the verdict delivered by the people and were this to happen on a major issue the fallout would be severe (...) if a referendum is to be held at all, there seems no good reason why its result should not be binding"¹⁰⁴

The British Helsinki Human Rights Group sent four representatives to observe the conduct of the referendum. Between them they visited over 20 polling stations observing the count in three adjacent voting centres in Minsk. Most ordinary people in Belarus see the row between President and the Supreme Soviet as an old-fashioned power struggle rather than an argument over Western ideals of civil liberty and freedom of speech. They seem unimpressed by the "unholy" alliance between "liberals" like Shushkevitch and the *nomenklaturists* like Sharetsky and Hryb. The "liberals" who once denounced Sharetsky et al. have now joined forces with them to oust the president. As we learnt on referendum day itself from a series of straw polls outside polling stations, the population feels alienated from the parliament and support for it is minimal. (The fact that foreign observers were widely touted by the opposition as "natural allies" against the president makes the strength of anti-parliamentary feeling expressed to us all the more striking.) Since the opposition is dominated by old apparatchiks, it is difficult to understand how it can be regarded with such rose-tinted glasses by Western diplomats and politicians.

COMMENTS ON THE REFERENDUM PROCEDURES

The Campaign and the Media

Members of the Group were not present during the election campaign. However, there was much criticism of the campaign in the Western (and Russian) press - **all** of it critical of the president. It was alleged that state Belarusian television failed to provide any information about the parliamentary referendum and that the questions contained in the referendum were not published adequately in advance leaving the public ignorant of the issues at stake.

It is true that Belarusian TV slavishly promoted the president's constitutional changes and ignored those of his opponents. The referendum ballot paper appeared regularly on screen with ticks showing approval for the presidential questions. Viewers were exhorted at regular intervals to vote.

However, it would be wrong to say that Belarusians had no access to broadcast criticism of the president's position. Everyone can see both Russian TV channels (ORT and NTV) which were fiercely critical of Lukashenka, as were Polish and Lithuanian TV, which may be seen by people in Western Belarus/north-western Belarus.

There is a lively opposition print media in the republic and it too supported the parliament against the

president. Despite allegations of censorship, no opposition papers were banned during the run-up to the referendum. Since allegations of dictatorship against the president have become widespread, more foreign funding seems to have been directed towards the opposition press.

The precise questions posed by the president in the constitutional referendum were only published in the government newspaper, *Sovietskaya Belorussia*, on 10-11th November, and then widely broadcast although versions of the draft had appeared in the press since the end of August. This was **one** day after pre-voting started but three weeks before the regular polling day. This provoked widespread criticism from abroad which was markedly lacking when the final version of the Russian Constitution was published just one month before polling began in December 1993.

How many votes were affected by this is difficult to assess since the general public was fully aware that the real issue was a choice between president and parliamentary majority. The polarization between president and parliament had become so stark over the past few months that the specific constitutional and legal issues had become obscured and the vote a simple matter of For or Against the president or parliament. MPs themselves resorted to censorship refusing to allow Belarusian TV to film its debates in the weeks running up to the referendum accusing it of "bias".

Conduct of the poll

Unlike other observer groups who had complacently approved flawed elections in Belarus in the past, this Group's observers had paid several visits to Belarus and so it was of particular interest to observe the conduct of voting on 24th November, sometimes in polling stations already inspected in 1994-95. They came to the unexpected conclusion that - of all elections they had observed in Belarus - the conduct of the 1996 constitutional referendum, while by no means perfect, was an improvement on previous elections.

The dismissal of the sitting Chairman of the Central Election Commission, Viktor Hanchar, aroused considerable controversy among Western commentators. They seem not to have noted that as a sitting MP (former Communist) of the Belarusian parliament, he ought not to have chaired the CEC at all since according to Belarusian law the combination of the two such positions was impermissible.

Polling stations were adequately staffed and welcoming to observers. Commission members tended to come from the same factory or institution. Observers were assured that they represented a variety of political opinion - something which was unverifiable. It would be preferable for commission members to have documentary proof that they were members of different parties (admittedly something uncommon in the former Soviet Union). However, since the party structure in Belarus is still vestigial - only the two outgrowths of the Soviet Communist Party, local Communists and Agrarians, having any real presence (apart from the BPF which has been excluded from parliament by the voters) - this is an unrealistic idea.

Early voting

Polling stations had been open for several hours a day since the 9th November for those unable to vote on the 24th. The same arrangement was in place for the presidential elections in 1994. Both this Group and the OSCE criticized this practice at the time as providing an obvious opportunity for fraud. However this did not prevent the OSCE observers assessing that election very positively unlike this Group. Early postal voting takes place in many countries - the USA is the most obvious example. Early voting is used in Russia's gubernatorial elections.

Ballot papers

Most polling stations received more ballot papers than registered voters, very occasionally fewer. The number ranged from 100-150. We were assured that unused ballot papers were cut at the corner and returned to the District Election Commission. However, with a suspiciously high turn-out an augmentation of the vote at some stage cannot be ruled out. Commission chairmen were generally consistent in the procedure to be adopted for spoilt ballots or people claiming to have made mistakes: another vote was not allowed. An additional list was provided for those not on the register but the facilities provided for early voting meant that such lists contained few names - between 10 and 15 at most. This is not to say that the provision of an additional list (common in the CIS and Eastern Europe) is a good idea.

Voter identification

Each voter was required to show his/her passport before being handed a ballot paper. (Some journalistic reports described situations in which unidentified voters were given ballots - something this Group did not see.) In the parliamentary elections last year we saw many examples of people voting with several passports, however this was not the case this year. There were occasional cases of someone taking two ballot papers explaining that they had queued up for a spouse who was in the polling station. Such explanations are always somewhat unconvincing especially when the wife was not visible but the practice was by no means as widespread as in 1994-95. There was much less evidence of cheating than in the past. In fact, relying on his popularity, the president had little need to cheat - even the president's opponents admitted he would win the ballot, only disputing the scale of his victory.

Propaganda

Polling stations displayed a large coloured poster listing both sets of referendum questions. (It was illustrated with a photograph of the president on the left-hand side and the less well-known features of Mr Sharetsky on the right-hand side which might account for why the three European Parliament MPs who came to Belarus claimed to have seen "propaganda" in the polling stations.) We did not see any evidence of these having been filled in to influence voters to vote one way or another however some leafleting had gone on behalf of the presidential questions, as had a limited amount of opposition leafleting. Otherwise no material of a compromising kind was in evidence.

Local observers

There were very few representatives of political parties in the polling stations other than one or two Communists and the very occasional BPF representative. Unlike presidential elections in Armenia and Georgia, for example, the president had no representatives in polling stations nor were there groups of unidentifiable young men hanging about as noted in Armenia in September 1996 or Azerbaijan the previous year. The presence of the militia (ordinary police) varied from zero to at most two uniformed officers.

Voters

Criticism was voiced by some commission chairmen about the complexity of the referendum questions making a choice difficult for elderly voters in particular.

As so many allegations had been made about the referendum we took particular care to talk to as many voters as possible - young and middle-aged people were most willing to speak. The opposition claimed that only older voters supported the president but this did not seem to be the case. (In fact the sparse demonstration outside the Supreme Soviet in Minsk consisted almost entirely of pensioners.) While some people expressed concern about any increase in presidential powers and the tinkering with the constitution, the majority of voters (3 to 1) supported Lukashenka. As previously stated, the situation had become dramatically polarized and attention to detail was not the order of the day - both commission chairmen and voters admitted the whole thing boiled down to 'for' or 'against' the president. Over and over again people criticized the parliament. Many did not know the name of their local MP and most claimed he, or very rarely she, neither visited their constituencies nor did anything for them in the parliament. Communist observers and supporters were particularly angry that their party leadership had gone into opposition.

The Count

The count was observed in the three adjacent polling stations in Minsk, N^{os} 4-6. Only in N^o 4 were the observers faced by an uncooperative attitude on the part of officials. A woman, who refused to identify herself or give any official status, tried to prevent our observers from entering the voting room altogether. Although she failed to do so her presence was worrying. The assumption must be that she represented the presidential authorities, but she might have represented the opposition which is stronger by all accounts in

Minsk.

The count was conducted very clumsily: the members of the commission added a dot "for" or "against" for each of the **seven** different questions. The only incorrect feature of the count was that a female member of the commission consistently counted negative votes as positive and vice-versa. This was to the **disadvantage** of the president. After this was drawn to the attention of the chairman - for a second time - this false counting was corrected. The procedure gave the impression that commissions would be in for a long night, so it was somewhat surprising to find a full set of results available by mid- morning on 25th November.

Results

The official results of the referendum were published on 26th November. According to the CEC 70.45% of registered voters voted in favour of the presidential draft. The parliament's draft received 7.93% of the vote. Allegations of falsification were immediately forthcoming. Sergei Kalyakin, head of the Communist faction in the Supreme Soviet, pointed to the fact that an improbably large number of people apparently had voted between 6 and 10 o'clock (½ million people). At first glance this looks suspicious. However, Lidziya Yarmoshyna, Chairman of the CEC, explained that early votes had been counted in with other votes for that period thus augmenting the numbers. Leaving aside the rights and wrongs of early voting this explanation seems plausible.

If fraud was the explanation for the apparent disparities in the figures produced by Mr. Kalyakan, one might have expected voting patterns among the security services required to enforce fraud to show a sharp divergence from the norm. However, although the official figures for the turnout and voting among members of the armed services and security forces show a very high turnout (99.6%), perhaps explicable by discipline, the actual voting figures were 87% for the president's questions and 6.5% for the parliament's - this latter figure is only marginally lower than the 7.93% of the total population.

Tatyana Protsko of the Belarusian Helsinki Committee claimed that the conduct of the referendum had been flawed by, among other things, the absence of polling booths, people voting without identification and the refusal to admit observers to polling stations.¹⁰⁵ BHHRG observers witnessed no such breach of the rules. However, it seems that some members of the opposition feel they should stop trying to discredit the referendum. According to one local newspaper as "nobody is able to prove that the constitutional referendum had been rigged many opposition leaders such as ...Genadi Karpenka are convinced that the opposition should abandon all attempts to do so."¹⁰⁶

AFTERMATH

The opposition contested the scale of the president's victory but not the fact that he had won. Press conferences and speeches in the parliament on subsequent days did not appeal to the Belarusian people. Instead the opposition directed its message that dictatorship was rife in Belarus to the international community, in particular to the Council of Europe and the European Parliament. Attempts to mobilise international opinion are understandable but may be regrettable when international powers are expected to redress lack of domestic support rather than repression. Meanwhile, outside the parliament only small groups of mainly elderly demonstrators (c.70) stood in the autumnal drizzle for a couple of days and then disbanded. There was a small police presence and no one appeared to interfere with their protest. In fact, police presence in Minsk was minimal. For instance, after the Georgian presidential and parliamentary elections in November, 1995, our observers witnessed masked Georgian policemen beat up and disperse an anti-Shevardnadze demonstration.

THE FOREIGN DIMENSION

As he was such an unknown quantity few foreigners were able to predict what a Lukashenka presidency would be like. Early soundings from Europe were quite optimistic but the US was less enthusiastic from the start: "From the moment President Lukashenka assumed power...Belarus's relations with the US...have become increasingly difficult" said Jack Segal of the State Department.¹⁰⁷

In the past year all major European institutions have turned against Lukashenka while the Americans have sometimes seemed close to breaking off diplomatic relations with Belarus. Those in Russia who feel the same way need do little but sit back for the moment and watch. Given their narrow ownership, Russian press and TV give a proper insight into what some (very influential) people think about the Belarusian president.

For instance, in the autumn of 1995, two amateur American balloonists were shot down by accident in Western Belarus. This incident undoubtedly further soured American-Belarusian relations. Although Lukashenka apologized to President Clinton and the American people reports in the Russian press and TV alleged the opposite: that he had "refused" to apologize and considered the incident all the fault of the Americans. Similarly, Russian TV never fails to capitalize on any passing reference to Hitler or Stalin in their attempts to further discredit the president.

Since then the Americans have become more blatant. The allegation that the First Secretary of the US embassy in Minsk had been taking part in illegal marches is not so improbable. The Americans have made their feelings about Lukashenka very clear without resort to talk of "CIA plots". The State Department's Human Rights report for 1996 is a document that contains few facts and less documentation of its justifications for denying all help and cooperation with a foreign state. After his recall to Washington in April 1997 American Ambassador Kenneth Yalowitz returned to Minsk promising to help further democracy in Belarus not by formal government contacts but by supporting NGOs and independent groups.

The UK has also expressed its distaste for the regime. In an interview with the *Daily Telegraph* the British Ambassador in Minsk, Jessica Pierce, obliquely referred to Belarus as an "asylum."¹⁰⁸ Hardly diplomatic language. It is difficult to imagine a British diplomat using the same tones about, say, South Africa, China or even Serbia.

The International Community

The hostility towards President Lukashenka that has developed meant that, effectively, no Western institutions observed the 1996 referendum. This did not stop US State Department spokesman, Nicholas Burns, declaring it unfree and unfair. (Mr Burns has been accused by the former US ambassador David Swartz of directing USAID to projects endorsed by one of today's most vociferous anti-Lukashenka activists, Piotr Krauchenku, in the period, 1993-94).¹⁰⁹ The Council of Europe and OSCE boycotted the poll although three members of the Council of Europe Parliamentary Assembly appeared in Minsk **after** the event. The delegation was led by a member of the ruling Polish ex-Communist Party, Tadeuz Iwinski. As Poland has displayed overt hostility to the government in Minsk this was hardly a neutral appointment.

Three members of the European Parliament were present in Belarus on polling day - one of them, Brian Cassidy from the UK, issued a press release declaring his distaste for President Lukashenka **before** he left for Minsk. Shortly after his visit Mr. Cassidy applied for funds from the EU to cover the costs of a pheasant shoot he had been forced to cancel due to his sudden assignment in Minsk.¹¹⁰

Another major player has been the Soros Foundation. The role of this NGO has been to promote educational projects many of which are, undoubtedly soundly based. However, as in other parts of the world, the Foundation seems to have taken a political stand by overtly supporting the Belarusian opposition and helping to organize unsanctioned opposition rallies. The Foundation has also supported the cause of Belarusian nationalism by printing books in the Belarusian language. A concert last November by the Belarusian singer Danchyk was also sponsored by the Foundation.¹¹¹ This is a strange development as anti-nationalism is one of the Soros Foundation's main ideological platforms. It is difficult to imagine them supporting artists performing in the Slovak or Croatian languages, for example.

The policy of the US and others in Belarus is to strengthen democracy via non-governmental

organizations like the Soros Foundation. The UN in Minsk plans a joint project with Soros to spread information technology around the country. This plan may now be thwarted as the Soros Foundation is locked in a legal wrangle with Belarus after the sequestration of \$3m from its bank account for payment of back taxes. However, the Foundation's dollar account is intact.¹¹² Although spreading democracy via NGOs is accepted by the international community without demur the paradox remains that such organizations are essentially undemocratic "without much accountability to anyone."¹¹³ Should their pronouncements and prescriptions override the policies of democratically elected governments however unpopular these might be in Washington and Strasbourg?

The double standards adopted by all these international and Western institutions towards the ex-Soviet republics is perplexing. For instance, abuse of human rights in the form of torture and abuse of due process is ignored in republics like Georgia or Armenia, now on the threshold of entry into the Council of Europe, though no-one alleges such severe abuses in Belarus. In Armenia the main opposition party is banned, its members on trial for their lives, while in Georgia 50 opponents of Mr. Shevardnadze sit on death row - **three** more were added during the Belarusian referendum period. After the September 1996 presidential elections in Armenia, 20,000 troops put down demonstrations by supporters of the opposition candidate who claimed he had been cheated. (Our observers saw evidence to confirm Mr. Manoukian's claim that he won more votes than the official victor, Levon Ter-Petrossian). Journalists are in jail in Khirgizia, where President Akaev, described by US Deputy- Secretary of State, Strobe Talbott as a "true Jeffersonian democrat", has extended his term in office by referendum. Across the CIS and in neighbouring Lithuania, politicians and businessmen are frequently murdered, something yet to become normal in Belarus.

The level of civil society in Belarus may be low by comparison with some (self-satisfied) Western societies but is it really to be placed below so many of the former Soviet republics? In Belarus at present there are no political prisoners yet the country is singled out for particular opprobrium. How does this compare with the situation in France where six 'rappers' were sentenced to 6 months imprisonment in November 1996 for insulting the police?

In human rights matters it is important to be as accurate as possible and as unemotional as reasonable. The international diplomatic community and institutions (Council of Europe, European Parliament, etc.) and much of the press have failed this test over Belarus. Across the CIS and former Communist world, Western double-standards are bringing universal values of human rights and democracy into disrepute.

CONCLUSION

The struggle for power between Alyaksandr Lukashenka and the Belarusian parliament, or Supreme Soviet as most people still call it, has left most ordinary Belarusians side-lined and unaccounted for. The US and EU governments have clearly taken sides but do not seem concerned with what ordinary people in Belarus think. Whatever the rights and wrongs of holding the 24th November referendum the fact cannot be ignored that the majority of Belarusians voted for their president - something not denied by his fiercest domestic critics. Compared with previous elections in the republic voting procedures were better than those observed in 1994-95. This is not to say that there is no room for improvement but criticism of elections in the CIS should aim for consistency at the very least. The situation in Belarus was no worse than that seen in other ex- Soviet Republics and in some case much better: at last the head of state enjoys genuine popular support unlike in many republics where he only enjoys Western support. As elsewhere in the former Soviet Union, the West's one-sided and somewhat hypocritical statements have little effect, other than to create a sense of cynicism about our commitment to democracy among people who had never doubted it during the Cold War.

PROSPECTS

The prevailing political instability in the republic is likely to continue. But Western institutions should refrain from putting all their faith in the Belarusian parliamentary opposition which has less claim to democratic legitimacy than President Lukashenka and little popular support. At the Communist Party of Belarus's annual meeting Sergei Kalyakin appealed for the restoration of the USSR by underground means if necessary - something not yet urged by Lukashenka.¹¹⁴

Although the US and now the European Union have sought to isolate Belarus the country's fate probably

hinges on political developments in Moscow. When Syamyon Sharetsky told the assembled press corps in Minsk that his first telephone call after the referendum on November 24th 1996 had been from Anatoli Chubais he was sending an important signal. The recent promotion of Chubais and his fellow 'young Turk', Boris Nemtsov could create difficulties for Lukashenka. While public demonstrations and complaints about the treatment of the Soros Foundation have little effect on the lives of ordinary Belarusians paying more for fuel imported from Russia - even the prospect of it being turned off - would have a more devastating impact. As Boris Nemtsov, the new energy supremo is committed to running the Russian gas industry more efficiently favourable arrangements for neighbours like Belarus could be suspended. If that were to happen the president's downfall would become a real possibility.

Why, then, is the removal of Alyaksandr Lukashenka a matter of such importance to everyone from right to left and from west to east? For one thing he is not easy to manipulate. Despite all the talk about "Stalin" and "the Soviet tyrant" Lukashenka may, ironically, be a true Belarusian patriot. While he may not fuss with flags and symbols he believes that independence is only meaningful with strong public backing. Ordinary citizens, too, are unimpressed by nationalist paraphernalia. They feel Belarusian while absorbing what they consider to be the best from their Soviet past.

In Belarus peoples' wages have been paid and the population is in work. Privatization has been limited mainly to the service sector. This is all anathema to the IMF and World Bank. It also means that the spin-offs from economic reform - consultancy fees, licences, tenders and bank loans - have not been as abundant as they have in other ex-Communist countries, Russia in particular. No doubt, many Russians feel frustrated too by their neighbour's failure to go down the path of reform. As a recent article has shown¹¹⁵ most American aid goes to the group in Russia around Mr. Chubais which might help explain some of Washington's hostility to Lukashenka.

No doubt, such considerations have always dictated the conduct of international diplomacy. The worrying thing today is that they are masked by accusations of 'human rights abuse'. But the violations of human rights that seem to cause the most concern to the international community tend to be committed by small and relatively insignificant players on the world stage. The bigger fish always seem to get away. The United States and the European Union tend to play down human rights' abuse in China, for instance, where extensive Western commercial interests have been developed, while working themselves up into a (synthetic?) lather of indignation about Belarus's alleged shortcomings. Bullying by great powers in the human rights field is no more attractive than in any other area. Legitimate concerns have become fogged in rhetoric masking possibly dubious interests.

APPENDIX

The following remarks about events in Belarus are taken from articles by Matthew Brzezinski that appeared in the *Wall Street Journal Europe* between 22nd - 30th November, 1996 with replies from BHRG members in Minsk at the time:

22nd - 23rd November "the powers of a Stalinist dictator". Lukashenka has not established concentration camps; he has not had anyone (let alone millions) shot. He has not deliberately caused famine. To put it mildly, comparisons with Stalin are overstated. It is also an exaggeration to compare him to "Stalinist dictators" like Ulbricht, Honecker, Zhivkov, Ceausescu et al. There is no reign of terror, there are no political prisoners, and there is an opposition.

"Flash point ...dangerous situation ...shoot-out ...risk of confrontation certain to escalate ...deputies barricading themselves in the chamber". These are speculations about the future, none of which happened.

"... There won't be any independent monitors in polling stations ..." The referendum was not monitored satisfactorily because the major international organizations (OSCE, Council of Europe) and foreign governments boycotted the proceedings. But there were some domestic party political observers in some polling stations (e.g. from the Belarussian Popular Front, Communist Party etc.) and a small number (about 50) of foreign observers, e.g. from Ukraine (20), UK (4), Russia and Poland.

"Units of Mr. Lukashenka's elite presidential guard are blocking access to the central election offices". We went to the CEC electoral office several times between 23rd and 27th November and there were no guards blocking access to it at all.

"... a referendum question on the ban of sale of private property ..." The question was, "Do you approve of the unlimited sale of land?" (i.e. the sale of state land, especially collective farms, to private individuals without conditions).

"... banned independent trade unions ..." There is an independent trade union, whose leader Gennady Bykov, has been visited by member of this Group twice. We cannot think of any other independent trade union that has been banned. Bykov said (27/11/96) that 70% of the cases brought against employers are successful, even though the majority of employers operate in the state sector.

"... the country's largest political group, the Belarussian National Front ..." The largest political group is, in fact, the Communist Party. The Belarussian Popular Front does not have a single deputy in the Supreme Soviet, although they did receive about 1 m. votes in last year's parliamentary elections (out of 7 m. voters). It has been the Communist and their Agrarian allies who have led the opposition to Lukashenka. These people are viciously opposed to the pro-independence Belarussian Popular Front whom they often describe as "extremists".

"... muzzled the news media ..." State television is under the President's control but local television and radio stations are not. Attempts are being made to exchange news centrally between the local stations. 3 opposition newspapers are distributed regularly in Belarus and are not censored. Hostile Russian papers (e.g. Izvestiya) are available nationwide as is hostile Russian TV (NTV, ORT). Polish, Lithuanian and Ukrainian TV can also be seen in parts of the country.

"... Russian TV is the only source of independent information for Belarus' 10 m. citizens ..." see above

25th November p.1. "... the referendum boycotted by the opposition ..." The referendum was not boycotted by the opposition: it participated in it, and put 3 out of the 7 questions. There was an earlier argument about the date on which the referendum should be held, and the parliament's view prevailed that it should be held on the 24th. But the essence of the parliament's case was that the referendum's constitutional questions (N^{os} 7 and 5) should be only consultative, and not have ratificatory power.

27th November p. 1 "The hard liner immediately prevailed on the new body (i.e. parliament) to pass legislation withdrawing impeachment efforts against him". After the referendum, 12 deputies of the old Supreme Soviet withdrew their signatures from the demand for impeachment signed on 19th November. Because the procedure requires 70 deputies to sign this demand, and because their numbers thus dropped

from 73 to 61, the Constitutional Court met on Tuesday evening and decided that the impeachment proceedings should be dropped.

29th - 30th November **"Even before last weekend's showdown, Belarus was already one of the world's most closed countries"**. As it is possible to obtain a visa on arrival at Minsk airport and that a contingent of hostile foreign journalists reported freely from Belarus before, during and after the referendum perhaps this is rather over the top.

"... a key to Lukashenka's success lay in his willingness to thumb his nose at calls for compromise from Russian President Victor Chernomyrdin." Lukashenka did not thumb his nose at the Russians: when Chernomyrdin went to Minsk on the Thursday before the vote, Lukashenka accepted the compromise proposed, but the Supreme Soviet reneged on the agreement. Incidentally, Lukashenka compromised on 2 other issues: in late October, he withdrew an earlier draft of his constitution and offered a less authoritarian one, and he also gave in to the parliament on the date on which the poll should be held.

"... copying the methods Hitler used in the 1930s ..." Hitler came to power with less than 50% of the vote and consolidated his power with a genuine reign of terror, killing off his enemies in the Night of the Long Knives in 1934. Winston Churchill describes the event thus,

"That afternoon (30th June 1934) the executions began ... All the afternoon the executions proceeded in Munich at brief intervals. The firing parties of eight had to be relieved from time to time on account of mental stress of the soldiers. But for several hours the recurrent volleys were heard every ten minutes or so...In the capital, the killings spread beyond the hierarchy of the SA. Schleicher and his wife, who threw herself in front of him, were shot in their house. Georg Strasser was arrested and put to death. Papen's private secretary and immediate circle were also shot...The total number of persons "liquidated" is variously estimated at between five and seven thousand ...That evening, a certain number of the SS who through excess of zeal had gone a little far in shooting prisoners were themselves led out to execution. " (History of the Second World War, Vol. 1, p.79)

No one has been shot like this in Belarus, and there are no political prisoners. Nor can the Belarusian constitutional referendum be easily compared with the *Ermächtigungsgesetz* of 24th March 1933: the latter was precisely never subject to popular vote, and article 2 specifically allows unconstitutional laws, while the new Belarusian constitution does not (Article 7).

"... 99.6% of conscripts backed the president" In fact, 99.6% of the armed forces voted out of which 87% backed the President.

"... Heavy blanket of snow ..." there was a light dusting of snow that quickly thawed during the day.

"How could 25% of the electorate have cast their ballots in just one hour in blizzard conditions..." There were no blizzard conditions - it was not even snowing on Sunday night. The opposition allegation is that 25% - 30% people could not have voted in the last four hours (not one hour) of voting. The Central Electoral Commission countered that the turn-out figure from 6 p.m. - 10 p.m. included the 15% or so who voted in the two weeks before Sunday (the polls were open from 9th November onwards) because it was the final turnout figure.

"No one has forgotten here what occurred the last time parliament [sic] stood up to Mr. Lukashenko...in March last year..OMON riot troops stormed [parliament] and dragged out 50 screaming deputies" In fact, it was 19 not 50 deputies who were dragged out. At that time the opposition consisted of 25 BNP deputies who were the only MPs to voice serious objections to the May 1995 referendum.

FOOTNOTES

1. David Marples, "Belarusian-Russian Treaty: an Analysis", in *Belarusian Review* (Spring, 1996),
2. This was confirmed in otherwise hostile editorials in the *International Herald Tribune* on 2/12/1996 and 22/3/1997
3. "Most of the accusations have since been dismissed as a ploy for attention by Antonchyk" acc. Ustina Markus *OMRI Daily Digest* (26/5/1995)
4. Interview with members of the Group in Minsk, November 1996
5. Vera Rich, "An East Slavic Union", *The World Today* (March, 1995)
6. *Svaboda* (15/4/95)
7. *BBC, SWB/SU* (20/5/96)
8. "He [Lukashenka] is not shy to exercise this power which then gives severe constraint to the readiness of people to openly go in opposition" Letter from Alexis Wintoniak, European Democratic Union 4/2/97
9. Ustina Markus, "A Product of the Soviet Era Takes over in Belarus", *Transition*, (23/8/96); see also John Simpson, "Smell of the Soviet Union lingers still" *Sunday Telegraph* 6/4/1996
10. See Alan Philps, "Belarussians offered return to Stalinism" in *Daily Telegraph* (27/3/97)
11. See Ustina Markus op. cit.
12. See Vera Rich op. cit.
13. *Mass-Media Information Bulletin*, June 8th, 1995
14. See Eve-Ann Prentice, "Opposition leader promises to break Belorussia's links with Moscow", in *The Times* (4/2/1995)
15. See "Belarus" by Alexander Lukashuk in *East European Constitutional Review* (Spring 1995), pp 84-90
16. Alexander Lukashuk op. cit.
17. Lukashuk op. cit.
18. *The World Today*, March 1995
19. *BBC/SWB* (24/3/1995)
20. Lukashuk op. cit.
21. *OMRI* 13/10/95
22. *BBC/SWB* 7/8/96
23. *BBC/SWB* 20/8/96
24. *BBC/SWB* 20/8/95
25. *BBC/SWB* 14/8/1996

26. *BBC/SWB* 20/8/96
27. *BBC/SWB/* 24/4/96
28. *OMRI* 3/9/96
29. "A New Parliament, Despite the President" Ustina Markus, *Transition*, 12/1/96
30. "Building a State based on Rule of Law" *Belarusian Review*, Summer, 1996, page 10.
31. *OMRI* 27/9/1996
32. "Belarus: Prospects for 1996", *Belarusian Review* Winter 1995/6 David Marples, page 8
33. *Transition* 12/1/1996 op. cit.
34. *Svabada*, 14-20 June, 1994
35. *BBC/SWB* 31/8/1996
36. "Ukraine: From empire to statehood" Alexander Motyl and Bohdan Krawchenko in *New_states, new politics:Building the Post-Soviet Nations* page 275
37. *BBC/SWB* 28/1/1996
38. "Biennial Convention of Belarusians of North America", *Belarusian Review*, Fall, 1996
39. Interview with *Zycie Warsawy* quoted in *BBC/SWB* 25/5/96
40. *BBC/SWB* 21/1/1997
41. *OMRI Daily Digest* 28/2/1977
42. *The New Europe*, 12th-19th January 1997
43. see *Reuters*, 24/3/96
44. "Demonstrations Against the President Prompt Harsher Crackdown", Ustina Markus, *Transition*, 26/7/96
45. *Transition*, 26/7/96 op. cit.
46. *BBC/SWB/* 28/3/96
47. *BBC/SWB/* 11/5/96
48. *BBC/SWB/* 15/7/96.
49. *Reuters*, 24/3/96 op. cit.
50. Video profile of Lukashenka available at the BPF headquarters in Minsk
51. *BBC/SWB* 4/5/96
52. "Unrest in Minsk as Yeltsin signs Union treaty", James Meek, *The Guardian* 3/4/97
53. *OMRI Daily Digest* 24/3/96
54. *BBC/SWB* 5/4/97
55. *BBC/SWB* 19/4/97

56. *BBC/SWB* 1/8/96
57. *BBC/SWB* 4/6/96
58. *BBC/SWB* 1/10/96
59. *BBC/SWB* 29/3/96
60. See Pazniak's evidence to the Congressional CSCE Committee, *CSCE Digest Vol. 19, No. 11*, Nov. 1996
61. *BBC/SWB* 28/4/97
62. *Mass Media Centre Bulletin*, April 13 1995
63. Letter to *Belarusian Review* 1997
64. "En Biélorussie, on parle politique...dans la cuisine", Natalie Nougayrède, *Le Monde* 10/2/97
65. "Le régime biélorusse multiplie les attaques contre l'opposition", Natalie Nougayrède, *Le Monde*, 14/2/97
66. "Les dérives autoritaristes du Président biélorusse, Alexandre Loukachenko, invité de la France", Jean-Baptiste Naudet, *Le Monde*, 11/7/96
67. "Moscow treads warily as Belarus votes" James Meek, *The Guardian* 25/11/1996
68. *AFP Worldwide Newswatch* 11/3/97
69. "Crackdown on the Press", *Transition*, Anne Nivat, 31/5/96
70. "Back in the USSR", *Transition*, Ustina Markus, 27/12/96
71. *RFE/RL Newslines* 5/5/97
72. "The Bear's cub stirs next door", Jonathan Steel, *The Guardian* 4/12/96
73. Report of the European Union's Fact Finding Mission to Belarus, 1997
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79. *BBC/SWB* 18/12/1996
80. "Belarus President sets sights on 'Slav Superstate'", Richard Beeston, *The Times* 26/11/96
81. "Fraud alleged as Lukashenko claims victory" Nanette van der Laan, *Daily Telegraph* 26/11/96
82. "Alexandre Loukachenko gère la Biélorussie 'comme un Sovkhoze'" Marie Jego, *Le Monde* 26/11/96
83. *Le Monde* 11/7/96
84. "Lukashenko warnt Westen vor Missachtung des Ostens" *Handelsblatt*, 21/11/95

85. Jonathan Steele *The Guardian* op. cit.
86. Interview with Genadi Byko, Minsk, November 1996
87. *BBC/SWB* 14/4/97 [Chernobyl charity]
88. See, for instance, "The city that is dying of Aids" by Richard Beeston in *The Times* (2/12/96); or "With Menacing Speed, HIV Sweeps Through Former Soviet States" by Lee Hockstader in *IHT* (3/12/96)
89. "Three to a prison bed", *Transition*, 21/3/97
90. see *Belarus: Environment for People*" United Nations, Minsk, 1996
91. *East European Constitutional Review*, Spring 1995
92. *East European Constitutional Review*, Summer 1993
93. *OMRI*, 4/11/96
94. In his article "*Presidential Powers and Human Rights under the Draft Constitution of Belarus*" (Lawyers Committee for Human Rights, New York) Antti Korkeakivi seems not to have been referring to the final version of the constitution.
95. *SWB/SU* 24/2/96
96. *Government and Politics in Western Europe*, Yves Mény, ch.8.
97. see Mény op. cit.
98. "In my opinion, another failing was that the chairman of the Court, Valeri Tsikhinya, was a bit too active in political affairs. He gave numerous interviews and press conferences, participated in political polling and the like". Interview with former constitutional court judge, Mikhail Chudakou, *EECR*, Winter, 1997
99. See, for example, "Yeltsin falters into Minsk crisis", David Hearst, *Guardian* 21/11/96
100. Law on Freedom of Religion And on Religious Organizations 1993; see "*Legal Regulation of Relations Between the State and Church in the Republic of Belarus*", OSCE Bulletin (Spring 1997)
101. See S.E. Finer, *Comparative Government*
102. See EU report 1997 op. cit.
103. EU Report op. cit.
104. *The Referendum Experience in Europe* p.246
105. Belarusian Helsinki Committee, 30/3/97
106. *Minsk Economic News*, March 1997, No.5 81
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- 108 "One Stop from the asylum - but loving every moment" Nanette van der Laan, *Daily Telegraph*, Dec 26th 1996
109. "Problems in American Assistance Policy toward the Former Soviet Union: The Belarus Prism", David H. Swartz, *Demokratizatsya* 1996
110. "Pheasant Tory in fowl mood", *Daily Express* 5/2/97

111. "Flying the Flag at the Minsk Philharmonic", Jan Cleave, *Transition* 21/2/97; see also "Svaboda is Belarussian for Freedom", Jan Cleave, *The European Magazine*, 13-19th February, 1997

112. *Wall Street Journal Europe*, 16th-17th May, 1997

113. See "Does the Nation-State have a future?", Neal R. Peirce, *International Herald Tribune*, 4/4/97

114. *BBC/SWB* 21/1/1997

115. "Clique-Run Organizations and U.S. Economic Aid", Janine R. Wedel, *Demokratizatsiya* (1997), 571-602

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