

COURSE READER

DEMOCRACY: from Theory to Practice



Lead Author and Editor:
DR. GREER BURROUGHS

COURSE READER

DEMOCRACY: from Theory to Practice



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DR. GREER BURROUGHS**

FOREWORD

Twenty-five centuries ago, an idea was given light in ancient Athens. An idea that believed in placing the power to rule in the hands of the people. While the idea's realization was far from ideal or just – given that women and slaves were among those who could not participate – the Athenians nonetheless laid the foundations of our modern-day democracies and the concept of democratic citizenship with its inherent rights and responsibilities.

Over the past decade, democracies across the globe have, and will continue to face old and new challenges; challenges that are testing the resolve of citizens, and the fortitude of longstanding institutions and norms. The overall net decline of democracy over the past decade, as documented by Freedom House, Carnegie Europe,¹ and others, contrasted with the rise of populism and exclusionary politics in certain corners of the globe, and compounded by social media's ever-expanding datasets and fine-tuned algorithms about our behaviors and preferences, equates to a new reality for our democracies.

Societies with electorates that have traditionally been passive, disengaged, or distrustful of politics, now, face an added challenge in that the competition for the attention of an electorate through social media and new technologies is today fiercer and more efficient than ever before. Without democratic institutions, the rule of law, vibrant civil society, independent media and informed citizen engagement, democracy is unlikely to survive and flourish.

While there is certainly no single cause for the ebb of democracy globally, it is becoming increasingly more evident that there simply is no substitute for an informed, mindful, critical, engaged and civically-minded citizenry. In order for

1 / Staffan I. Lindberg "The Nature of Democratic Backsliding in Europe." Carnegie Europe, July 24, 2018. <https://carnegieeurope.eu/2018/07/24/nature-of-democratic-backsliding-in-europe-pub-76868>

nations to weather the threats presented to democracy in the digital age, citizens must be equipped with the knowledge and skills that enable analytical thinking. With this, effective democratic citizenship and democratic values can be fostered.

This, then, raises important questions: where, when and how do our citizens develop the ability to defend their and others' democratic rights, to value diversity, champion equal opportunities, and to play an active part in democratic life? While there is no single answer to these questions, it does remind us that democratic citizens are 'made' not 'born' and today, more than ever before, citizens must be equipped to face the challenges of exclusionary politics, populism, oversaturation and disinformation.

Responding to this growing challenge, and in recognition of the vital role played by civic education for democratic citizenship, IFES works across the globe and in partnership with election management bodies, academia, media and civil society to implement civic education programming, which is designed to strengthen the skills and knowledge that are key for mindful, democratic citizenship in the digital age, while fostering democratic attitudes and values. In Ukraine, these efforts are supported by the United States Agency for International Development, Global Affairs Canada, and UK aid from the UK government, and have translated into an innovative, semester-long, university-level civic education course entitled, *Democracy: from Theory to Practice*.

This course utilizes a three-pronged approach:

1. To strengthen knowledge, IFES develops country-specific course curricula and materials, including this textbook, that are designed to build a foundational understanding of human rights, good governance, civil society,

and the role of citizens in a democracy. Cross-cutting themes of the course include elections, media literacy, diversity, gender equality, minority rights, inclusion of and accessibility for persons with disabilities, and digital participation.

2. Parallel to this, IFES works with professors to introduce interactive, civic education teaching methodology into the classroom by creating a student-centered classroom environment.
3. Lastly, throughout the semester, students are challenged to craft their own civic action projects. This approach enables students to take on problems in their communities; problems that they themselves identify and care about. Whether they are addressing gender inequality or the protection of minority rights, this approach puts students in the driver's seat and challenges them to critically consider their role in fostering democratic change.

The course, which was introduced at Ukrainian universities in September 2018, is based on IFES' global university-level civic education methodology named: Strengthening Engagement through Education for Democracy (SEED).

As noted by philosopher and educator John Dewey, "*democracy has to be born anew every generation, and education is its midwife.*"²

Through its civic education programming, IFES works worldwide to ensure that the next generation of voters and leaders are better equipped to deal with the challenges in this new age of (dis)information, populism and exclusionary politics.

2 / John Dewey "The Middle Works. 1899-1924." Southern Illinois University Press, 1980.

“ The democratic mind is not natural... egocentricity and ethnocentricity are primary forces in humans and, like breathing, require no special training. Democracy, on the other hand, consists of habits and competencies that require cultivation without which they will not sprout in the first place. ”

Walter Parker,

Educating the Democratic Mind

INTRODUCTION

What are the habits and competencies required of citizens of democratic societies? Does democratic citizenship differ in significant ways from other forms of citizenship? If humans are not naturally inclined towards democratic principles, how then can they be developed sufficiently for democratic societies to survive? These are some of the questions that have guided the development of this text. The goal of this text and the course, *Democracy: from Theory to Practice*, is to assist university-level students to advance democratic principles and practices in Ukrainian society and reap the benefits that such a system has for the community and individual.

Scholars generally agree that for a healthy democracy to flourish, citizens must play an integral role. Although the structure and operations of a country's government define the "type" of the governance system, citizens play a role in how that government structure is enacted. In democratic societies citizens are called on to make decisions and take actions to advance and protect the interests of the society and the individuals within. To do this effectively, citizens must acquire knowledge of certain topics and develop a set of skills and attitudes that support democracy. This text is designed to provide much of the knowledge you will need to understand the system of democracy as it is developing in Ukraine and to recognize what role citizens can and should play. For some, topics addressed in this text may be new ideas; for others, this information may provide a review of some topics you are already familiar with. No matter where you currently are in your own understandings of democratic citizenship, the journey will hopefully remain a lifelong process, for while democracy promises great freedoms, it demands great responsibilities.

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SECTION 1

**PHILOSOPHICAL
FOUNDATIONS
OF DEMOCRATIC
GOVERNANCE**

“ Maybe there is a beast...
maybe it's only us. ”

William Golding,
Lord of the Flies

In *Lord of the Flies*, a group of young schoolboys find themselves alone on a deserted island after their plane has crashed and the pilot has been killed. Freed from adult supervision and the constraints of society, the boys are left to form their own society. Desires clash as some of the boys seek to be rescued, others want to explore the limits of their new freedom, and others amass influence over the group. Emotions are complicated with fears of a beast on the island. Ultimately, the boys discover the dark side of human nature as fights erupt and some of the boys are killed. The book is often discussed as a portrayal of the “state of nature.”

..... The state of nature can be defined as an imagined community or society wherein there is no governing authority; a hypothetical place where human behavior is not regulated by laws, customs or traditions that call for cooperation. In the **state of nature**, humans live in constant competition with one another and seek to protect only their interests, and possibly those in their immediate community.
.....

The story addresses the consequences of living in such a state and the potential for humans to turn on one another, which leads to the character Simon’s statement, “Maybe there is a beast...maybe it’s only us.” Political philosophers posit that it is this potential for the “beast” within humankind that has led us to the need for government. This theory will be explored further in this section along with other aspects of government and democracy.

1.1

PHILOSOPHICAL FOUNDATIONS OF DEMOCRATIC GOVERNANCE

Where do the rights of an individual begin and end? What are the limitations of a person's freedom of action or of speech? In a **state of nature** with no government or formalized rules, what actions would you take to protect your interests? To protect your life? What if one person attributes greater value to their family's personal welfare than to your right to life? When an individual in the state of nature becomes aware that their life, freedom, property or aspirations for happiness are at risk, they naturally begin thinking of ways to protect them. What are some ways that an individual can protect these rights? What if your interests are radically different from the interest of others in your community?

These questions help us better understand the purpose and philosophical foundations of governance and the concept of government.

A government is an institution that can be empowered by individuals within a society to convert different, often radically conflicting interests of individuals or groups into legal frameworks, government policies and national strategies. In other words,

a government can be empowered to transform individual self-interests into a condition that is to the advantage of everyone in a society. This condition is known as "**the common good.**"

It is the possibility of the common good that motivates humankind to surrender some self-interest.

Philosophers have, for centuries, attributed the origins of government to humankind's desire to move away from the apparent dangers and chaos that are inherent within a lawless state of nature. Through the power that individuals vest in a government, certain rules and policies are established and implemented. These rules and policies can ensure order, and the protection of certain rights and interests, as determined by the society through the government.

By shifting from the state of nature to a governed society, individuals exchange certain freedoms and rights for the benefits and protections offered by living in a governed society. To better understand this exchange of certain individual freedoms (for example, restrictions on hate speech or on stealing from others) for benefits (for example, peaceful coexistence through the rule of law, greater prosperity, and protection of property), seventeenth century philosopher Thomas Hobbes defined the social contract theory. The social contract theory describes a system where humans agree to give up some rights (freedoms) in order to be freed from the state of nature. For this to succeed, some person or assembly of persons with the authority and power to enforce the social contract must be recognized. In other words, people agree to live together under common laws, and create an *enforcement mechanism* for the social contract and the laws that constitute it. This mechanism is government. Hobbes believed that the best government was an absolute ruler, such as a monarch, who could ensure that the social contract was maintained.

John Locke, another 17th century English philosopher who was also a social contract theorist, believed that forming a civil government was the best course to escape the state of nature. For Locke, the social contract was between individuals and the government. Locke reasoned that in order to protect one's rights and property, one needs to voluntarily surrender some of those freedoms and rights to a government and to give their consent to the existence of a government. This government is then equipped with the authority to protect the natural human rights of its population. Importantly, this agreement requires the legitimation of the government by the people so that it can define the rules of society and execute these rules/laws toward the common good. Therefore, under Locke's theory, governments rule only because they are empowered to do so by the society itself. One of the clearest examples of citizens trading property or freedoms to a governing authority is something we do almost every day: paying taxes. Using the revenue received from taxes, governments are responsible to

act for the common good by providing things such as a military for security, or schools for educating all members of society.



Thomas Hobbes
(1588-1679)

Thomas Hobbes: “War of All against All”

An English philosopher, argues in his work *Leviathan* (1651) that the state of nature is not desirable at all; furthermore, the state is tough and ruthless. Describing the state of nature, Hobbes says that “this is a war of all against all. In such condition there is no place for industry, because the fruits thereof are uncertain: and consequently no culture of the earth; no navigation, nor use of the commodities that may be imported by sea; no commodious building; no instruments of moving, and removing, such things as require much force; no knowledge of the face of earth; no account of time, no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short.”³

Therefore, in Hobbes’ view, humans were forced to agree upon the formation of organizations which would resolve the problems he described. He called this the “**social contract.**”

His main idea was that the state, laws and government are formed based willingly by human beings in order to fulfill particular needs and this process is not the result of supernatural power, as was claimed by many religious thinkers of his time. Hobbes believed that only strict governance was able to suppress the state of nature to achieve public order and survival.

3 / Thomas Hobbes, Edwin Curley. *Leviathan* (2007). Hackett. p. 76.



**Jean-Jacques
Rousseau
(1712-1778)**

Jean-Jacques Rousseau: “General Will”

In “The Social Contract” (1762), Rousseau claimed that all humans had been born free and were inherently good, but that forces of society corrupted humankind. Unlike Hobbes, Rousseau didn’t view the existence of a state of nature as the problem, rather in Rousseau’s view, negative qualities such as greed and selfishness, emerged with the development of social institutions and commensurate norms. An example of this is the ownership of private property, which Rousseau viewed as a destructive practice that encouraged self-interest, greed and avarice. Thus, for Rousseau, it is the existence of state institutions that kills the innocent and naive nature inherent to human beings.

He believed the only answer out of this dilemma was for humans to surrender their individual wants to a collective will he called the “**general will**” which represents the common interests of a society. Rousseau believed that the general will should be expressed through self-government and laws that reflect the common good.

In this way he argued that freedom and authority can be compatible since legitimate laws are based on self-government and reflect the general will of the citizens. Thereby in obeying the law, the individual citizen is obeying oneself as a member of the political community. According to Rousseau, the general will was the foundation of the social contract and means through which humans could overcome the evils of society that lead human-kind to be purely self-interested. The ideas of Jean-Jacques Rousseau significantly influenced the 1789 French revolution and served as the ideological foundation of the post-revolution French Republic.



John Locke
(1632-1704)

John Locke: “Discreet People”

The ideas of John Locke (1632-1704) played an important part in the formation of modern western representative democracies. Locke expressed his basic ideas in the work “Two Treatises of Government” (1689). His views can be understood as an interim position between the claims of Hobbes and Rousseau. Similar to Rousseau, he believed that humans were free and equal from birth, however he shared Hobbes’s views on the

state of nature where humans came into conflict with one another in trying to secure and protect their rights. Locke also shared Hobbes’s view that a governance system formed on the basis of a social contract was the means for overcoming the state of nature. Both of these philosophers shared the underlying idea that humans enter into the social contract willingly in order to get certain benefits, even though to acquire these benefits some sacrifices need to be made. Locke’s views were also deeply embedded in his belief that God had granted humans the capacity to reason so they may identify and follow a moral code, the laws of nature, which would lead them to a happy and purposeful life. In order to achieve these goals and protect one’s rights, Locke believed that it was necessary to enter into a social contract. Thus, for Locke, humans consented to be governed and granted the power to enforce the laws of nature to government only for this purpose.

Locke wrote:

“The right of making Laws with Penalties of Death, and consequently all less Penalties, for the Regulating and Preserving of Property, and of employing the force of the Community, in the Execution of such Laws and in defence of the Common-wealth from Foreign Injury, and all this only for the Publick Good.”⁴

Locke further believed that if government were failing in the duty to ensure the protections of rights, then people are entitled to remove the government, even with force if necessary. This position was influential in the English Glorious Revolution of 1688 and the American Revolution in the 18th century.

4/ John Locke. “Two Treatises of Government” <https://www.britannica.com/biography/John-Locke#ref1023433>



EXERCISE 1

WHY ARE PEOPLE WILLING TO GIVE UP PROPERTY OR FREEDOMS?

Consider the following situation. You are a contestant on a game show.⁵ You have made it to the final round where you and one other contestant are left. There is the possibility that one or both of you can win a lot of money. You are asked to make the following choice: A) Take all of the money for yourself or B) Share the money with the other contestant.

BEFORE YOU MAKE YOUR CHOICE, CONSIDER THE POSSIBLE OUTCOMES OF THE GAME:

Outcome #1 - If both players decide to keep the money for themselves then both players walk away empty-handed.

Outcome #2 - If one player decides to share the money (Player A) and the other to keep all of the money (Player B), then Player B wins all the prize money.

Outcome #3 - If both players decide to share the money, then the money is divided equally between the two players.

WHAT WOULD YOU DECIDE AND WHY?

- Consider the benefits of choosing to keep the money, as well as the disadvantages of this choice.
- What factors would compel you to choose to share the money?
- What are the reasons that you wouldn't choose to share the money?

⁵ / The scenario described is based on 2001 a quiz show aired in Britain called *Shafteed*.

LET'S ANALYZE THE OPTIONS.

If an individual chooses to keep all of the money for themselves and the other party also makes this choice, then no one wins. This is definitely not a preferred outcome for either party. This is the state of nature where everyone is acting only on self-interest and a desire to protect their property and security; it is also the condition in which others are always potential enemies, i.e. the other contestant has the power to make you lose the money through their actions. Meanwhile, if one individual acts on pure self-interest and the other is more benevolent, then the self-interested individual will win. This scenario can lead to trickery and deceit where each player tries to convince the other they will choose to share the money. This scenario is also characterized by a state of competition and distrust. In Outcome #3, however, both individuals benefit. Thus, the primary reason that an individual would choose to share the money would be the hope that Outcome #3 occurs. This scenario can be understood as a form of social contract, a decision to sacrifice some self-interest in order to gain security. In option 3, the potential for harmony and mutually beneficial conditions exist. Choosing that outcome is an example of

“**enlightened self-interest,**” which is a philosophy that explains that individuals will make personal sacrifices for the good of others with the belief that it will eventually be in their own best interests as well.

This is a feature that Alexis de Tocqueville noted in his observations of why democracy in the 19th century United States was sustained.⁶ Tocqueville noted that it was this characteristic that enabled people of diverse backgrounds to come together to pursue common interests of security and prosperity in the young country.

Based on the game show example, it seems only logical that individuals would happily consent to surrender some self-interest to receive benefits. This is the

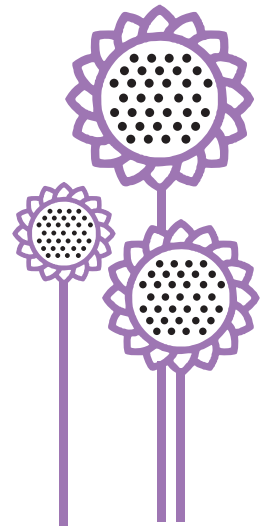
6 / Barbara Allen. “Alexis de Tocqueville on Civic Virtue and Self-Interest Rightly Understood in American Democracy.” Presented at Annual Meeting of the American Political Science Association Meetings, Boston, Massachusetts, September 2-6, 1998.

concept of “enlightened self-interest,” which is when individuals take actions that serve others and may require some sacrifice or delay in gratification, but ultimately will benefit the individual as well. However, without complete faith that the other contestant will choose to share the money, would the average individual be willing to take the risk of choosing to share - thus hoping for Outcome #3 - when this could mean being left with no money (if the other player chooses to keep the money, Outcome #2)? Trust that the system will be fair and just is usually needed for the average individual to be willing to give up freedoms or property, (in this case money). When this trust is present, a rational individual can understand the benefit of giving up half the money in order to retain the other half. In this way the individual would willingly give up ownership of half the property to ensure protection of the other half. When there is no trust in government or the system of governance to protect an individual’s interest, individuals may be tempted to act in ways that are purely self-interested. This is sometimes seen when individuals find ways to avoid obligations such as paying taxes or following other laws. When this occurs, the social contract breaks down and society may suffer.

1.2 THE FORMATION OF SOCIETY AND THE NATION STATE

For many centuries, a dynastic monarchy, where the ruler was determined based on birth and family bloodline, was the prevailing form of the governance of state. Within dynastic monarchies, the power of governance was concentrated in the hands of the monarch and privileged political elite, while most people were simply inferiors and did not take part in the formation of government. Under the feudal system that prevailed throughout parts of Europe, as well as Asia, allegiance was most often to a local lord, who served the king, and not to a state. For the medieval monarchy, personal loyalty and obedience to the monarch was prioritized.

The American Revolution, 1775-1783, which led to the formation of the United States, and the French Revolution, 1789-1799, signified a change in how the role of government and power were viewed. Previous notions of the authority to rule based on birth and one's position in society were transformed into an understanding of the people as the source of authority in a democracy. Thereafter, modern democratic nation-states formed on the basis that government's authority to govern came from the people - and that the people could also revoke that authority.



THE ROLE(S) OF THE STATE



SAFEGUARDING SECURITY AND ORDER

Many thinkers considered safeguarding order and security to be most important objective of the state. According to Hobbes, only strict governance could have suppressed the fear deriving from the state of nature and ensured order. Consequently, he thought that the main objective of the government was to ensure security, rule of law and order.

Security means both domestic and external security. The state safeguards external security by means of military/armed forces and security services, which are responsible for protecting the state against attacks and aggression by the other states. The state also negotiates alliances with foreign powers and persuades through state-sponsored diplomacy. Such actions can also serve to keep a nation secure. Domestic security of the state is provided through laws and police structures in order to avoid criminal actions and chaos and achieve order.



Max Weber
(1864-1920)

Max Weber (1864-1920), the German social scientist, thought that the right to use legitimate power was the most important feature of modern state.⁷ This power enables the state to use physical force, or exercise the threat of it, to prevent criminal actions and chaos, and provide for the security of the people governed. In modern times this power is granted to the state.

7/ Max Weber. "Politics as Vocation." <http://anthropos-lab.net/wp/wp-content/uploads/2011/12/Weber-Politics-as-a-Vocation.pdf>



PROTECTION OF PRIVATE PROPERTY

According to John Locke, the protection of human and property rights should be the main objective of the state and government. According to this viewpoint, if the government fails to protect property (which is the fruit of human's labor), the whole political and social organism will be put in danger. In other cases, when private property rights are not protected and the right to free ownership does not exist, humans may lose their motivation to be active and creative because they have no guarantee to safeguard their success. Therefore, according to Locke, if we want to form and maintain an orderly and fair society, the state must support society's working abilities, mainly through less involvement in private lives and through the protection of products (material or intellectual) created by the members of society. Otherwise, there will be a return to the state of nature because self-interested competition with other, including fighting and war, will be seen as the only answer.



PROTECTION OF VULNERABLE POPULATIONS

Providing special care to the most vulnerable members of the society has become one of the functions of the state in recent decades. Democratic governments have been implementing more and more programs aimed at the material and social security of vulnerable populations, such as minorities and persons with disabilities. In many modern democracies there are special programs through which people with disabilities' right to education and employment are reinforced by the state. As you will read in the section on Human Rights, there are a number of international and national laws obligating states to protect vulnerable populations. This function of the modern democratic state is evolving and can still inspire debate.



ENSURING ECONOMIC WELFARE

Another function of the state is economic growth and welfare. In this role the government creates laws to regulate economic processes such as production, distribution, consumption and trade. As is true with other powers granted to the state, the extent to which the state should regulate economic activity is not agreed upon by all members of society and can vary from country to country and among different time periods. In the 18th century, the Scottish philosopher Adam Smith put forward the idea that government intervention in the economy is not

necessary. According to Smith, when individuals are free to pursue their economic interests and consumers are allowed to freely choose what to buy and producers freely choose what to sell, the forces of supply and demand lead to product distribution and prices that are beneficial to all the individual members of a community, and hence to the community as a whole. Smith explained this process through the metaphor of an “invisible hand,” which is the unseen market forces that allow a free market to reach a state of equilibrium when the demand of the people is met by supply from producers at a price agreeable to all. The



Adam Smith
(1723-1790)

“free market economy,” as this system is referred to, is also believed to lead to innovation as individual seek to enter the market place and attract consumers. Based on his views, Smith argued that government should have a limited role in regulating the economy. The US economy represents many of the ideals of a market economy. On the other hand, the states of the Soviet Union operated under the model of a centrally planned socialist economy, where the state controlled the economy and decisions of production and consumption. In theory, this was to ensure economic equality and stability. In most places throughout the world where a planned economy was implemented the results were not satisfactory and the systems ultimately failed. Today, the principles of a market economy have spread all over the world; however, elements of socialist economic regulation can also be found. Many countries today have a mixed economy in which governments

provide varying degrees of economic control through regulations or by subsidizing or financing systems such as healthcare or education. In the countries of the former Soviet Union the transition to market economies has provided economic opportunities, as well as hardships toward improving economic opportunity for all citizens and increasing standards of living.

Although the economic model adopted by a country and the role of the state can differ greatly, it is recognized that in all instances the state has an interest in the economic development of a nation. The nature of the involvement is dictated by the laws, customs and constitutions of each nation state.



ENSURING SOCIAL JUSTICE

Some scholars believe that government should provide for social justice - in other words, the government is responsible to safeguard not only the physical security of citizens, but also their social well-being. According to this view, the government is responsible for eradicating inequalities among citizens in terms of economic development, education, healthcare or social security. In the 20th century, most western states accepted the concept of social justice and began to carry out a number of governmental programs aimed at preventing unemployment and achieving social equality. As a result, services such as education, healthcare, pensions, social security, etc. became available for most of the population. North European countries, such as Sweden, Denmark, Finland, and Norway are especially distinguished in this regard.

There is no clear agreement or single opinion about the role that government should serve. As presented, thinkers such as Hobbes believed the government's role was to ensure security, rule of law and order, whereas Locke understood a primary responsibility of government to be the protection of citizens' private property. In modern liberal democracies the role of the government has expanded to include the protection of human rights and to further the social welfare of citizens. There are also several "Principles of Democracy"⁸ that have been used to guide nations with developing democracies and assess the success of existing democracies. As many nations develop democratic reforms they turn to these principles as guides. The principles of democracy will be explored in the next section by examining cases from the distant and recent past and across several continents. Understanding these principles can help you to evaluate the status of democratic developments in Ukraine.

8 / "Democracy for All." Street Law Inc., 2015. http://streetlaw.org/en/Page/915/Table_of_Contents_Democracy_for_All.

1.3

PRINCIPLES OF DEMOCRACY



Scenario 1

Imagine that the year is 1215 and you are in England. It is the Middle Ages, and absolute rule by monarchs is the prevailing system - thus the king of England has almost total power over his subjects. Only the Catholic Church rivals him for complete control. In order to meet his financial obligations to the Church, the king imposes heavy taxes on his subjects. Those who do not pay the taxes receive harsh punishments. Members of the upper class in England, the nobles and barons, are particularly upset with the king's actions, but what can they do? How do you suppose the nobles felt having to pay so much of their wealth to the king? To make matters even worse, if the king chose to jail someone for failing to pay their taxes there was very little the person could do. Would you have argued against the king's power under such circumstances?

In 1215 several nobles banded together against the king and civil war broke out. When the nobles seized London, the king agreed to meet with them and hear their demands. What demands do you suppose the nobles made and why would the king agree to any of their demands?

The nobles forced the king to sign a document which has become known as the Magna Carta. The document outlined many laws governing relationships in England. Some of the most important principles were 1) the prohibition of imprisonment, exile or punishment of an individual without previous juridical decision, 2) the obligation of the king to ask the consent of the Parliament before imposing taxes and 3) the recognition of the powers of the Parliament. A final provision of the Magna Carta declared that if the king violated the terms than the nobles would have the right to wage war against him. These provisions helped establish the democratic principles of **accountability, the rule of law and controls**

for the abuse of power. As Winston Churchill said in 1956, “Here is a law which is above the King and which even he must not break. This reaffirmation of a supreme law and its expression in a general charter is the great work of Magna Carta; and this alone justifies the respect in which men have held it.”⁹

In modern democracies, people expect accountability from their governments. This simply means that the government must make decisions and take actions that represent the will of the people. The principle of the “Rule of Law” is one of the most important in democratic societies. This principle means that no one is above the law, everyone must follow the laws and all are held equally accountable if they violate the law. This idea can be seen in the example of the Magna Carta. When the king was forced to agree to the concessions the nobles, his power was limited and he was required to work with English Parliament, particularly in seeking Parliament’s consent in levying new taxes. Under these provisions the king was required to follow the provisions of the Magna Carta and thus surrender some of his power to a “higher authority.” In a democracy, all individuals are required to follow the higher authority of legitimate government. Additionally, whenever a governing body must answer to another force, their power is limited and thus the opportunity for abuse of power is also limited. Although the Magna Carta primarily guaranteed rights for the noblemen of England in the 13th century, these rights were eventually extended to commoners. The Magna Carta established principles that democracies such as the United States were later built on.



Scenario 2

It is the latter half of the 20th century. Imagine that after years of receiving an education in your native language, the government of your country declares that all major courses will be taught in another language – which is now the “official” language of the government. Several months pass and you and your schoolmates are having difficulty mastering the new language and passing classes. With this barrier to education, what opportunities would you have? Does the government have an obligation to respond to your needs even though speakers of your language are not represented in government? How would you respond?

⁹ / A History of the English-Speaking Peoples, Volume I, p. 256.

In June of 1976, this is what happened to the children of Soweto, a township in South Africa. The students were living under a system known as apartheid. Under this system the economic, political and social power of South Africa was in the hands of the white minority. Oppressive policies were enacted under this system that denied citizens of color, who made up over 70 percent of the population, many basic human and civil rights. The white ruling government imposed harsh laws that limited the types of jobs available to non-whites, provided a sub-par system of education, and even restricted where people of color could live, travel and work. The new law requiring that education be offered only in the “official” language was just another method used to oppress people of color. This time, the students responded to the injustice by protesting in the streets. More than 10,000 students marched in protest, but the demonstration was short lived. Police opened fired and 23 of the students were killed.

Although the Parliament that enacted these laws was elected, this system can hardly be viewed as “democratic,” as many principles of democracy were violated. One of the most basic violations citizens of color experienced was that of their **human rights**. Human rights provide protection and respect for human life and human dignity. Some of the human rights that were denied people in South Africa were freedom of expression, freedom of association, freedom of assembly, the right to equality and the right to education. This example also illustrates the necessity for the principle of **equality** in a democracy. Equality in this sense means that all individuals are valued equally as members of society and that all should have equality of opportunity and justice. No one should be discriminated against because of their race, religion, ethnic group, gender or sexual orientation.



Another principle that can be explored through this example is the idea of a **bill of rights** as a principle of democracy. A bill of rights lists the rights and freedoms that all individuals of a country are guaranteed. Many democratic nations include a bill of rights as part of their nation's constitution, thus requiring the government to uphold these rights. The thousands of people of color living under apartheid in South Africa had no such protections, and thus the violation of their rights was viewed as "legal" under the system. Fortunately, the system of South African apartheid collapsed in 1994, in part due to the attention the international community focused on the country after the Soweto killings.



Scenario 3

Now, imagine that is the not-so-distant past, and you are in a modern, industrialized nation. People in this nation are generally protected by laws from infringements on their rights. These laws have developed over time as many minority groups have demanded equal protection under the law. However, there is a group of people who still experience discrimination due to their physical or mental condition. These people are identified as persons with disabilities. They are stigmatized by and isolated from society in many ways: a lack of educational or employment opportunities, limited access to public places such as polling stations, stereotyping, and barriers to accessing information are only some of the challenges they face. Due to these circumstances these individuals are not able to enjoy the rights, protections and opportunities that other, differently-abled citizens in the nation enjoy. What can these individuals do to improve their situation? Can this group demand that laws be changed that do not apply to the majority of the society? Should government listen to their demands? Should citizens who are differently-abled and enjoy full access defend the rights of their fellow citizens who do not have such rights?

The country is the United States of America, and these conditions persisted for much of the nation's history until many of the individuals with disabilities, their friends and family members believed that such conditions were not fair and should not exist in a democratic nation. These individuals wanted the government to pass laws that would end discrimination towards people with disabilities. To

reach this goal, they formed activist groups and spent years working to change the laws by holding and attending public demonstrations and rallies, raising money, drafting legislation, increasing public awareness of the issues, testifying before legislative bodies, negotiating with lawmakers, lobbying government officials, and filing lawsuits to challenge laws seen as discriminatory.¹⁰ Given that people with disabilities were in the minority in the United States, the activists knew they had to gain support from the general public. This was done by educating the public and politicians about who people with disabilities really were in order to break down existing stereotypes and myths. Much of the work the activists had to do was to change the perception that people with disabilities couldn't make valuable contributions to society.

The fight for equal rights for persons with disabilities has resulted in the enactment of many laws. Some of the most important laws are the 1973 Federal "Rehabilitation Act" which prohibited agencies or organizations that received federal funds from discriminating against qualified individuals solely on the basis of the individuals' disability, and the 1975 "Education for All Handicapped Children Act" which established that children with disabilities have a legal right to an education. Although activists were very pleased with these changes, they believed that more protections were needed, so they continued to petition government. Their efforts paid off in 1990 when the United States Congress passed and President George H.W. Bush signed into law the "Americans with Disabilities Act." This major legislation guaranteed equal opportunity for persons with disabilities in employment (including private businesses and nonprofit agencies), transportation and state and local government operations. In order to ensure that this law is properly implemented and the rights of persons with disabilities are upheld many activists work on the local level. One such activist, Karen Dempsey (a person with a disability), has worked with the government in her own community and sees progress. She explains,

"The town has really gotten on board and been making great improvements over the last five years by implementing the ADA [the Americans with Disabilities Act] Transitional Plan of 2005. But there's things we need to keep

10 / Arlene Mayerson. "The History of Americans with Disabilities Act." Disability Rights Education & Defense Fund, 1992. <http://law.marquette.edu/s3/site/docs/psconference/history-of-ada.pdf>

working on, like more sidewalk ramps and curb cuts (for wheelchair users) and other access issues.”¹¹

Many citizens like Karen Dempsey worked hard to bring about change and improve conditions for people with disabilities. What can we learn about democracy from these individuals and this scenario? Consider which of the principles already discussed apply. For instance, do you see how the principle of equality applies? Other principles that apply are **citizen participation, political tolerance** and **transparency**. For a democracy to work active participation by citizens is needed. While informed voting is considered to be a central citizen responsibility, it is only one way that citizens can influence outcomes in democratic societies. Becoming informed about and forming a stance on issues, choosing to support issues by joining community groups and associations, signing petitions or writing letters to politicians, attending community meetings, rallies and even protesting, are all important ways to express one's views and have a voice in a democratic society. It was through actions such as these that laws were adopted that ensured equal rights for persons with disabilities.

Another important principle highlighted by this case is political tolerance. This means that all individuals, even when they represent a minority view, must have the freedom to speak out and organize. Further, this must be allowed without repercussions against such groups; therefore, they are entitled to the protection of the law, even when the views are distasteful to the majority or even anti-government. Minority voices must be heard in a democracy to avoid a “tyranny of the majority” where only majority views and interests are expressed and represented in society. If the advocates for persons with disabilities had not been able to organize and express their views, then change may never have come. Many Americans didn't understand the plight of persons with disabilities and quite possibly still wouldn't had these activists not been free to bring these issues to the public's and lawmakers' attention.

Another relevant principle, transparency, is the notion that citizens must be able to get information about what decisions are being made, by whom and why in government. In many democracies some decisions can only be made after

11 / Chris Bergeron. Activists Seek More from Americans with Disabilities Act. MetroWest Daily News, 24 May 2011, <http://www.metrowestdailynews.com/archive/x1078554340/Activists-seek-more-from-Americans-with-Disabilities-Act#ixzz1RMz6XKA7>

the public has been able to comment on proposed laws. This can be done by attending public meetings or contacting representatives in government. Many of the advocates for persons with disabilities used these avenues to make their case to government. Some even spoke before Congress. Advocates such as Karen Dempsey can continue to monitor progress due to the transparency required of government's actions, spending and implementation of legislation. Each of these principles allow for many voices in a society to be heard.



Scenario 4

For 30 years, one man rules a nation as the president. At first he seems to serve the country well, improving the nation's infrastructure and developing the economy. However, over time, he gradually gives more and more power to his inner circle, those in his family, and his close supporters. He and his associates control most of the wealth in the nation, with big businesses paying them up to 50 percent of their profits, while most in the country lives in poverty and lacks any real economic opportunities. The president also controls the media and enforces strict laws that restrict any criticism of the government. Although elections are held, no real opposition candidate can effectively run against the ruler. As the nation's population under thirty grew to include 50 million of the country's 80 million inhabitants, these young people see little hope for a secure future and the ability to exercise their human rights. Once again, you must ask yourself: what would you do if you were faced with these conditions? Others who spoke out against the government were jailed, and sometimes they simply disappeared.

The country is Egypt, and many citizens, including youth, determined they wanted to fight for their future and protection of their human rights. Under the rule of President Hosni Mubarak, many of the Principles of Democracy were not realized, including **regular, free and fair elections; multi-party systems; and economic freedom**. Regular elections are important to ensure that political leaders remain accountable to the people they must serve. Another component of free and fair elections is that all individuals within the society should be free to stand for public office, thus limiting the power of a wealthy or ruling class. Additionally, for elections to reflect democratic ideals, opposing views should be free to be represented - typically through a multi-party system. The elections that gave

Hosni Mubarak the position of President of Egypt many times over his 30-year reign demonstrate that the mere exercise of holding elections doesn't necessarily fulfill the spirit of these principles. The control that Mubarak had over the press did not allow for opposition candidates to voice criticisms of the government and make a case for change. Other laws that limited freedom of expression, as well as corruption in the government also made the chance for open and "fair" elections impossible. The conditions for a multi-party system did not exist.

The citizens of Egypt also lacked true economic freedom. The principle of economic freedom is perhaps the most controversial since it implies that a particular economic system is necessary for democracy to flourish. It is generally accepted among democratic nations that government must allow some private ownership of property and businesses and that the people should be free to choose their work. However, the extent to which governments serve to regulate the economy differs greatly among democratic nations. Therefore, many of the nations of Western Europe allow for a much more active role of government in owning, operating and regulating the production of goods and services. For instance, countries such as Sweden have government funded healthcare and transportation systems, whereas a nation like the U.S. has traditionally been more inclined to a greater level of private ownership and allowing free-market forces to drive economic actions. It is up to the people in a democratic nation to determine the economic model that best suits the needs and conditions of the nation. Still, most would agree that the system in Egypt that allowed for the government to grow very wealthy while the majority of the citizens lived in poverty is a distortion of government's role to regulate the economy and highly undemocratic. The citizens of Egypt finally rebelled and demanded the ouster of Mubarak.



Scenario 5

A woman returns to her country after years of living abroad to find that as a result of a coup a dictatorial military government is in charge. Under the rule of the military government people struggle with daily life as basic human rights are denied and corruption is rampant. The military rulers make their presence felt in many ways. A man explains, "Everything I do is restricted. Where I go, what I do, who I see... The authorities even have to give permission if I want anyone

to stay the night.”¹² During her years abroad, the woman had lived and studied in democratic countries. These experiences, and the fact that she came from a family with a history of government service, compelled her to speak out against the conditions and to call for democratic reforms. When the government became aware of her actions it sought to silence her by placing her under house arrest and charging her with trying to divide the military. She then spent most of the next twenty years under house arrest, cut off from the world.

After many years, release looked possible. Then in a bizarre event, a man trespassed on to her property and she was charged with violating the terms of her house arrest for having a visitor who was not approved. She was convicted to 18 more months of house arrest. People around the world were outraged and leaders spoke out. United States president Barack Obama called the arrest “unjust” and British Prime Minister Gordon Brown stated that, “The façade of her prosecution is made more monstrous because its real objective is to sever her bond with the people for whom she is a beacon of hope and resistance.”¹³

The woman is Aung San Suu Kyi, a recipient of the Nobel Peace Prize in 1991, “for her non-violent struggle for democracy and human rights.” How is it that such a miscarriage of justice occurred? Much of the answer lies in the fact that Suu Kyi never received justice due to the lack of an **independent judiciary** in her home country of Burma. During the period of her arrest the courts in Burma acted only to serve the ruling government. The need for a judiciary that is independent of the other branches of government, and from political influences, is an essential component of democracy and vital to check for abuses. As Andrew Jackson, the 7th President to the United States stated, “All the rights secured to the citizens under the Constitution are worth nothing, except guaranteed to them by an independent and virtuous Judiciary.”

12/ Kate McGeown. “Life under Burma’s Military Regime” <http://news.bbc.co.uk/2/hi/5071966.stm>

13/ Thomas Bell. “Aung San Suu Kyi punished with house arrest in Burma” <https://www.telegraph.co.uk/news/worldnews/asia/burmamyanmar/6010704/Aung-Suu-Kyi-punished-with-house-arrest-in-Burma.html>



Scenario 6

The last principle to be discussed also deals with the importance of elections – however, this is the necessity for the people and politicians in a democratic society to peacefully **accept the outcome of elections**. A final scenario to help illustrate this point comes from the West African nation of Ivory Coast. When former President Laurent Gbagbo lost the presidential election to Alassane Ouattara in November of 2010, he and his followers would not accept the results and he refused to step down as president. This led to months of violence that caused injury, death, and economic and social upheaval for thousands. The unrest ended only with troops forcibly removing the former President Gbagbo. The suffering could have been avoided had this final principle been upheld.

The above passages describe conditions or principles that are associated with democracy. Using examples across the world and over time allows us to consider how differences in governance and citizen participation can advance or inhibit the development of democracy. The principles of democracy express standards and ideals of democracy, however, there no nation meets all of the ideals all of the time. Humankind is still learning and democracy is still evolving in many places.



EXERCISE 2

APPLYING THE PRINCIPLES OF DEMOCRACY

Representative democracies that are based on the recognition of individual rights and freedoms are referred to as “liberal democracies”. There are many principles that characterize liberal democracy. A basic principle of liberal democracy, the right to vote, has evolved around the world. However, many of these principles are only partially realized in democratic nations. Review the list of principles listed below to assess how well you think Ukraine is achieving these goals.

PRINCIPLES OF LIBERAL DEMOCRACY¹⁴



ACCEPTING THE RESULTS OF ELECTIONS

In elections, there are winners and losers. Sometimes, losers refuse to accept that they lost an election. In a democracy, there must be a peaceful transfer of power from one set of leaders to the next. So if the election really was “free and fair,” then everyone should accept the results.



ACCOUNTABILITY

In a democracy, people who run the government must be responsible. That means that they should make decisions that are good for all the people who they represent. They should act in ways that benefit everyone, not just their friends or themselves. They should be held accountable for their decisions and actions.



BILL OF RIGHTS

Most democratic countries have a written list of rights to protect the people who live there. Often, these lists are called

¹⁴ / “Democracy for All.” Street Law Inc., 2015. http://streetlaw.org/en/Page/915/Table_of_Contents_Democracy_for_All.

a “bill of rights” and they are part of the country’s constitution. Usually, a “bill of rights” limits government from restricting people’s freedom of speech, freedom of press, right to a fair trial, or other freedoms and rights. The courts in democratic countries have the power to enforce these rights.

CIVIC PARTICIPATION



Democracies require community member participation in government. Participation is more than just a right – it is a duty. There are lots of different kinds of participation including: voting, debating issues, protesting against the government, paying taxes, and serving on juries. Community members should be able to become informed and attend government meetings. They should be able to join community groups. Community members should be free to run for elected positions themselves. Citizen participation builds a stronger democracy.



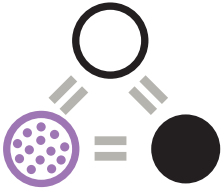
CONTROL OF THE ABUSE OF POWER

When government officials use their power to help themselves or their friends, they are abusing their power. This is called corruption. Officials are also corrupt if they use government money illegally. Democratic governments must control the abuse of power. Usually, democratic governments divide power and responsibility into different branches or agencies to avoid the abuse of power by one official. Independent agencies and neutral courts should punish government officials who abuse power or who are corrupt.



ECONOMIC FREEDOM

People in a democracy must have some kind of economic freedom. This means that the government should allow people to own property and businesses. People should be able to choose their own work and have the ability to join labor unions. Free markets should exist in a democracy and the government should not totally control the economy.



EQUALITY

In a democracy, all people should be treated fairly no matter their race, religion, ethnicity, gender, or sexual orientation and they should have the same social, political, and economic opportunities. Individuals and groups can have different cultures, personalities, languages, and beliefs, but everyone should be treated equally before the law and have equal protection under the law.



HUMAN RIGHTS

All democracies try to value human life and dignity as well as respect and protect the human rights of its citizens. Examples of human rights include:

Religion: Everyone has the right to freedom of thought, belief, and religion. This right includes freedom to change his or her religion and to worship alone or in community with others. It also includes the right to not hold religious beliefs.

Speech: Everyone has the right to freedom of opinion and expression. This right includes freedom to hold opinions without interference and to seek and to share information with others.

Assembly: Everyone has the right to organize peaceful meetings or to take part in meetings in a peaceful way. It is undemocratic to force someone to belong to a political group or to attend political meetings or rallies.



INDEPENDENT JUDICIARY

In democracies, courts and the legal system should be fair. Judges and the judiciary branch should act without influence or control from the other branches of government. They should also not be corrupt. An independent judiciary is important to a just and fair legal system.



MULTI-PARTY SYSTEMS

To have a democracy, more than one political party must participate in elections and play a role in government. With a multi-party system, there is organized opposition to the party that wins the election. When a government has multiple parties, there are different points of views on issues. Voters also have a choice of different candidates, parties, and policies. When a country only has one party, it is usually a dictatorship.



POLITICAL TOLERANCE

Democratic societies should be politically tolerant. This means that while one political group rules the government, the rights of other groups are still protected. A democratic society usually has people from many cultures, races, religions, and ethnic groups who have different viewpoints. People who are not in power have the right to organize and speak out. Political minorities are sometimes called “the opposition” because they may have ideas that are different from the majority in power. If the majority tries to take away the rights of people in minority groups or with minority viewpoints, then they also take away democracy.



REGULAR FREE AND FAIR ELECTIONS

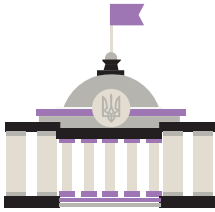
One way citizens express their wishes is by electing officials to represent them in government. In a democracy, there should be elections every few years. The people should choose elected officials in a free and fair manner. Most adult citizens should have the right to vote and to run for office – regardless of their race, gender, ethnicity, and level of wealth. There should not be any obstacles that make it hard for people to vote.



THE RULE OF LAW

In a democracy, people know about the rules and laws. No one is above the law. Kings, presidents, police officers, and military officers must obey laws, just like anyone else. Anyone

who breaks a law should be punished. In democracies, people can trust that laws are enforced in ways that are fair, equal, and consistent.



TRANSPARENCY

In democracies, people should be able to keep an eye on their government. They should be able to ensure their government is making decisions and taking actions they want. People must be able to access information about what decisions are being made, who is making them, and why. Transparent governments hold public meetings and make information about its actions available to the media and the people. Transparency leads to better accountability and better democracies.

MODERN DEMOCRACY

Although democracy has roots in the ancient civilization of Athens, it functioned in ways that are very different from today's democracies. For instance, in the Ancient city of Athens only men who were born in the city could participate in government, thus leaving the majority of the residents with no voice in government. Modern, liberal democracies incorporate the principles of democracy discussed previously. Modern, liberal democracies incorporate the principles of democracy discussed previously. With these principles as a guide, characteristics such as equality and a bill of rights have expanded the rights of individuals and have enlarged who has a voice in government. However, in the modern era, the type of democracy that is typical is a "representative democracy." Modern states have large populations where the majority of the people are engaged in a livelihood, thus limiting the time the people can devote to affairs of the state. Additionally, societal issues can be very complex and require decisions based on deep understandings. For these reasons, in modern democracies the people grant the authority to govern to individuals by electing them to represent the people they serve.

The principles of democracy presented in the last section can only endure if there are forces actively at work to ensure their existence. Why is this so? As many of the scenarios presented in the last section suggest, some argue that our human nature leans towards self-interest, even when it is at the expense of others in a society. When no constraints are placed on those in power, they inevitably become corrupted. An often-quoted statement by Lord Acton, an English historian and politician in the late 19th century, is as true today as it has for centuries: "All power tends to corrupt, absolute power corrupts absolutely."¹⁵ One only needs to revisit the scenarios of South African apartheid or President Mubarak of Egypt to see how damaging unchecked power can be. How then can societies balance the real need for government, the tendencies towards self-interest and corruption, with the principles of democracy? The answer lies in how government is structured. How much power is granted to the government, how the government is monitored for abuses and held accountable to the people and how individuals are able to secure their rights, are all of extreme importance for democracy to be realized.

15/ John Emerich Edward Dalberg Acton, et al. *Historical Essays & Studies*. Macmillan and Co., 1907.

Throughout this book you will learn how the principles of democracy have become reality in many countries and what actions have occurred in Ukraine to bring about democratic reforms, as well as what still needs to be done to more fully enact the principles of democracy. In the next section you will read about human rights and one of the most basic functions of government in a democracy, which is to protect human rights. In the chapters that follow, you will learn about the evolution of democracy in Ukraine, the significance of civil society in a democracy and the important roles that you and other citizens can play to enrich and maintain a healthy democracy.



Human Rights

SECTION 2

HUMAN RIGHTS



No democracy can long survive which does not accept as fundamental to its very existence the recognition of the rights of minorities. ▀ ▀

Franklin Delano Roosevelt,

32nd President of the United States

In the introduction of this text you learned that democracy is built on the belief that the primary role of government in a democracy is to protect the rights of people. You also learned that modern democracies are primarily characterized by a republican system of government where citizens elect representatives to serve their interests. Since the election of representatives requires some form of a majority of the votes cast, why then would President Roosevelt state that recognition of the rights of minorities is an essential component of a democracy? The answer to this question lies in understanding the concept of human rights.

This section of the book will inform you about the essence and characteristics of human rights and relations of an individual and state. A brief history of society's understanding and acceptance of human rights, the international human rights documents that are the result of this evolution, and mechanisms that all individuals have access to in order to protect their rights and the rights of others will be covered in this section.

After completing this part of the text, the reader will be able to discuss these topics:

- Essence of civil, political, socio-economic, cultural, and collective human rights;
- The state's "negative" and "positive" responsibilities;
- Major documents in the field of protecting human rights;
- International and national mechanisms for protecting human rights;
- How human rights are enacted and protected in Ukraine.

There are challenges to protecting the fundamental rights and freedoms for all persons. Sometimes it is actions by governments that cause individuals rights to be threatened and even denied. Other times it is the action of individuals and organizations that are responsible for this. Learning about human rights and the mechanisms to protect them enables all individual to be advocates for themselves and for others – particularly vulnerable members of society such as children, ethnic or religious minorities, and the elderly. Therefore, a final goal of this chapter is to recognize that the responsibility to uphold and advance human rights rests with us all.

2.1

WHAT ARE HUMAN RIGHTS?

From birth, an individual is endowed with certain rights that are referred to as “**human rights**.” These are not rights granted by the government of a state, but rather are inalienable rights which everyone is naturally entitled to at birth. Human rights are universal and therefore are the same for any individual living anywhere in the world.

All individuals are protected irrespective of any distinctions such as race, skin color, gender, language, religion, political and other opinions, national or social origin, property, title, etc.

Human rights that are reflected in modern international legal documents have been created according to standards adopted and enacted through a multi-century process. Step by step, norms that fit democratic societies have been formed. The inalienable nature of human rights makes individuals independent from the state under human rights law. How is it that an individual can argue that their government is in violation of human rights? On what grounds could an individual argue their case? Would the state or the individual prevail in such a case? Questions such as these will be addressed in this section of the text.

Human rights, also referred to as natural rights, are of a universal nature and based on the principle of natural equality of humans. This means that the realization of one person’s human rights should not violate the rights of others. Based on these concepts, human rights are *inviolable* and *inalienable* because a human being is born free and nobody has the right to take away individual rights and freedoms endowed by nature. Is it possible, though, that one groups’ rights may at times appear to conflict with another groups’ rights? Issues relating to

security of a nation or individuals, or the right to practice one's religious beliefs and traditions present challenges to society and require mediation by authorized parties. In such cases, human rights documents provide guidance. However, tensions between traditions, cultural norms and historical practices cause the full realization of human rights for all individuals to be an evolutionary process. This is a process that has been in motion for thousands of years.

THE EVOLUTION OF HUMAN RIGHTS

Despite the ideals that human rights philosophy (and human rights law) is built upon, humans have not always understood or respected the inviolable and inalienable nature of these rights. From ancient times until the 17th century, most of the world believed in the concepts of divine right to rule or of dynastic monarchies. In both cases, certain individuals were deemed to have a higher position in society as a result of their birth and thus had the right to rule over others. The majority of people were cast into the lower classes and understood to be servants to the monarchs and rulers. In this system there was little to no concept of human equality or human rights. Even in ancient times, however, there is evidence that the concept of individual rights was developing. In the Babylonian Empire, 1792-50 B.C.E., the ruler Hammurabi sought to codify laws that would apply to all members of society in order to

"make justice visible in the land, to destroy the wicked person and the evil-doer, that the strong might not injure the weak."¹⁶

Hammurabi's Code, as the laws came to be called, offered a degree of protection for the rights of the less privileged and often vulnerable members of society such as widows and orphans; thus this code represents an attempt to value and protect all members of the ancient society.

16 / "Hammurabi's Code: An Eye for an Eye." Ushistory.org, Independence Hall Association, www.ushistory.org/civ/4c.asp.

A hallmark event in the history of individuals asserting their rights over the absolute power of the monarchy was the signing of the Magna Carta in 1215, when English noblemen forced the King of England to sign a charter which challenged the authority of the king and subjected him to the rule of the law. Among many rights, the noblemen asserted that,

“No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled ... except by the lawful judgment of his equals or by the law of the land.”¹⁷

Today we understand these ideas as individual rights to private property and due process (this idea will be discussed further in an upcoming section). Although many of the protections stated in the Magna Carta applied only to noblemen, this action signifies a step in the evolution of human rights in dismantling the absolute rule of the monarch and the protection of certain rights.

Another important step came from the philosophy of John Locke. In section 1 you read about John Locke’s theory of the social contract. In 1689, Locke wrote in “Two Treatises of Government” that humans are by nature free and equal, as opposed to claims that God had made all people naturally subject to a monarch. Locke argued that people have rights, such as the right to life, liberty, and property, which are granted to them not by the laws of any government or society, but by nature. Locke posited that it was to fully realize these rights that humans willingly consented to being governed and entered into the social contract. In 1776, Thomas Jefferson drew on and extended these ideas when he drafted the Declaration of Independence, which was a document stating the American colonies’ rationale for declaring independence from Great Britain. In this document Thomas Jefferson wrote,

“We hold these truths to be self-evident, that all men [humans] are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among humans deriving their just powers from the consent of the governed. That whenever any Form of

17 / Whipps, Heather. “What Is the Magna Carta?” Live Science, www.livescience.com/2458-magna-carta-changed-world.html.

Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government.”¹⁸

The ideas of John Locke and Thomas Jefferson helped shape the system of government in the U.S., where the power of the government came from the people, not from divinity, and where all individuals were viewed as equal under the law. Of course, the concept of all humans being equal was not fully realized for a long time in U.S. history, but this was still a major development in the course of humankind. In 1789, the leaders of the French Revolution adopted the Declaration of the Rights of Man and of the Citizen which was also based on the philosophical and political ideas of thinkers like Locke and Jean-Jacques Rousseau. The document proclaimed a system of government in France that was based on equal opportunity, freedom of speech, popular sovereignty and representative government. In that same year, the Bill of Rights, a list of ten amendments to the U.S. Constitution, was added. The Bill of Rights clearly stated rights that all citizens had such as rights to free expression, the right to private property and to due process (provisions to ensure that unfair, arbitrary, or unreasonable treatment of an individual cannot occur and that legal proceedings must follow an established set of laws). These documents provided models for many nations around the world to build on when they created their own systems of democratic government and were advancements in codifying the basic human rights. In the 19th century, Ukrainian political philosopher Mykhailo Drahomanov published the treatise “Free Union” in which he argued for political rights and freedoms, including freedom of speech, freedom of association, inviolability of private letters and many others.

The rights identified in this period are sometimes referred to as first generation rights, which deal primarily with political and civil rights.

⋮ **Civil rights** include the right to life, right to inviolability of individual dignity and honor, rights to freedom and privacy, freedom to move, right to residence, right to a fair trial, presumption of innocence, etc. **Political rights** include the right to take part in the government, freedom of speech, peaceful assembly, association, movement, etc. The right to vote is also a political right.

18 / “Declaration of Independence: A Transcription.” National Archives and Records Administration, National Archives and Records Administration, www.archives.gov/founding-docs/declaration-transcript.

Political rights enable citizens to take part in the government, public and the political process. However, unlike private (civil) rights, there are certain preconditions for political rights. Political rights are granted to individuals through the citizenship of a particular state, and such rights can be realized only based on the laws of a given country.

The right to participate in the political process can take many forms. The direct participation of citizens in governance can be achieved through referendums, for example, through which individuals can express their will on specific issues and proposed legislation. The right to participate can be enacted by the right to vote and elect candidates to certain posts, thereby representing the citizenry through elected officials. Another possibility is the right to serve in government and run for election to public office. Other forms of political participation (which will be covered in depth in section 5 of this text) include writing letters, making phone calls, and attending meetings in order to inform government officials of one's views.

Based on these civil and political rights, one may be tempted to assume that elected officials will protect the rights of all as they serve society. However, if you recall from the introduction, many influential thinkers such as Thomas Hobbes believed that people have a tendency to be self-serving and may abuse power if it is left unchecked. A famous quote on this issue is, "*Absolute power corrupts absolutely.*" Sadly, history has proven that people are capable of abusing powers, denying others of their rights and committing gross atrocities. Responding to these actions has required national and global actions as you will read.

THE FORMATION OF THE UNITED NATIONS

Following the atrocities of WWII, there was widespread agreement that the international community should work together to ensure that such gross violations of human rights would never occur again. These sentiments led to the creation of The United Nations (UN). Ukraine was one the founders of the UN. At the very first gathering of the UN General Assembly in 1946, delegates to the UN reviewed a draft document called the Declaration on Fundamental Human Rights and Freedoms. From this beginning, the Universal Declaration of Human

Rights (UDHR) was adopted in 1948.¹⁹ Most of the universally agreed upon human rights are codified in the UDHR, including the right to education; the right to rest and leisure; the right to work; the right to peaceful assembly; freedom of opinion, expressions and thought; and freedom from arbitrary arrest, detention or exile.

The UDHR received support with over 50 of the 58 Member States to the UN participating in the final drafting of the UDHR and was adopted with only eight nations abstaining from the vote. Despite the political, ideological, economic, cultural and religious differences among the UN member states, none of the member states voted against the Declaration.

Hernán Santa Cruz of Chile, member of the drafting sub-Committee, wrote:

"I perceived clearly that I was participating in a truly significant historic event in which a consensus had been reached as to the supreme value of the human person, a value that did not originate in the decision of a worldly power, but rather in the fact of existing—which gave rise to the inalienable right to live free from want and oppression and to fully develop one's personality. In the Great Hall...there was an atmosphere of genuine solidarity and brotherhood among men and women from all latitudes, the like of which I have not seen again in any international setting."²⁰



EXERCISE 1

DEFINING HUMAN RIGHTS

As you just read, no member state to the UN voted against the adoption of the UDHR in 1948. However, does this mean that all member states interpret the document in the same manner, both in the past and today? It is a reality that the idea that definitions, protections and applications of human rights law may

¹⁹ / "History of the Document." United Nations, www.un.org/en/sections/universal-declaration/history-document/.

²⁰ / Ibid.

differ across countries and circumstances. In the activity below, you will have an opportunity to apply your understanding of human rights and consider some of the complexities of upholding these rights.

ACTIVITY:²¹

Read the statements and decide for each which choice reflects your view.
The choices are:

- | | |
|-------------------------|-------------------------|
| A. In every case | C. In some cases |
| B. In most cases | D. In no cases |

1. Killing is wrong.
2. It is wrong to keep someone else as a slave.
3. After a certain age, people should be able to marry whomever they choose.
4. People should be allowed to say or write what they wish.
5. All people should be treated equally. It should not depend on such things as their gender, appearance, or the country they come from.
6. People in prison should be told why they are being held.
7. People should be allowed to criticize the government.
8. People should be allowed to talk to and meet anyone they wish.
9. It is wrong to force a person to work.
10. A person accused of a crime should be tried by someone who has nothing to do with the case.

21 / Adapted from "Where Do You Stand?" Amnesty International <http://www.amnestyusa.org/resources/educators/lesson-plans>

11. People should be allowed to travel and leave their country if they wish.
12. Private letters and telephone calls should not be intercepted.
13. People should be allowed to have, or not have, whatever religious beliefs they wish.
14. All people have a right to belong to a country.
15. All people have the right to medical help if they are ill.
16. All people have a right to education.
17. Parents have the right to choose the kind of education to be given to their children.

EXTENSION –

Discuss your responses with some of your classmates to see where you agree and disagree. When there is disagreement take turns explaining your views. If you change any of your responses, take note of it and consider why you changed your views.

REFLECTION QUESTIONS –

- Was it easy to decide your responses? Why / why not?
- What did you learn about human rights and their protection from completing this task?

2.2

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

The UDHR includes a preamble and thirty articles that define key human rights and freedoms. Articles 1 and 2 make clear that all humans are entitled to the rights set forth in the document and that the protection of human rights does not rest solely with the government.

Article 1 – All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2 – Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Although it is the obligation for the government to provide for the security and well-being of the people of each nation, these first two articles also point out that all humans should act towards one another in a spirit of brotherhood. Article 2 further states that the fulfillment of one's human rights is not dependent on their status in society, their national origin, or the country they reside in. These points elucidate that all humans play a role in the protection and advancement of human rights for all. How individuals can fulfill this goal will be addressed further in a later section of this chapter.

UNDERSTANDING THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

In the remaining 28 articles of the Declaration specific rights are defined. Many of the articles safeguard civil and political rights, such as the right for all persons of age to take part in their government, equality under the law, the right to protection of the law, the right to a fair and public hearing by an impartial tribunal, and freedom of expression. The UDHR also includes many rights, such as **economic, social** and **cultural rights**, that went beyond the understandings of human rights presented as first generation rights. This expansion of rights led to second generation rights and third generation rights, which are explained below.

The continuous aspiration of humans to achieve better living conditions and cultural status gave the stimulus to the formation of second generation of human rights. Such rights are fundamentally economic, social and cultural in nature.

Social-economic rights include the right to work and leisure, social security, health care, right to lead decent life, etc. Social-economic rights guarantee the decent life of an individual in the society. **Cultural rights** include right to education, right to take part in cultural life, right to creativity, right to use scientific achievements, etc.

Cultural rights serve emotional growth and enable individuals to contribute to the social development of the society. All of these rights are specified in the UDHR.

The development of third generation rights is rooted in global problems, such as ecological and humanitarian ones. These rights mostly belong to whole nations or peoples rather than to individuals. World War II, the decolonization of many countries, and the exacerbation of ecological and humanitarian problems preceded the formation of third generation rights.

Human rights of the third generation include the right to solidarity or **collective rights**: the right to live in peace and healthy environment, to self-determination, communication rights, etc.

Collective rights are generally understood as subordinate to individual rights; it is held, for example, that they should not violate individual freedom or dignity or limit the status of an individual.

NEGATIVE AND POSITIVE RIGHTS



Isaiah Berlin
(1909-1997)

Although human rights are considered to be universal, inviolable and inalienable, this does not mean that they are fully realized by all individuals throughout the world at all times. The government is required to play a role in the protection of human rights, but just what government is expected to do is often debated. The categorization of human rights into “*negative*” and “*positive*” rights is useful in this discussion. In a 1958 essay entitled “Two Concepts of Liberty,”²² British philosopher Isaiah Berlin (1909-1997) proclaimed that negative liberties required no outside interference, whereas positive

liberties referred to the freedom to act on one’s will. To Berlin, negative liberty is the freedom to pursue one’s interests according to one’s own free will and without “*interference from external bodies.*” In practical terms this means that

⋮ a **negative** right only requires others to refrain from interfering with your actions. Therefore, it is the government’s responsibility to ensure that the conditions exist for this right to be realized.

Negative responsibilities of the state oblige the government not to limit individual’s freedom unlawfully and interfere in his/her private life. For example, in a society where laws prevent the government from infringing on an individuals’ right to free expression, this freedom can be enjoyed by all without any further actions by government.

22 / Berlin, Isaiah. “Four Essays on Liberty.” Oxford University Press, 1969.

On the other hand, some freedoms are unobtainable due to a lack of resources available to some in a society; therefore, the government may need to intervene. The right to an education is such an example. While most people would agree that conditions should exist for all to receive a level of education necessary to provide for oneself, should this extend to an education that allows the individual to reach their full intellectual potential and self-actualization? Many individuals lack the resources to access even a basic education, let alone one that leads to the fulfillment of such goals. So, should the government create laws and conditions that make that possible? Rights of this nature,

⋮ where government action is required, are referred to as **positive** rights or liberties. Positive rights usually oblige action and involvement of the state to protect rights that are usually of a social, economic or cultural nature

Examples are rights to work and leisure, education, social security, health care, etc.

The classifications of positive and negative rights are useful in discussing how views on the role government should play can differ and sometimes even be in conflict.

2.3

THE DEVELOPMENT OF HUMAN RIGHTS CONCEPTS IN UKRAINE

HUMAN RIGHTS PRE-INDEPENDENCE

“There are two dangers for true democracy: the first is disrespect of the nation’s will; and the second is nation’s self-disrespect.”

– **Lyubomyr Huzar**

“The natural right is to be free from oppression and to labor in order to turn back what was won by injustice and supreme power.”

– **Pylyp Orlyk**

The history of Ukraine demonstrates an evolution in human rights and legal protections rooted in the highest values of society – justice, freedom, equality, respect for the individual, and so on. The joint efforts of many generations created a moral and philosophical basis for adopting an expansive view of human rights.

One of the earliest milestones in the development of human rights in Ukraine came more than 2,500 years ago on the Crimean Peninsula when citizens took the Oath of Khersones. An excerpt from that oath illustrates its commitment to the protection of the city and its residents:

“I shall act in concord (with my fellow citizens) on behalf of the protection and freedom of the polis and its citizens. I shall not betray to anyone whomsoever, whether Greek or barbaria, Chersonesos, Kerkinitis, Kalos Limen, the other forts,

and the rest of the chora, which the people of Chersonesos inhabit or inhabited. But I shall carefully guard all of these for the demos (the people) of Chersonesos."²³

According to their legal code, the Rus' Truth, there was no death penalty in the Kyivan Rus (9th-13th centuries). Some ownership rights were protected as well, blood feuds were restricted, and the Rus' Truth prohibited painful punishment and torture during interrogations.

Women were also provided protections and freedoms: they maintained property rights while married, and became the head of the family upon the patriarch's death.²⁴ However, these separate rights illustrate another fact about the Rus' Truth: they were not universal. Different groups had different rights. Ownership rights, for example, were only extended to feudal lords. Even among slaves, different groups had different rights: some had the right to serve as a witness, for example, while others did not.

Rights in Ukraine were further codified during the 16th century in the Lithuanian Statutes of 1529, 1566 and 1588. Each set of laws further enhanced legal protections for Ukrainians; they included rights to religious freedom, prohibitions against marriage without consent from both parties, and prohibitions against arrest and punishment without legal grounds and a court decision.²⁵

In 1710, the Zaporozhian Host adopted the Pacts and Constitutions of Rights and Freedoms of the Zaporizhian Host²⁶ (or the Constitution of Pylyp Orlyk), which defined rights and protections such as:

- The inviolability of laws and freedoms;
- The right to choose Cossack and ordinary officers, and especially colonels, through voting; and
- The right of wives, orphans, and widows of Cossacks to be free from general duties and taxes.

23 / "Civic Oath of Chersonesos." About Chersonesos, Project "Megarica", www.chersonesos.org/?p=museum_coll_ep3&l=eng.

24 / Hrekova, B.D. "The Rus' Truth. Second Comment." The Academy of Sciences of USSR, 1947.

25 / "Codification of the Law in the Grand Duchy of Lithuania - Aleksandras Plateris." On the Origin of the Name of Lithuania - Tomas Baranauskas, www.lituanus.org/1965/65_2_03_Plateris.html.

26 / Pacts and Constitutions of Rights and Freedoms of the Zaporizhian Host. <http://gska2.rada.gov.ua/site/const/storiya/1710.html>

The Constitution called for “*correcting and lifting the innate rights and freedoms*” and “*restoring all natural rights and equality*.”²⁷ Outside Hetman’s exile, the Constitution of Pylyp Orlyk was not enforced; however, it remains an important example of attempts to provide protections of individual’s rights by the government.

“If any one of the general officers, colonels, and general councilors, distinguished comrades-in-arms, or other officials in authority over the common people should dare to commit the crime of affronting the Hetman’s honor, or should appear guilty of any other offence, His Highness the Hetman shall not himself punish such a defendant with his personal revenge and power, but shall refer such a criminal or civil case to the general court, where justice will be administered to everyone without favoritism or hypocrisy. – **Article 7, The Constitution of Pylyp Orlyk**

There were other important milestones in the evolution of human rights in Ukraine. The III Universal of the Ukrainian Central Rada, for example, proclaimed “*freedom of speech, press, religion, assembly, unions, strikes, inviolability of person and residence, the right and opportunity to use local languages in relations with all institutions*.”²⁸ And in 1918, the Constitution of the Ukrainian People’s Republic and the Draft of the Basic Law of the Ukrainian People’s Republic both affirmed the equality of rights of men and women, the right to personal integrity, the freedom of movement, and the inviolability of one’s place of residence, and prohibited discrimination based on origin, religion and nationality. These constitutional provisions were not implemented, however, since the Rada was dissolved immediately after their ratification.

The Constitutions of the Ukrainian SSR in 1919, 1929, 1937 and 1978 included provisions on the basic rights and duties of citizens. These rights were considered subordinate to the goal of constructing a Stalinist model of socialism. Some rights recognized in other countries, such as the right to strike and freedom of movement, were not recognized in the Constitution; other rights were declared, but curtailed in practice, such as the right to join a political party. Freedom of speech, press, assembly and rallies, street marches and demonstrations were also declared but they were impossible in a totalitarian system. At a time when

27 / Antonovych M. “Ukraine in the international system of human rights protection.” Kyiv, 2000.

28 / Huta-Synohora. “History of the Ukrainian Constitutionalism.” International Legal Forum, 1996.

unlawful searches and arrests were conducted and mass repressions were carried out, the Constitution was constructed so that its structure absolved the state completely. Among 13 sections of the 1937 Constitution, the section on the rights and duties of citizens held only a tenth place, moreover, it had a declarative character. In this way, even formal advances in human rights were effectively nullified under Stalinist governance.

In response to these challenges, the 1960s saw the emergence of dissident human rights movements in the Soviet Union and the Ukrainian SSR. The first such organization, The Initiative Group for the Defense of Civil Rights, included members G. Altunyan from Kharkiv and L. Pliushch from Kyiv – both arrested near the end of the decade. Efforts like this pressured the Soviet Union into signing the Helsinki Final Act on Human Rights (the Helsinki Accords) in 1975, but even that achievement had limited initial impacts in the Ukrainian SSR. Ultimately, a new group – the Ukrainian Helsinki Human Rights Union (UHHRU) – emerged in November 1976 in Kyiv as the first legal human rights opposition movement in Ukraine. Its primary goals, presented in the Declaration of the UHHRU, were:

- To familiarize Ukrainians with the UDHR;
- To contribute to the implementation of the articles of the European Security and Defense Standard Act;
- To ensure that Ukraine had its own delegation representing its interests as a sovereign state at all international meetings concerning the Helsinki Accords; and
- To seek accreditation of representatives of the foreign press in Ukraine in order to ensure the free exchange of information and ideas in the field of human rights.

The Declaration stated that the union was motivated by humanitarian and legal goals, not political, and that its main role to familiarize the global community with human rights violations in Ukraine. The activities of the UHHRU consisted of gathering materials on human rights violations, giving speeches in defense of political prisoners, maintaining communication with Russian human rights activists, and advocating for the UDHR to govern relations between the individual and the state in Ukraine.



EXERCISE 2

EVOLUTIONS OF HUMAN RIGHTS IN UKRAINE

As you have just read, there are examples in the history of Ukraine where the notion of individual rights and protections of these rights by government were defined and codified under the law. However, these early attempts did not include the full range of human rights one has, and often the reality was that citizens did not experience these rights. Analyze the developments at each stage to determine the benefits and limits for the people. Once you have analyzed this history, consider if you were a member of a Human Rights organization such as UHHRU: what goals and actions would you identify as important for the organization to support?

- A.** Citizens of Khersones living under the Oath of Khersones
- B.** Citizens of Kyivan Rus living under the Rus' Truth
- C.** Citizens living under the provisions of the Lithuanian Statutes
- D.** Citizens living under the Constitution of Pylyp Orlyk
- E.** Citizens living in Ukrainian People's Republic and the Western Ukrainian People's Republic
- F.** Citizens living under the Constitutions of the Ukrainian SSR

HUMAN RIGHTS POST-INDEPENDENCE

In the Appeal of the Verkhovna Rada of Ukraine “To Parliaments and Peoples of the World” of December 5, 1991, it was emphasized that

“Ukraine is building a democratic, rule-of-law state, whose primary goal is to secure the human rights and freedoms. To this end, Ukraine will steadfastly adhere to the rules of international law, guided by the Universal Declaration of Human Rights, the International Covenants on Human Rights, which Ukraine has ratified, and other relevant international instruments. Ukraine is ready to join European human rights institutions, including the European Convention on Human Rights.”²⁹

Thus, the proclamation of independence on August 24, 1991 opened a new page of the history of the country which made it possible to broaden the rights and freedoms of citizens.

The first legislative acts of the newly formed independent state did not leave any doubts as to the legal consolidation of the stated goals. The further development of human rights and freedoms in Ukraine came with its accession on November 9, 1995 to membership in the Council of Europe (COE). By becoming a member of this organization, Ukraine joined a large number of multilateral European conventions in the field of human rights and freedoms and has made specific commitments on the implementation of their norms in national legislation. In addition, membership in the COE has stimulated the process of preparation and adoption of the Constitution – the main law of the new country.

The 1996 Constitution of Ukraine marked a significant stage in the development of Ukrainian human rights. It defined a new, modern status of a person and a citizen in Ukraine. Section II “Rights, Freedoms and Responsibilities of a Person and a Citizen” is fully in line with international human rights instruments. Nevertheless, the list of human rights in the Constitution (Article 22) is not exhaustive. Although there have been many advances in human rights law and protections since

29 / Appeal of the Verkhovna Rada of Ukraine “To Parliaments and Peoples of the World.” <http://zakon3.rada.gov.ua/laws/show/1927-12>.

independence, many practices that suppress the rights of citizens have persisted. Therefore, international mechanisms for protection of human rights have played an important role in guaranteeing that human rights and freedoms are upheld in Ukraine. In the next section you will read about many of the international agreements that Ukraine has agreed to and the significance of each for Ukraine, and for the broader field of human rights.

2.4

INTERNATIONAL CONVENTIONS AND TREATIES ON HUMAN RIGHTS

The UDHR's adoption was the first step towards international agreement on their aspirations; even with the UDHR, however, many human rights violations continued (and still do) throughout the world. Meanwhile, many individuals and organizations work to uncover violations and to fight for the rights of all. Oftentimes the individuals who are targets of human rights abuses are the most vulnerable members of society. They are usually individuals who may not be positioned to speak for themselves or equipped with the resources to challenge abusive powers.

For the human rights concept to work it was essential to adopt additional international documents, which, when ratified, required the states to fulfill obligations and uphold the provisions of the treaty. A discussion of some of these documents is presented in this section. As you read consider if you think the goals of the agreements have become reality in Ukraine. Consider examples where the rights guaranteed are being fulfilled. Also consider if there are instances where more needs to be done to provide for the full protection and guarantee of the rights.



PROTECTIONS OF HUMAN RIGHTS IN TIME OF WAR

Throughout the human experience conflict with other humans has existed. When conflict erupts into violence and war, gross human rights violations follow. Attempts to overcome these abuses have led to the development of International Humanitarian Law, which is a set of rules to limit the effects of armed conflict and protects persons who are not or are no longer participating in the hostilities, and to restrict the means and methods of warfare.³⁰ Universal codification of international humanitarian law began in the nineteenth century with the first Geneva Convention in 1864, the Convention for the Amelioration of the Condition of the Wounded in Armies in the Field. In order to provide protections for the wounded it was proposed that special societies be established to provide care. The agreement called for neutrality for medical personnel, for the expedition of medical supplies, and for the adoption of a special identifying emblem for identification purposes (which since 1870s has been the red cross on a white background).³¹ This agreement led to the creation of the International Red Cross.

At the end of the 19th and early 20th, The Hague Conventions were also created. These international treaties regulated conduct for war and added provisions such as a prohibition against the use of chemical weapons.³² These developments established a model for multilateral agreements regarding certain protections of human rights. This framework would facilitate the development of many more treaties which further defined and expanded on human rights law.

30 / "What Is International Humanitarian Law?" International Committee of the Red Cross, www.icrc.org/eng/assets/files/other/what_is_ihl.pdf.

31 / "The History of International Humanitarian Law." Information Platform Humanrights.ch, www.humanrights.ch/en/standards/international-humanitarian-law/history/

32 / Ibid.

EUROPEAN CONVENTION ON HUMAN RIGHTS

The UDHR provided a roadmap for human rights, but on a practical level it was difficult to implement on a regional level. Therefore, on May 5, 1949, foreign ministers of ten European states signed the Charter of the Council of Europe (COE) in London. Eight more states acceded to the COE in 1970 and in October of 1993 the COE enlarged even further, eventually encompassing 47 member states. The aims of the COE are to safeguard human rights, pluralistic democracy and the rule of law; to support the maintenance and development of a common European culture; to settle common European problems such as discrimination against minorities, xenophobia, environmental problems, cloning, AIDS, drug use, organized crime, and so on.³³ Ukraine became the 37th member state to join the COE on November 9, 1995.

To achieve the above targets, the COE adopted the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, ECHR) in Rome on November 4, 1950. The Convention came into effect in 1953; it declares that,

“States have international responsibility to comply with the Convention. For today all member states to the COE integrated or adapted regulations of the Convention in their internal laws obligating them to act in accordance with the norms of the Convention.”³⁴

Ukraine ratified this convention in July 1997, which began the process of adjusting Ukrainian national laws to the COE’s standards. From then on, citizens of Ukraine could appeal to the European Court of Human Rights or redress if their rights were violated.

Under this convention, some Ukrainian laws have been challenged as noncompliant. For example, in the case of *Koretsky and Others v. Ukraine*, the European Court

33 / “International Law of Human Rights, Dictionary-Guide.” Tbilisi, 2005. p. 78.

34 / “European Court of Justice for Data Protection.” Tbilisi, 2015. p. 19.

ruled in 2008 that Ukrainian law did not meet requirements set out by the European Convention on Human Rights.³⁵ In response to this ruling and continuing pressure from various NGOs, in 2012 the Verkhovna Rada adopted the new law “On Public Associations”, which reflected the standards of the Convention. The Convention and the precedent practice of the European Court of Human Rights are being increasingly referred to by the judges of the national courts and attorneys in Ukraine, demonstrating its increasing influence in national law.

Along with the UDHR, the UN adopted two other groundbreaking covenants in 1966: The International Covenant on Civil and Political Rights (ICCPR) and The International Covenant on Economic, Social and Cultural Rights (ICESCR). Together, these three documents are known as the International Bill of Human Rights. The International Covenant on Civil and Political Rights was ratified by Ukraine while it was still a republic of the Soviet Union; even then, the Ukrainian SSR acted as a distinct signatory. The international pact was ratified by the Presidium of the Supreme Soviet of the Ukrainian SSR by decree on 19 October 1973.³⁶

The International Covenant on Civil and Political Rights provides a mechanism for individuals to file complaints with an international Human Rights Committee. As of 2017, there are only 10 Ukrainian cases of such complaints; this is because of a common belief that appeals to the European Court of Human Rights have proven themselves to be more effective than working through mechanisms that exist in Ukraine. There remains debate, however, on the benefits of the complaints to the UN Human Rights Committee.

The Implementation of the Covenants is monitored by UN agencies. As a member of the Covenants, Ukraine must periodically submit reports to the UN’s agency in charge of monitoring compliance. NGOs in Ukraine play an active part in this process by developing alternative reports,³⁷ which helps the UN Committee to reach less biased conclusions and makes its recommendations more effective.

35 / “Human Rights in Ukraine – 2008. Human Rights Organizations’ Report.” Human Rights in Ukraine, khpg.org/en/index.php?r=2.6.12.5.

36 / “The International Covenant on Civil and Political Rights.” Ratified by the Presidium of the Verkhovna Rada of the Ukrainian SSR decree. http://zakon5.rada.gov.ua/laws/show/995_043

37 / For example, ““Parallel” report on ensuring economic, social and cultural rights in Ukraine” developed by the Ukrainian Helsinki Human Rights Union and the International Renaissance Foundation for to the UN Committee on Economic, Social and Cultural Rights, 2007. <https://helsinki.org.ua/articles/paralelnyj-zvit-ukrajinskoji-helsinki-spiilky-z-prav-lyudyny-ta-mizhnarodnoho-fondu-vidrodzhennya-schodo-zabezpechennya-ukrajinoju-ekonomichnyh-sotsialnyh-i-kulturnyh-prav-do-komitetu-o/>

Certain provisions of these documents are listed in the table below.

Figure 1:

Provisions of the International Conventions and Treaties on Human Rights

OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

- Right to life, liberty and security of person;
- Equality before the law;
- Freedom of movement and choice of residence;
- Prohibition of torture, or cruel, inhuman or degrading treatment;
- Right to seek asylum in other countries;
- Freedom of thought, conscience and religion;
- Right to own property;
- Right to vote and to take part in the government of one's country;
- Right to education;
- Right to work and to form trade unions;
- Right to an adequate standard of living;
- Right to healthcare;
- Right to take part in cultural life.

OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

- Right to life;
- Prohibition of torture, or cruel, inhuman or degrading treatment or punishment;
- Prohibition of slavery and servitude;

- Prohibition of forced labor;
- Right to security of person;
- Freedom of movement and choice of residence;
- Protection of aliens subject to expulsion;
- Right to fair and public hearing by an independent and impartial tribunal;
- Prohibition of conviction for any criminal offence which did not constitute a criminal offence, under national or international law, at the time when it was committed;
- Right to recognition as a person before the law;
- Right to respect for one's private life;
- Freedom of thought, conscience and religion;
- Right to freedom of expression;
- Right to freedom of peaceful assembly and of association;
- Right to marry and to found a family;
- Right of a child to such measures of protection as are required by his status as a minor;
- Public rights, in particular, right to have access to public service;
- Prohibition of discrimination;
- Specific rights of ethnic, religious and linguistic minorities.

OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

- Right to work;
- Right to form trade unions and to join trade unions;
- Right to social security;
- Protection of the family;
- Right to an adequate standard of living;

- Right to healthcare;
- Right to education;
- Right to take part in cultural life, to enjoy the benefits of scientific progress and its applications, and to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

CONVENTION ON ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

On December 18, 1979, the UN adopted the Convention on Liquidation of all Forms of Discrimination against Women. The Convention gives positive affirmation to the principle of equality³⁸ by requiring State parties to take

“all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.”³⁹

The Convention, based on equality of men and women, requires signatories to:

- Ensure that women, on equal terms with men, have access to human rights and freedoms, without any discrimination;

38 / From the General recommendation No. 25, on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures: “Adoption by States parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.” [http://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20\(English\).pdf](http://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20(English).pdf)

39 / “Convention on Liquidation of all Forms of Discrimination against Women.” CEDAW Execution Research in Georgia. Tbilisi, 2011. p. 95

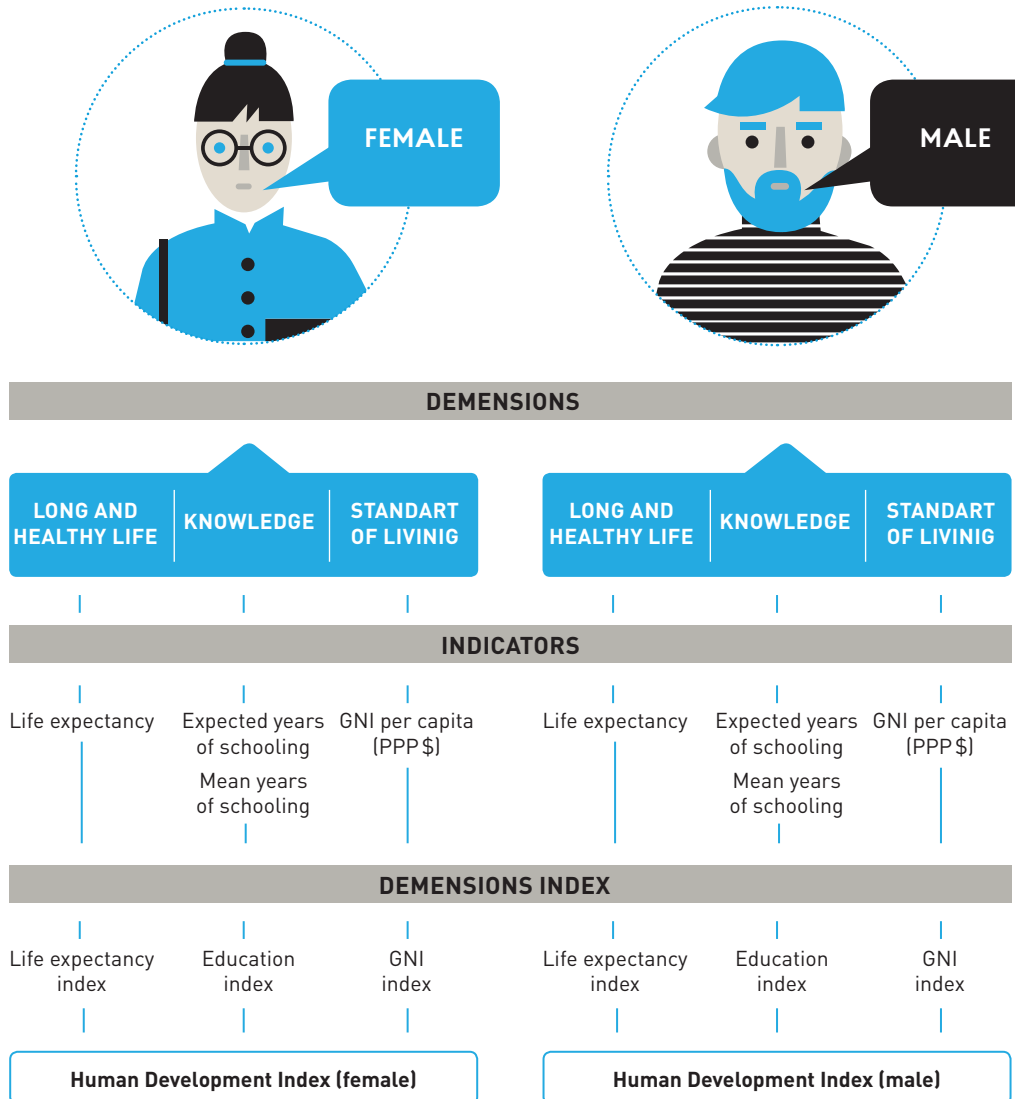
- Take appropriate measures to suppress all forms of the trafficking and exploitation of women;
- Grant women equal rights with man with respect to marriage;
- Ensure to women, on equal terms with men, to enjoy political rights;
- Take all appropriate measures to ensure to women, on equal terms with men, the opportunity to participate in the work of international organizations and the rights to work and education;
- Ensure, on a basis of equality of men and women, access to healthcare services, including appropriate services during pregnancy and lactation.

Ukraine ratified the Convention on 12 March 1981. Despite this, the problems of discrimination against women persist. One way to understand gender inequality in Ukraine is to look at data compiled by international organizations and NGOs. The UN compiles data to produce a Human Development Index (HDI) based on three dimensions: a long and healthy life, access to knowledge and a decent standard of living.⁴⁰ Once the HDI of a country is determined, it is further broken down by gender using the same criteria (see figure below) to determine the Gender Development Index.

40/ The HDI measures a long and healthy life by life expectancy at birth; knowledge level by mean years of education among the adult population, which is the average number of years of education received in a life-time by people aged 25 years and older; and access to learning and knowledge by expected years of schooling for children of school-entry age, which is the total number of years of schooling a child of school-entry age can expect to receive if prevailing patterns of age-specific enrolment rates stay the same throughout the child's life. The standard of living is measured by Gross National Income (GNI) per capita expressed in constant 2011 international dollars converted using purchasing power parity (PPP) conversion rates.

Figure 2:

Gender Development Index (GDI)



The data for Ukraine based on the GDI criteria is presented below.

Figure 3:

Data for Ukraine Based on the GDI Criteria

LIFE EXPECTANCY AT BIRTH		EXPECTED YEARS OF SCHOOLING		GROSS NATIONAL INCOME (GNI) PER CAPITA	
		(mean years for adults aged 25 years and older)		(expressed in constant 2011 international dollars)	
FEMALE	MALE	FEMALE	MALE	FEMALE	MALE
76.0	66.2	15.5	15.1	5,791	9,181

Consider the data above with the additional information that as of 2015 women in the Verkhovna Rada held only 12.1 seats and 52.2% of women, age 15 or older were engaged in the labor market either by working or actively looking for work, whereas the percentage for males was 67.4.

Violence against women is another persistent problem in Ukrainian society. In times of conflict, it escalates with domestic abuse and sexual abuse; this has been the case for women amid the military conflict in the Autonomous Republic of Crimea, and the Donetsk and Luhansk regions. Activists have campaigned for Ukraine's government to ratify the COE's Convention on preventing and combating violence against women, known as the Istanbul Convention;⁴¹ the Parliament has blocked ratification, however, despite experts' insistence upon the seriousness and urgency of the problem.⁴²

What does this information indicate about the role women play in Ukrainian society and the power they currently hold? What views do you have of this situation? Does it appear that the Convention on Elimination of all Forms of Discrimination against Women is being upheld in Ukraine at present?

41 / "Council of Europe Convention on preventing and combating violence against women and domestic violence." Council of Europe, rm.coe.int/1680096e45.

42 / Olena Chorna. "Top-10 Violations of Women's Rights in Ukraine: Hot Facts." Human Rights Information Centre, 2017.

CONVENTION ON THE RIGHTS OF THE CHILD

In 1989 the Convention of the Rights of the Child⁴³ was adopted. The preamble to the Convention reaffirms the fact that children,

“because of their vulnerability, need special care and protection; places special emphasis on the primary caring and protective responsibility of the family, the need for legal and other protection of the child, the importance of respect for the cultural values of the child’s community, and the vital role of international co-operation in achieving the realization of children’s rights.”

Under the terms of the convention, governments are required to meet children’s basic needs and help them reach their full potential. Central to this is the acknowledgment that every child has basic fundamental rights. These include the right to:



- Life, survival and development;
- Protection from violence, abuse or neglect;
- An education that enables children to fulfil their potential;
- Be raised by, or have a relationship with, their parents;
- Express their opinions and be listened to.

Three additional protocols have been added to the Convention. One mandates that children under the age of 18 not be forcibly recruited into armed forces. The second prohibits child prostitution, child pornography and the sale of children into slavery. A third protocol enables children whose rights have been violated to complain directly to the UN Committee on the Rights of the Child.

Ukraine ratified the UN Convention on the Rights of the Child on 27 February 1991. The Second Optional Protocol, which prohibits the sale of children, child prostitution, and child pornography, was ratified on 3 April 2003. The Optional

43 / “Convention on the Rights of the Child.” United Nations, <http://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>

Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict was ratified on 23 June 2004.

Although Ukraine has adopted these conventions, there is still much work to be done in their implementation. Abuse against children occurs with physical punishment in families and in state institutions; it is still common in penal institutions as well. Though a system of criminal justice has been in place since 2012, a dedicated authority for administering juvenile justice has not been formed yet, and state funding for the program is also lacking. One positive development, however, is a reduction of the number of juvenile correctional facilities and other specialized institutions for detention of juvenile offenders.⁴⁴

Another area where more work needs to be done is in securing rights for children with disabilities. They still have limited access to educational facilities in Ukraine; according to research, only 11% of schools are even partially adapted for students with disabilities. They are even less compliant with safety and free movement standards: many schools are missing ramps, elevators, specialized hygienic rooms, appropriate doors, furniture, and lighting. These problems are particularly serious in rural areas of Ukraine.

Since 2014, war in Ukraine has also created a crisis for the nation's children – especially those in combat. Current national legislation does not assign criminal responsibility for recruiting children as combatants, and the Rome Statute of the International Criminal Court, which criminalizes such actions during the course of military conflicts, has yet to be ratified by Ukraine.⁴⁵

Ukraine actively provides periodic reports to the UN Committee on the Rights of the Child, and NGOs prepare alternative reports,⁴⁶ which help the UN to monitor and make recommendations on the treatment of children. One such report to the 56th UN session led to the creation of a coalition “The Rights of the Child in Ukraine,” which monitors the implementation of recommendations from the UN Committee on the Rights of the Child.⁴⁷ Hopefully these efforts will improve conditions for Ukraine's children.

44 / Mariia Yasenovska. “Rights of the Child.” Ukrainian Helsinki Human Rights Union, 2016. <https://helsinki.org.ua/en/rights-of-the-child/>

45 / Ibid.

46 / “Alternative Report on the Implementation of the UN Convention on the Rights of the Child in Ukraine (2002-2008).” UNICEF, www.unicef.org/ukraine/report-ukr.pdf.

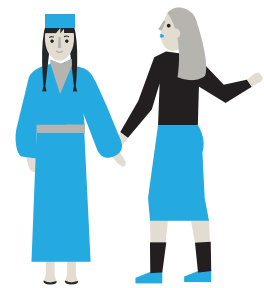
47 / “Concluding Observations: Ukraine.” UNICEF, www.unicef.org/ukraine/UN_CRC_ConcludingObservations_Ukr.pdf.

CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

“National minorities are the groups of citizens residing in the state, which are smaller compared to the majority and differ in language, religion, and ethnicity from the majority.”⁴⁸

Throughout history there have been instances where the human rights of national minorities have not been upheld. In order to address these abuses, in November of 1995 the COE adopted the framework Convention for the Protection of National Minorities.⁴⁹

According to the Convention, member states of the COE concluded that European history has shown that protection of national minorities is essential to stability, democratic security and peace in the continent. Signatories to the Convention take responsibility for safeguarding the protection of national minorities in their states, ensuring equality before the law, and prohibiting ethnic discrimination. In compliance with Article 5 of the Convention,



“The parties undertake to promote conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.”⁵⁰

48 / “Sakvarelidze, P. “Dictionary of Human Rights.” Tbilisi, 1999.

49 / “Framework Convention for the Protection of National Minorities.” Council of Europe. <https://rm.coe.int/16800c10cf>

50 / Ibid.

Additionally, the assimilation of national minorities into the majority against their will is prohibited. The parties to the Convention are also responsible for encouraging a spirit of tolerance and intercultural dialogue, cooperation and respect among all persons living on their territories.

Other provisions of the Convention:

- National minorities are granted the same rights to peaceful assembly, association, freedom of thought, religion and conscience.
- National minorities are guaranteed freedom to receive and impart information and ideas in the minority language. The state is responsible for ensuring conditions for licensing radio and television broadcasting for them.
- Representatives of national minorities have the right to freely use their minority language in private or in public.
- If a national minority is detained the individual shall be informed in a language he or she understands of the reasons of arrest. If necessary, the state is obliged to ensure free assistance of an interpreter.
- Representatives of national minorities have equal access to education. The state is responsible for ensuring education in the minority language in areas traditionally inhabited by persons belonging to national minorities or where there are substantial numbers of national minorities, if those persons so request.

According to Article 20 of the Convention, any person belonging to a national minority shall respect the national legislation and the rights of others, in particular those of persons belonging to the majority or to other national minorities. At the same time, national minorities are prohibited from using their rights against the sovereignty of the state, political independence and territorial integrity.

Ukraine is gradually changing its laws and practices in accordance with the standards of this convention. In particular, under the Criminal Code of Ukraine, "hate crime" provisions have been incorporated which consider offenses committed "on the grounds of racial, national or religious intolerance" in the determination of punishment. Implementation of this legislation remains a challenge, however; for example, law enforcement agencies in Ukraine still do not publish hate crime

statistics. Meanwhile, the occupation of the Autonomous Republic of Crimea and the city of Sevastopol continues to prevent Ukrainian authorities from protecting the large populations of Crimean Tatars who inhabit those regions.

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Persons with disabilities have unique needs that require extra actions and protections in a society. In general persons with disabilities have poorer health, lower education achievements, fewer economic opportunities and higher rates of poverty than people without disabilities, and are more likely to be victims of violence.⁵¹ To address these needs, The Convention on the Rights of Persons with Disabilities⁵² was adopted on December 13, 2006 and entered into force on 3 May 2008.



The Convention provides a framework to nations in creating policies to build inclusive societies based on the eight guiding principles that underlie the Convention and each one of its specific articles.⁵³ These principles are:

1. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
2. Non-discrimination;

51 / "International Day of Persons with Disabilities 3 December." United Nations, www.un.org/en/events/disabilitiesday/background.shtml.

52 / "Convention on the Rights of Persons with Disabilities." United Nations, <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

53 / "Division for Social Policy and Development Disability." United Nations, www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/guiding-principles-of-the-convention.html.

3. Full and effective participation and inclusion in society;
4. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
5. Equality of opportunity;
6. Accessibility;
7. Equality between men and women;
8. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

The Convention on the Rights of Persons with Disabilities and its Optional Protocol were simultaneously ratified by Ukraine on 16 December 2009, after considerable campaigning by NGOs. Since then, NGOs have also monitored their implementation and called for adjustments in national law and practices to ensure these rights.⁵⁴ As the state works towards implementing more inclusive education, for example, regional committees and civil society representatives monitor their compliance with national construction and reconstruction laws aimed at ensuring architectural accessibility.

Civil activists have played an important role in highlighting and remedying accessibility issues. Dmytro Zharovyi, for example – a lawyer who uses a wheelchair – has actively advocated for improved accessibility;⁵⁵ in 2016, he prevailed in a high-profile case on behalf of persons with disabilities against a pharmacy retailer, leading to the suspension of the retailer's license.

54 / "Report on the Results of Public Monitoring "The rights of people with disabilities"." National Assembly of People with Disabilities of Ukraine, 2015. <http://naiu.org.ua/zvit-za-rezultatami-gromadskogo-monitoringu-prava-lyudej-z-invalidnistyu/>

55 / One can learn more on Dmytro Zharovyi and his cases at <http://life.pravda.com.ua/society/2013/01/16/119124/>; https://ukr.lb.ua/blog/oleg_shynkarenko/362280_sud_zmusiv_kompaniyu_axa_group.html; <http://legalspace.org/ru/deyatelnost/pouchitelnye-istorii/item/5497-dmytro-zharyi-navchannia-u-merezhi-budynkiv-prav-liudyny-ta-uhspl-duzhe-dopomohlo-meni-v-roboti>



EXERCISE 3

THE STATUS OF HUMAN RIGHTS PROTECTIONS IN UKRAINE

In this last section you learned about the international covenants that define the rights of all individuals as well as protections and obligations states must fulfill for minority populations in society. Review each of the treaties below and assess how well you think Ukraine is doing to uphold the covenant. After considering all of the covenants, you might want to choose one and conduct research to learn more about the success and challenges of instituting the treaty in Ukraine. This exercise will help you to think more deeply about human rights status in Ukraine and may help you select a topic for your student action project.

- European Convention on Human Rights
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Convention on Elimination of all Forms of Discrimination against Women
- Convention on the Rights of the Child
- Convention for the Protection of National Minorities
- Convention on the Rights of Persons with Disabilities

2.5

MECHANISMS FOR THE PROTECTION OF HUMAN RIGHTS

The protection of human rights is the responsibility of the state, enforced through the state's constitution and laws. At the same time, however, international organizations working in the field of human rights supervise fulfillment of responsibilities accepted by states under different international treaties and agreements. For this purpose, international mechanisms for the protection of human rights are established worldwide. Several agencies and institutions monitor the protection of human rights within the framework of the UN. Both main organs of the UN – the General Assembly and the Economic and Social Council – as well as supporting agencies such as the Office of the United Nations High Commissioner for Human Rights, deal with the protection of human rights. In addition, there are systems for the protection of human rights at the regional level. The European system of human rights is one such system and will be discussed next.

EUROPEAN COURT OF HUMAN RIGHTS

The European Court of Human Rights is one of the most efficient instruments for the protection of human rights. It was established in 1950 by the ECHR, which sets forth those duties and responsibilities that are legally binding to its member states. Currently, the European Court of Human Rights' jurisdiction covers 800 million people in 47 states. It is based in Strasbourg, France, at the Palace of Human Rights. There are 47 judges at the Court, which represents the number of the contracting states to the ECHR.

The Court monitors how the states meet responsibilities to safeguard human rights taken under the ECHR and its protocols, which

“guarantee right to life, right to fair trial in case of criminal and civil charges, right to respect private and family life, freedom of expression, freedom of thought, conscience and religion, right to use adequate facilities for legal defense, right to the peaceful enjoyment of private property, right to vote and right to be elected.”⁵⁶

Individuals and legal entities, as well as the states, can apply to the European Court of Human Rights. It is not necessary to be a citizen of a member state of the COE to apply to the court. If one of the member states violates human rights within its jurisdiction and territory, any person can apply to the court. However, only the victim or his/her official representative can file the claim at the Court. Applications can be made only in case of exhaustion of all domestic legal remedies.

If the Court concludes that any member state has violated human rights recognized by the ECHR, it will accept the case and make a decision. Judgment of the Court is binding; nevertheless, its execution goes beyond the ambit of the Court. The Committee of Ministers of the COE is responsible for examining the implementation of human rights judgments.

Article 17 of Ukraine’s law “On Execution of Decisions and Application of the European Court of Human Rights” states that courts should apply the provisions of the Convention and the European Court of Human Rights practices as the source of law. The Government Agent before the European Court of Human Rights represents Ukraine to the European Court of Human Rights; it is also responsible for the implementation of the Court’s decisions, the detection of Convention violations, and the development of remedies and deterrents against future violations. As of August 2017,⁵⁷ Ukraine ranked first in the amount of appeals to the European Human Rights Court against the state. What circumstances do you think might account for this phenomenon?

56 / “Questions & Answers, European Court of Human Rights.” Secretariat of the European Court of Human Rights. Tbilisi, 2009. p. 4.

57 / “Pending applications allocated to a judicial formation.” European Court of Human Rights, www.echr.coe.int/Documents/Stats_pending_2017_BIL.pdf.

MECHANISMS IN UKRAINE

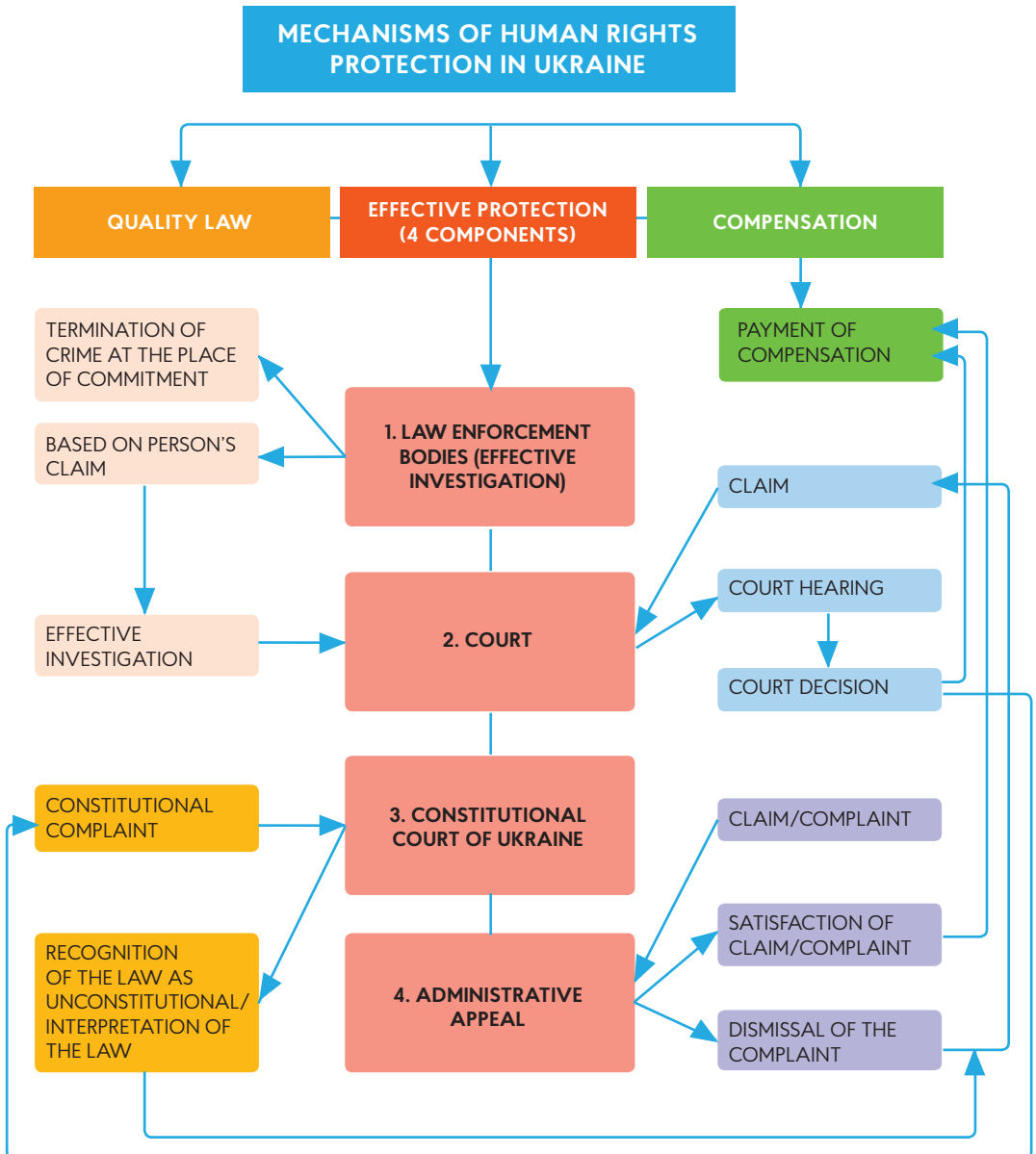
As explained above, there are international and national systems for protecting human rights acting in any state. The international systems that are relevant in Ukraine are UN universal system of human rights protection and the European system of human rights protection. The national system of the protection of human rights also applies in Ukraine.

There are multiple mechanisms in place in Ukraine to provide for the protection of human rights and redress when there has been a violation of the rights of an individual or a group of people. The chart below illustrates the various agencies and actions that are responsible for this in Ukraine. Each mechanism – legislation, law enforcement, the courts, the appeals process and the ombudsman – all play an integral part in the process. Each of these elements will be discussed in this section. As you read, consider the significance of each mechanism. Based on your own experiences and understandings, assess how well you think each mechanism is working and what more you think needs to be done to strengthen or improve the systems.



Figure 4:

Mechanisms of Human Rights Protection in Ukraine





EFFECTIVE LAWS

A nation's laws should reflect its norms and values. Ukraine's national system for protecting human rights is based on the affirmative obligations of a state, mentioned in the previous section. Its measures should include the following mandatory components:

- Human rights should be protected in accordance with the rule of law;
- Any disputes related to the violation of human rights should be effectively investigated and considered by a qualified, impartial and independent judicial authority, following procedures that are equal for all parties, and adopting decisions in accordance with the law;
- A person whose rights have been violated should receive compensation for damages and guarantees to prevent future offenses.

The authorities of Ukraine's national system of the protection of human rights include law enforcement bodies (such as the police, the Security Service of Ukraine, and the Prosecutor's office), courts, other state authorities and local self-government authorities, the Constitutional Court of Ukraine, and the Ukrainian Parliament Commissioner for Human Rights.



LAW ENFORCEMENT BODIES

In a nation based on the principles of democracy, police and law enforcement agencies must play an integral role in the protection of human rights for all members of society. There are many ways that the police fulfill this obligation; one way, for example, is by ensuring the right of individuals to express their views and conduct peaceful gatherings, and preventing confrontations between participants and opposition groups. Law enforcement also responds to complaints and investigates possible human rights abuses. Police themselves are required to respect the rights of individuals who have been taken into custody: for instance, according to Article 28 of the Constitution of Ukraine, no one shall be subjected

to torture, or to cruel, inhuman or degrading treatment or punishment. Law enforcement officials are obliged to uphold this right, and if it is allegedly violated, the state must conduct an effective investigation. If a violation is confirmed, the state has a lawful obligation to remedy it by bringing an end to the violation, by punishing the perpetrators, by providing compensation to the injured person(s), and by providing guarantees to prevent violations of the right in future.



COURTS

Courts are an effective mechanism for protecting human rights in Ukraine: their jurisdiction extends to all legal relations arising in a state, and the judgments they adopt are binding throughout the country.

Administrative courts play an important role in this system by protecting human rights from violations by the government; as opposed to civil legal proceedings, in which a government authority prosecutes residents of Ukraine, administrative courts allow Ukrainians to challenge the government. If, for example, you challenge in administrative court a decision of the public utility company to charge you a penalty for non-payment of utility bills, then it is the public utility company who must prove the lawfulness of its actions.

The drawback of judicial remedy is its inaccessibility for many citizens due to high court fees – in 2017, for example, litigants had to pay a fee of UAH 640 to bring a partition or divorce suit before the court. Most citizens are also unaware of the procedures for filing court cases. To remedy this, the law exempts certain persons from court fees; the state also offers free legal aid to help litigants prepare their documents.

The Constitutional Court of Ukraine serves as a separate unit within the national system for the protection of human rights. It considers individual constitutional complaints if the individual believes a final judgment in his/her case contravenes the Constitution of Ukraine, and all the other national judicial remedies have been exhausted.



EXERCISE 4

MECHANISMS OF HUMAN RIGHTS PROTECTION IN UKRAINE

The participants of a peaceful procession calling for the legalization of dog fights gathered near a building where the city council would decide the issue. Meanwhile, a counter-protest gathered in opposition, calling on local authorities to ban dog fights and to restrict fighting dogs to the residences of their owners. Eventually, after exchanging insulting words with each other, the participants of the counter-assembly started fighting and some of the participants were injured. The bystanders called an ambulance. At length, the police, who had been standing next to the place of the incident the entire time, broke up the fight. None of the city council representatives ever approached the participants of the peaceful gatherings.

ASSESS THE ACTIONS OF THE STATE AUTHORITY REPRESENTATIVES AND ANSWER THE QUESTIONS:

1. Was it necessary for any of the government representatives to intervene in the process of peaceful event?
2. What moment was the most suitable for such intervention?
3. What remedies would be appropriate in this case on the part of the participants of the peaceful procession?
4. What actions might be taken next to resolve this situation and prevent similar events in the future?



UKRAINIAN PARLIAMENT COMMISSIONER FOR HUMAN RIGHTS

The Ukrainian Parliament Commissioner for Human Rights is the authority for parliamentary oversight that protects human rights in Ukraine. Under Article 55 of the 1996 Constitution, *“Everyone has the right to appeal for the protection of his or her rights to”* the Commissioner; this article emphasizes the crucial role of the judiciary in protecting human rights, as well as the importance of appeals to international institutions and the Constitutional Court.

According to the law,⁵⁸ the purposes of the parliamentary control exercised by the Commissioner are:

1. The protection of human and citizens’ rights and freedoms envisaged by the Constitution of Ukraine, the laws of Ukraine and international treaties of Ukraine;
2. The observance of and respect for human and citizens’ rights and freedoms by subjects indicated in Article 2 of this Law;
3. The prevention of human and civil rights violations and the facilitation of their restoration;
4. Facilitating the introduction of legislation on human and citizens’ rights and freedoms in accordance with the Constitution of Ukraine and international standards in this area;
5. Improving and further developing international cooperation support of human and civil rights and freedoms;
6. Preventing discrimination in relation to the fulfillment of personal rights and freedoms;
7. Legal education for the population and the protection of individual privacy.

Any individual in Ukraine can apply to the Commissioner if they believe that their

58 / Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights.”
<http://zakon0.rada.gov.ua/laws/show/776/97-Вр>

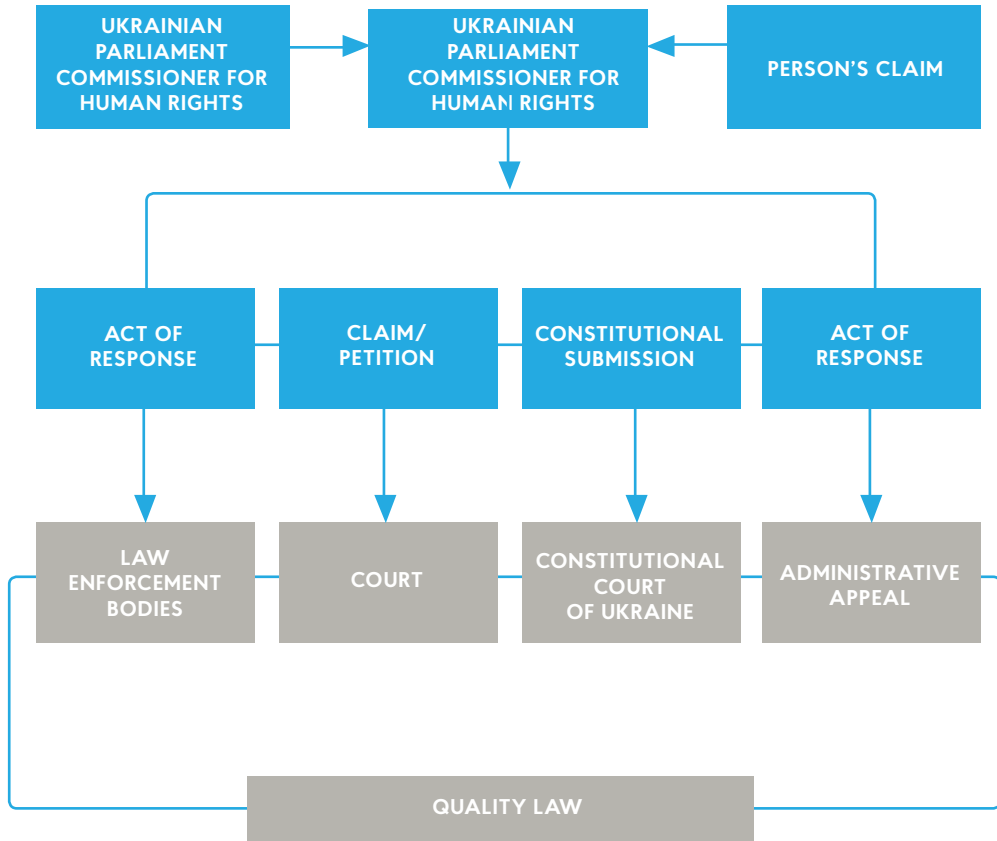
rights have been violated. A government website for the Ukrainian Parliament Commissioner for Human Rights explains that applications must be filed to the Commissioner in a written form within the period of one year after disclosure of the act of violation of human and citizens' rights and freedoms.

While on duty, the Commissioner is granted a wide range of powers. For instance, he or she has free access to local and national state agencies, enterprises, institutions and organizations. The Commissioner can visit court hearings and trials (including the closed trials if the subjects to it agree for the Commissioner to be present). The Commissioner also has the right to read relevant documentation, even if it contains classified information, and may visit detainees without prior notification.

It is the Commissioner's duty to provide an annual report on the condition of human and citizens' rights and freedoms in Ukraine, to be presented to the Parliament during the first quarter each year. The report documents violations of human and civil rights and freedoms, measures taken by the Commissioner, the results of inspections conducted within the past year, and conclusions and recommendations aimed at ensuring the protection of rights. For example, one recent report, *"Human rights and freedoms violations in Ukraine. November 2013 – February 2014 events,"* focused, among other things, on that year's revolution and certain problems in the ATO-zone.

Figure 5:

Authority of the Ukrainian Parliament Commissioner for Human Rights





EXERCISE 5

THE ROLE OF THE UKRAINIAN PARLIAMENT COMMISSIONER FOR HUMAN RIGHTS

Consider the examples below of actions of the Ukrainian Parliament Commissioner for Human Rights activities and respond to the questions that follow.

Example 1: Responding to the death of a convicted inmate during his stay in a Khmelnytskyi detention facility, the Ukrainian Parliament Commissioner for Human Rights opened an investigation. They did so because of the circumstances of the prisoner's death, which violated important security issues for persons held under the control of the state.

Example 2: The Ukrainian Parliament Commissioner for Human Rights sent an act of response to the General Prosecutor's Office of Ukraine for conducting a proper investigation into the torture of a Ukrainian citizen, and into other violations of his rights by police officers committed during an interrogation.

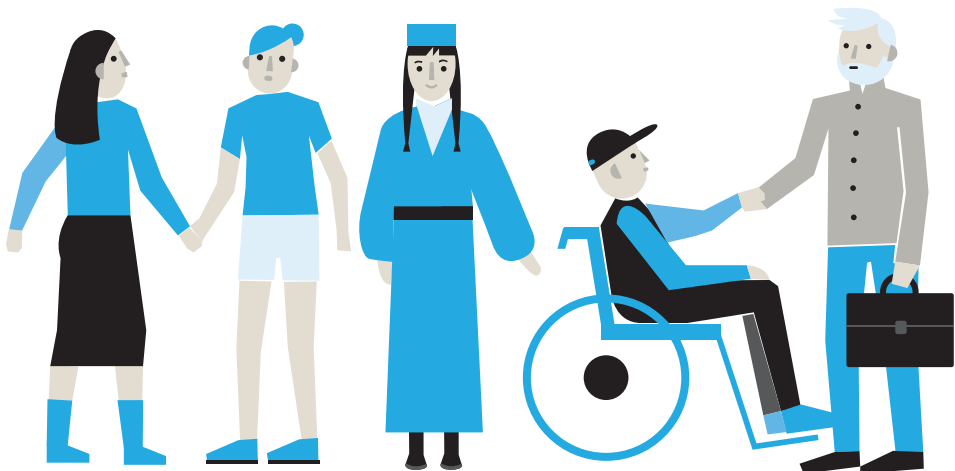
QUESTIONS –

1. What powers of the Ukrainian Parliament Commissioner for Human Rights are revealed by each example?
2. In each case, did the actions taken appear to be effective in protecting the human rights in question?
3. Do you believe the Ukrainian Parliament Commissioner for Human Rights is an important mechanism for human rights protections in Ukraine?



CIVIL SOCIETY ORGANIZATIONS

Beyond the national systems described above, civil society institutions play a significant role in the protection of human rights. These institutions can provide legal assistance and support to a person in resolving issues in a state or self-government body. They also provide public monitoring, produce reports on human rights conditions, and organize information campaigns aimed at drawing attention to human rights violations. In the next section of this text you will learn much more about the important role civil society organizations play in a democratic state.



2.6

APPLICATIONS AND CHALLENGES TO HUMAN RIGHTS

Despite the inviolable and inalienable nature of human rights, human beings do not always respect the rights of others. Therefore, governments have a responsibility to ensure the realization of human rights. However, since governments are also responsible for ensuring the security of the people, they sometimes find it necessary to limit the rights of individuals in order to address the needs of society. Such limits should be based on special circumstances, such as imposing a government curfew during a time of large scale violence and public disturbance, or a natural disaster. Limitations to human rights should also be in compliance with the constitution of respective state and the norms set forth by international legal acts.

At times it is difficult and may seem impossible to uphold the rights of all individuals. As was presented above, negative rights imply that there should be no outside interference limiting an individual's fulfillment of their rights, however the obtainment of positive rights require government intervention. This raises the question: Can two people both be free if one has to take from the other in order to obtain their rights? Questions dealing with issues such as the right to life versus the state's right to use force to ensure the security of the people illustrate the potential for disagreement.

Human rights are viewed to be interdependent with all human rights understood as being equally important and valued. This is the idea reflected in interrelations and interdependence of human rights. How does this work in reality? Article 3 of the UDHR states, *"Everyone has the right to life, liberty and security of person."* In some nations the use of the death penalty is not seen to be a violation of one's human rights when a violent crime has been committed and the individual sentenced to death has received due process. Does this violate the right to life under Article 3, or does this honor the right of security of person by removing a dangerous person from society?

CONCLUSION

It is crucial to remember that a government is only as effective as the people who participate in it and monitor it. A healthy democracy that is committed to the realization of human rights for all individuals depends on many things such as the structure of government and the nature of its laws. However, the responsibility to uphold human rights extends beyond government to the people. Eleanor Roosevelt, human rights activist and wife of the U.S. President Franklin Roosevelt, said,

“Where, after all, do universal human rights begin? In small places, close to home – so close and so small that they cannot be seen on any maps of the world. ... Unless these rights have meaning there, they have little meaning anywhere. Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world.”

What role can you play to ensure human rights protections both close to home and throughout Ukraine? In the next sections of this text you will learn more about the structure of government and how members of society can individually and collectively engage in this endeavor.



SECTION 3

**CONSTITUTIONALISM,
LIBERAL DEMOCRACY
AND DEVELOPMENTS
IN UKRAINE**

“The privileged are usually not inclined to protect and further the interests of the oppressed...partly because to some degree their privilege depends on the continued oppression of others. ”

– Iris Marion Young⁵⁹

⁵⁹ / Iris Marion Young. "Polity and Group Difference: A Critique of the Ideal of Universal Citizenship." In Beiner, R. (Ed.) *Theorizing Citizenship*. Albany, NY, 1995. p. 189.

So far in this text you have learned that democratic governments should serve the interests of the people, protect the human rights of all and provide for the common good. However, you have also learned that throughout history these responsibilities have been neglected, sometimes with tragic results. If those in power are inclined to use their power to protect their own interests, as political scientist Iris Marion Young states in the quote on the previous page, how can this tendency be prevented? There are many mechanisms of democracy that help prevent abuses of power, such as transparency so the people are aware of the actions of government and can monitor for corruption. One of the most basic means of preventing abuses of power lies in the nature and structure of government. Most democratic countries today rely on what is known as a system of constitutionalism to guide this structure.

Constitutionalism can be described as a system where the authority of government comes from and is limited by a body of laws – a “**constitution**.” Under this system, government officials are bound by limitations of power and procedures which are set out in the supreme law of the community.

Therefore, a defining feature of constitutionalism is the concept of limited government under a higher law.⁶⁰

Constitutions can be written documents or a set of fixed norms or principles generally accepted as the fundamental law of the polity. A constitutional system of government is considered to be a necessary feature of modern democracies by limiting autocratic tendencies of governments and defining the rights of citizens. However, governance systems based on constitutionalism can vary greatly in the rights citizens have and how the government uses its power. Therefore, to understand the nature of a country's government, a study of the constitution can be useful. There are instances in which a nation proclaims that the aim of the constitution is to establish democracy, however, in practice the rights of the people may not be secure and government may abuse its power. An example of this was under the Soviet Union where all levers of power were in the hands of the Communist Party: under this regime, the human rights declared in the

60 / Philip P. Wiener. "Dictionary of the History of Ideas: Studies of Selected Pivotal Ideas." In David Fellman "Constitutionalism." 1973. Vol 1. p. 485, 491-92.

constitution lost their importance. Therefore, the Soviet Union was never a liberal democracy.

In this chapter you will learn about:

- The concept of constitutionalism and its relationship to democracy;
- The evolution of constitutionalism in Ukraine;
- The structure of government in Ukraine;
- The significance and features of the electoral process in a democracy;
- The role that political parties play in democracies and in Ukraine.

The goal is for you to better understand these topics so that you may analyze developments in Ukraine to determine how the system is helping to achieve democratic ideals, as well as to assess where more work needs to be done.

3.1

CONSTITUTIONS AND THE STATE

UNDERSTANDING “CONSTITUTIONALISM”

A constitution is a legal document that reflects the most important social and political relations and agreements that eventually embody the real way of life of a society. A constitution defines the organization of government within a state. Accordingly, powers and responsibilities of every level of government – presidential, executive, parliamentary, and judicial – are regulated by a constitution. Constitutional regulations and accords balance a society’s values in order to provide a safe and respectable existence for the individual and the citizen, while also ensuring their rights and freedoms.

A constitution is the document responsible for harmonizing and balancing freedom, equality and order to secure human rights and fundamental freedoms. When a government is restricted in its freedoms, its ability to commit oppressive acts against an individual is restricted. This is what makes a constitution the supreme law of a country, providing key guidelines for individuals and for democratic governments.

John Locke and Charles-Louis Montesquieu (1689-1755), a French philosopher of the Enlightenment, played fundamental roles in the development of the theory of constitutionalism. Locke asserted that humans had been born free and equal and that these two fundamental values had to be reflected in the political life of the country. He thought that any government could aspire to overstep the limits of its power for its own interests and ignore the interests of the people. As a result, fundamental human rights and freedoms could be violated. Therefore, Locke said, if the government’s power was not limited, there was the danger of an abuse of power. According to Locke, a constitution should define limits to powers granted

government. Locke also believed that power should be divided among government entities in order to avoid its concentration in one branch of government, with potentially dangerous results.



**Charles-Louis
Montesquieu
(1689-1755)**

Montesquieu advanced the theory of “separation of powers” in his work the “Spirit of the Laws” (1748). Montesquieu shared Locke’s viewpoint on the danger of uncontrolled power of government. According to Montesquieu, the legislative, executive and judicial powers should be separated. In the past these three powers were concentrated in the hands of the king, therefore, such concentration was often the danger. Montesquieu theorized that if these three powers are separated but made mutually dependent on each other, and at the same time balance each other, there will be a system of governance that serves universal interests while constraining the behavior of the government. This, in turn, will become a basis for implementing “the rule of law,” where no individual is above the law and all are equal under it.

Montesquieu’s theory greatly influenced the development of modern systems of governance and took an important place in history. While creating their Constitution in the eighteenth century, Americans applied his concept of a separation of powers.

Separation of power means a constitutional distribution of power, authority and responsibilities: the **legislative** branch (in Ukraine the Verkhovna Rada), the **executive** branch (head of state, typically the president or prime minister, or in Ukraine the Cabinet of Ministers) and the **judicial** branch (the court system). Critical to this system were the “**checks and balances**” included in the Constitution, which created a legal balance between the branches of government, acting as a deterrent against the abuse of power by a single branch or individual.

A strong system of “checks and balances” is one way that Americans have protected their country against tyranny and the abuse of power. For example, the

United States Congress can pass laws but the president can veto them. Even if the congress and president agree on a law, the Supreme Court can decide that it is unconstitutional if the court is petitioned to rule on the law. Citizens also play an important role, ensuring that the system of “checks and balances” functions properly, and speaking out when it does not. Many democracies throughout the world today apply these concepts of separation of powers and checks and balances.

CHALLENGES TO CONSTITUTIONAL DEMOCRACIES

In modern, liberal democracies, citizens enter into the social contract by giving consent to be governed through the process of choosing their representatives. Regular and fair elections are essential to liberal democracies. Through this process, the people grant authority to members of government to provide protection and security for the citizens. The holding of regular and fair elections is an essential feature of democracy, allowing the citizenry to vote out of office leaders who do not appear to serve the people well. However, even leaders who are elected can become abusive of their powers, so clearly additional safeguards must exist to protect against tyranny. Therefore, another theme introduced in this chapter is the need to *limit the powers of government* in order to protect against abuses. Throughout history and in the present day, there are many examples of governments that use their power in ways that do not protect the rights of the people governed.

There are numerous cases in the world when particular rulers or groups exercise absolute power over the people despite the existence of a formal constitution. These countries are called authoritarian political regimes. In authoritarian countries, power is seized by one person or group; instead of executing the people’s will, the government’s will is executed by the people. In such situations, as a rule, the government maintains power and strengthens it through unlawful use of force and terror. An authoritarian regime may arise not only through coups, but also without a coup as a result of the seizure of power. There are often cases, especially in former Soviet Union countries, where governments are formed through elections that are more or less fair, but those in power do not want to give

up their position and try to maintain power endlessly. In such cases, the rule of law must be asserted through another branch of government such as the judiciary, enabling free, fair and regular elections to take place.



EXERCISE 1

LESSONS FROM HISTORY: DEMOCRACY TO TOTALITARIANISM

Germany was a democracy prior to the rise of Hitler and the Nazi Party. Following the defeat of Germany in WWI, the German monarch fled the country and the Weimar Republic was established. This was the first democracy in Germany's history, complete with a constitution, elections, a parliament, and separation of powers. In 1920, 459 elected representatives served in Germany's Parliament, called the Reichstag.

A description of Germany in the 1920s included the following characteristics:

"...a constitution that established separate branches of government, numerous outlets for creative expression, many groups vying for political power through an electoral process, a plentiful dose of cultural disagreement—characteristics familiar to many democratic nations today. The Weimar Constitution granted women the right to vote while this right was still being denied to women in the United States. The constitution also protected civil liberties and religious freedom."⁶¹

However, this was also a time of turmoil in Germany. The nation was still suffering the effects of war and the harsh conditions imposed by the peace treaty that ended

⁶¹ / "Decision-Making in Times of Injustice." Facing History and Ourselves Foundation, Inc. 2009. p. 90.

WWI, as well as soaring inflation. These conditions left many Germans distressed and fearful of the future. The Nazi party played on these feelings by promising a better future and blaming Jews for many of the problems. At a time when people wanted solutions, the message of the Nazi party was attractive to many. In 1933, the Nazi party had gained sufficient support to place 228 members in the Reichstag, which gave them a majority in government and placed Adolf Hitler as the Chancellor of Germany. Thus, Hitler came to power through democratic processes. By the middle of 1933, however, Hitler and the Nazis passed new rules that made all other political parties illegal, giving them complete control of the government.

There were many in Germany who opposed the Nazi party. One such group was the Communist Party. Hitler used his power to intimidate members of the Communist Party but the Constitution of Germany protected citizens' rights to form political parties. Then, in 1933, the Reichstag building was set on fire and Hitler saw an opportunity: he blamed members of the Communist Party for the fire and he called for measures to restore order and protect the public by urging the president to invoke Article 48. That article which stated:

"In case public safety is seriously threatened or disturbed, the Reich President may take the measures necessary to reestablish law and order, if necessary using armed force. In the pursuit of this aim, he may suspend the civil rights described in articles 114, 115, 117, 118, 123, 124 and 153, partially or entirely."⁶²

The measure was enacted and the effect was to suppress the civil rights of many in Germany. Under this action Hitler had many members of the Communist Party arrested and jailed as threats to society, and eventually he was able to weaken the Communist Party's power in Parliament. Without sufficient opposition in Parliament, the Nazis were able to pass laws which further strengthened their power. These laws included the Enabling Act, which suspended the Constitution, and the Law Against Establishment of Parties, which outlawed all political parties except the Nazi party.⁶³ Thus began Hitler's totalitarian rule.

⁶² / Ibid. p. 116.

⁶³ / Ibid.

REFLECTION QUESTIONS –

- How were Hitler and the Nazi party able to use the instruments of democracy to create a dictatorship?
- What conditions made it possible for the Nazi's to obtain power?
- What actions are needed to ensure that this doesn't happen again?

A totalitarian state is an extreme form of authoritarianism. The Soviet Union of Stalin's period and Nazi Germany under Hitler are classic examples of totalitarian states. In a totalitarian country, the state totally or fully controls all fields of the society's life. One ideology and one political party dominates, public organizations are banned, in most cases private property and entrepreneurship are totally prohibited (as in the Soviet Union) and all branches of government obey the leader of the party. A separation of powers is totally unacceptable for totalitarian political regimes. Constitutions adopted in such states may contain special articles designed to present a "rule of law," but this is only on paper and not the reality. In a totalitarian regime, individuals and society only serve the state and any critic or opposition can be punished by death, property confiscation, or exile. The government typically takes actions to deprive people of their civil liberties so they are not able to protest the system. Persons criticizing or opposing the government, as a rule, are regarded as traitors of their country and they are usually fully left out of the society. Decisions over housing and work are made by the government and basic rights such as freedom of expression are denied. Individuals who defy the government may be sent to labor camps or even executed. The government also controls the information the public receives through state-run TV and radio. Almost no outside news can be obtained in this country where the internet is not accessible to the people. In modern China, there are elements of totalitarian rule with a system based on the concept of "great leader," one-party (communist) rule and one communist ideology, and limited civil liberties. However, there are also elements of private property and market competition in modern China.

3.2

UKRAINE AND CONSTITUTIONALISM

A BRIEF HISTORY OF CONSTITUTIONALISM IN UKRAINE

Throughout the history of Ukraine there have been many attempts to institute a constitutional system of governance; modern scholars identify a constitutional tradition dating back to the Kyivan Rus. The 18th century's Constitution of Pylyp Orlyk is noteworthy in that it divided state power in Ukraine between legislative powers given to the Council, executive powers to the Hetman, and judicial powers to the General Court. However, during a long history of rule by Russia, Poland and other nations, the vast majority of people were denied basic political, social and economic rights under the rigid class system of the ruling aristocracy and the masses of peasants. During period of revival of the national Ukrainian state (1917-1920), there were constitutional and legal acts which offered glimmers of democratic reform. With the rise of the Bolshevik Revolution in Russia, the imperial rule of the Tsars was toppled, leading to massive social and political upheaval throughout the region. This led to a resurgence of nationalism in Ukraine and to the formation of the several Ukrainian government structures proclaimed through four Universals of the Central Council of Ukraine. Attempts at democratic advances were made during this period with a strong emphasis on the sovereignty of the people of Ukraine. As you read the information regarding provisions of the Universals, you may notice tensions between the values expressed in the documents and the realities. For example, the First Universal proclaimed Ukraine's autonomy within Russia and called an All-Ukrainian Assembly to be convened, elected by equal, direct and secret ballot. In addition, it proclaimed that Ukrainian communities should work on democratic principles with other nationalities to build Ukraine's autonomy. However, the First Universal also informed the people that the Interim Russian Government refused to negotiate on the issue of Ukraine's autonomy,

and that it “refused to give the money that collected on Ukrainian land to be used for school, education and organization in Ukraine.” What does the inclusion of this information suggest about the autonomy of Ukraine at this time and the true nature of democratic reform in the country?

Under the Fourth Universal, full independence for Ukraine was proclaimed in 1918. The Fourth Universal provided for the welfare of the people with provisions for a



“Land Commission...to give land to the peasants without pay” and governmental control over the banks who were “supporting the non-working class; instead banking loans should be mainly provided to develop Ukraine’s economy and not for speculation and profit-making.”

It is evident from these provisions that the goal was to create a nation with more equality and protection for the common people. However, the influence of the government was not able to take full effect due to the end of the Central Council of Ukraine on April 29, 1918. From that date on, the state was governed by the Soviet-era constitutions of Ukraine (1919, 1929, 1937, and 1978).

The Soviet Constitutions proclaimed the sovereignty of the people along with a wide range of democratic rights and freedoms. For example, the Constitution of 1937 included many guarantees such as universal suffrage and the direct election of all government bodies. Other collective social and economic rights were included such as the rights to work, rest and leisure, health protection, care in old age and sickness, housing, education, and cultural benefits. However, there were wide discrepancies between the declarations of freedoms found in the constitution and laws, and the actions of government.

A comparison of provisions in the Soviet Constitutions to examples from this period provide insight to the status of democracy at this time. For example, Article 125 of the Constitution of 1937 guaranteed freedom of speech, of the press, and of assembly. However, in the period of 1934-1940, what is known as the “Great Purge”⁶⁴ took place where many individuals who expressed views deemed to be politically deviant were arrested, jailed and even killed.

64 / Zvi Gitelman. “Jewish Identities in Postcommunist Russia and Ukraine: An Uncertain Ethnicity.” Cambridge, 2012.

One such example of this is the case of Oleksander Shumskyi. Shumskyi served as the commissar of education from 1924-1927 and he actively worked to implement a “Ukrainization” policy. He argued for the recruitment and appointment of Ukrainians to leadership positions in government and in 1925 he even protested an appointment made by Stalin, arguing in favor of a Ukrainian appointment instead. In February of 1927, Shumskyi was relieved of all of his duties and was referred to as a “national deviation.” In May of 1933, he was arrested and accused of leading an anti-Party, counter-revolutionary movement. Shumskyi’s case was just one during the Great Purge, which has been described as “*a new type of terror in which the boundaries of those oppressed were practically nonexistent – any stain on the record, including mere association with a perceived enemy, brought one under suspicion of the NKVD, the Soviet secret police.*”⁶⁵

THE MODERN ERA & CONSTITUTIONALISM IN UKRAINE

During the period of the USSR collapse in the 1980-1990s, Ukraine moved to obtain independence once again and a new era in Ukrainian history began. August 24, 1991, is recognized as Independence Day in Ukraine, but what does this mean for the development of the democratic nation of Ukraine? In this text you have read much about the principles of democracy and how liberal democracy has developed and been practiced throughout history in different contexts. Now it is time to apply these ideas to the development of democracy in Ukraine. In all nations undergoing democratic reforms the process is often slow and difficult, with many stops and starts. This has been true of democratic development in Ukraine as well. As you read this section take note of the process and the factors that encouraged and inhibited democratic reforms.

The initial constitutional process in Ukraine after its independence in 1991 followed many stages: the creation of constitutional commissions and working groups; the preparation of several new draft constitutions of Ukraine, which

65 / Laura Hill. “The Great Purge of Stalinist Russia.” Guided History, 2013. <http://blogs.bu.edu/guidedhistory/moderneurope/laura-hill/>

reflected the positions of various political parties and groups; the conclusion of the 1995 Constitutional Treaty between the Verkhovna Rada of Ukraine and the President of Ukraine on the basic principles of the organization and functioning of state power and local self-government before the new Constitution of Ukraine would be adopted; the preparation of a new draft constitution of Ukraine; and the adoption of the Constitution of Ukraine by the Verkhovna Rada on June 28, 1996. The formation of a democratic government continued into the 21st century with more changes to the structure of government and great periods of social and political upheaval.

In March 1990, the first democratic elections during the Soviet era were held in Ukraine. The Verkhovna Rada remained in power until 1994, making it the last Parliament of the Soviet era and the first of the independent Ukraine. The majority of the Verkhovna Rada was held by the Communist Party of Ukraine ("Group 239") – however, there was an active minority group of 126 MPs that represented pro-democratic forces. This was significant in allowing for discussion in the Verkhovna Rada of issues of democratic reform that were not previously possible, thus challenging the Soviet rule. The session of the Verkhovna Rada was constantly broadcast on television and radio and the discussions that took place between deputies caused a great interest among citizens and showed a live connection between voters and their constituents. This contributed to further politicization of society, and millions of people believed themselves to be participants in this socially important polemic.

On August 24, 1991, the Parliament issued the Act of Declaration of Independence of Ukraine and a referendum for independence was held on December 1, 1991. The Verkhovna Rada of Soviet Ukraine approved the main ideas of a new constitution and initiated a commission to develop a new constitution for the Ukrainian Soviet Republic, yet throughout 1991-1993, the constitutional process in Ukraine did not produce results due to power struggles within the government, as well as resistance among many members of the Verkhovna Rada to seeking democratic reforms.

A new Verkhovna Rada and President were elected in early elections in the autumn of 1994. The new Verkhovna Rada was similar to the previous with a majority of members from the Communist Party. At this time another constitutional commission was convened, headed by the President of the State Leonid Kuchma and the Speaker of the Parliament Oleksandr Moroz. Members of the

Verkhovna Rada who represented the left politically were against the adoption of a new constitution. There was also a dispute between the President and the Communist majority in the Parliament, with each wanting to consolidate more power in their branch of government. This led to more delays in the adoption of a new constitution. Finally, on May 18, 1995, a Constitutional Treaty between the Verkhovna Rada and the President of Ukraine "On the Basic Principles of the Organization and Functioning of State Power and Local Self-Government in Ukraine until the adoption of the new Constitution of Ukraine" was signed. As a result of this document and the political power of the President, the office of the president became more powerful, though the Constitutional Treaty was only valid for one year.

As the end of the one-year period approached, there was no resolution on a new constitution. At this time the President threatened to dissolve the Verkhovna Rada, which was within his power. In order to avoid this fate, on May 11, 1996, a draft Constitution was prepared for consideration by the Verkhovna Rada; it was approved in its first reading on May 28, 1996. At the second reading on June 19, 1996, however, the project failed. Although the Verkhovna Rada was united on basic issues of human rights, there were many areas of disagreement. The biggest controversies were:⁶⁶

- distribution of authority between the Verkhovna Rada and the President;
- the issue of private property;
- which national symbols to adopt;
- the position of the Russian language;
- single / dual citizenship;
- republican status of the Crimea.

This provoked a new crisis, as the Constitutional Treaty expired. On June 6, 1996, Ukrainian President Leonid Kuchma decided to hold a nationwide referendum on the approval of the Basic Law. In response, most parliamentarians began a meeting on June 27th that culminated with the adoption of the Constitution of Ukraine June 28, 1996. During the "constitutional night," the MPs voted for each item by name. In the morning, at 9:20, the bill was supported by 315 votes (26 voted

⁶⁶ / V.M. Lytyn "Constitutional Process in Ukraine 1990-1996." Encyclopedia of the History of Ukraine. Institute of History of Ukraine, Kyiv, 2008. V.5 p. 568. http://www.history.org.ua/?termin=Konstitutsiyny_Protses_V_Ukraini

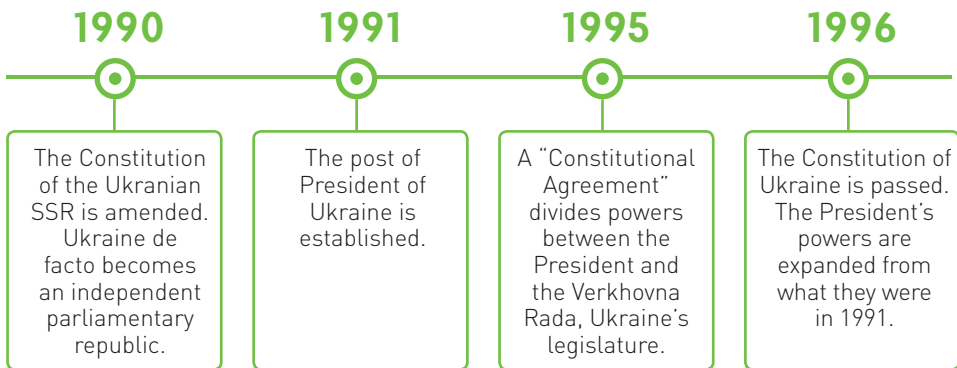
against it, 40 did not vote, and 12 abstained). The 1996 Constitution proclaimed Ukraine a republic of a mixed (presidential-parliamentary) type in terms of the form of government and a unitary state in terms of the state structure; it also authorized the division of state power into legislative, executive and judicial.

To reach the agreement and avert a constitutional crisis, many compromises were needed. Viktor Shyshkin, who served as an MP to the first Ukrainian SSR and then in independent Ukraine from 1990-1994, explains that:

"It was a compromise that lawmakers agreed to in order to get the necessary two-thirds vote: 300. And it most certainly was a compromise Constitution. Even a genius like Leonardo da Vinci couldn't be expected to build a propeller like the one in his drawings because society simply wasn't ready for it. The 1996 Constitution was a product of its times and I would call it a positive event. The question of language was a compromise; the issues of land, property and Crimea were all compromises."⁶⁷

Figure 6:

How the Constitution of Ukraine was Changed* (1990-1996)⁶⁸



*This list of changes is not complete, reflecting only the most significant changes to the Basic Law of the Ukrainian SSR and of Ukraine that affected the powers of those in office.

⁶⁷ / Andriy Holub. "Pre-Constitutional Changes." The Ukrainian Week, 2017. <http://ukrainianweek.com/Politics/198467>

⁶⁸ / Ibid.

Since 1996, the Constitution of Ukraine has undergone many more changes. Some of these changes have reshaped the nature of the government and redistributed the powers. As you read about these changes consider if they have had the impact of making Ukraine more democratic.

In 2004 amidst the Orange Revolution, the Constitution was changed to decrease the role of the President. Parliament, under pressure from President Kuchma, took this action to limit the power of the opposition leader Viktor Yushchenko, who was about to assume the office of the president after a contentious election and the mass protests. Thus, the 2004 law amended the form of government from the presidential-parliamentary, established by the Constitutional Treaty of 1995 and the 1996 Constitution, to the parliamentary-presidential. This meant that the Parliamentary coalition had the power to form the Cabinet of Ministers, not the President. If the Verkhovna Rada did not form a coalition within the term specified by the Constitution, then the government would not be formed and the President would have reason for terminating the powers of the Parliament ahead of schedule.

The 2004 constitutional amendments were passed in the Parliament with limited consultation and discussion between political forces and therefore were criticized by parties within Ukraine, as well as by external bodies such as the COE and the Venice Commission (an advisory body of the COE composed of independent experts in the field of constitutional law). One criticism was based on Article 159 of the 1996 Ukrainian Constitution, which required that,

“a draft law on making amendments to the Constitution of Ukraine shall be considered by the Verkhovna Rada of Ukraine upon the availability of an opinion of the Constitutional Court of Ukraine on the conformity of such draft law with the requirements of Articles 157 and 158 of this Constitution.”

However, the amendments in 2004 were made without the participation of the Constitutional Court. In an opinion issued in December 2010, the Venice Commission emphasized that the Constitution of Ukraine – both its original 1996 version and its 2004 version – explicitly requires a mandatory preliminary review by the Ukrainian Constitutional Court of any draft law on constitutional amendments.⁶⁹

69 / Ekaterina Mishina. “The Difficult Destiny of the Ukrainian Constitution.” 2004.

In 2010, the Constitutional Court of Ukraine declared the 2004 amendments to be unconstitutional and restored the effect of the 1996 Constitution. The argument behind this decision was the violation of the constitutional procedure in the consideration and adoption of the amendments. Despite earlier criticisms of how the 2004 amendments were adopted, this decision was also criticized. Some speculated that the decision came only after the resignation of four judges who may have been pressured to leave office. The Venice Commission wrote an opinion on the action stating that it

“considers highly unusual that far-reaching constitutional amendments, including the change of the political system of the country – from a parliamentary system to a parliamentary presidential one – are declared unconstitutional by a decision of the Constitutional Court after a period of 6 years. ...As Constitutional Courts are bound by the Constitution and do not stand above it, such decisions raise important questions of democratic legitimacy and the rule of law.”⁷⁰

The changes in 2010 once again caused a great shift in the powers of the Ukrainian government. Among these changes were:

- The terms of office of the members of the Verkhovna Rada, provincial legislative assemblies, and local councils were shortened from five to four years.
- The members of the Verkhovna Rada were not able to appoint the Cabinet of Ministers and chairpersons of the State Property Fund, National Antimonopoly Committee, Security Service of Ukraine, and National Committee for TV and Radio Broadcast, as they had formerly done.
- The power of the President of Ukraine was extended, and he was given the right to appoint and dismiss the Prime Minister, other members of the government, other heads of national executive bodies, and heads of provincial and local administrations.

70 / “The Opinion of the Constitutional Situation in Ukraine in Review of the Judgement of Ukraine’s Constitutional Court.” 2010.
[http://www.venice.coe.int/WebForms/documents/?pdf=CDL-AD\(2010\)044-e](http://www.venice.coe.int/WebForms/documents/?pdf=CDL-AD(2010)044-e)

- Reorganization of the government establishment and liquidation of national executive agencies were now included as functions under the sole jurisdiction of the President of Ukraine, who could also repeal the acts of the Cabinet of Ministers and of the Government of the Crimean Autonomous Republic within Ukraine.⁷¹

In 2013, Ukraine experienced massive political and social upheaval once again. In the fall of 2013, Ukraine was poised to sign an association agreement with the EU, which a plurality of Ukrainians supported.⁷² President Yanukovich unexpectedly pulled out of the agreement, however, which led to critics stating he was siding with Russia rather than taking the position that would benefit the citizens of Ukraine. As a result, protests erupted in Kyiv with large participation among students. The protests turned bloody when police used physical violence against the protesters, leading to massive protests in Kyiv and throughout the country. In response to the protests Yanukovich was forced to flee the country and abdicate his position. Then on February 21, 2014, the Parliament passed a law that reinstated the 2004 Constitution with a weaker President and stronger Parliament, which again became responsible for forming the Cabinet.

In 2016, the Constitution was amended once again, this time with the goal to reform the judicial system. A public council of integrity was established with the task to vet candidates for positions of judges and acting judges for compliance with the criteria of professional ethics and integrity – ensuring, for example, that their lifestyle is commensurate with their publicly declared salary to deter bribery. Thus, a transparent contest for the positions of judges of newly formed higher courts was conducted. This step was considered necessary since the judiciary was often seen as a means for government officials to exert influence by controlling the courts through forced resignations and the appointment of politically loyal judges.⁷³ The contest for judges of the Constitutional Court of Ukraine continues and the system provides hope, that the election of judges of higher courts will not be the result of agreements among the authorities, but as a result of the competition.

71 / "Ukraine: The 1996 Constitution Is Reinstated." The Library of Congress, 2010. <http://www.loc.gov/law/foreign-news/article/ukraine-the-1996-constitution-is-reinstated/>

72 / "Almost half of Ukrainians are for Signing an Association Agreement with the EU." <https://ua.interfax.com.ua/news/general/174482.html>

73 / Yuliya Kyrychenko. "Ukraine's More Accessible and Independent Constitutional Court." <http://pravo.org.ua/en/news/20872316-ukraines-more-accessible-and-independent-constitutional-court>

Figure 7:**How the Constitution of Ukraine was Changed* (2004-2016)⁷⁴**

*This list of changes is not complete, reflecting only the most significant changes to the Basic Law of the Ukrainian SSR and of Ukraine that affected the powers of those in office.

THE SOVEREIGNTY OF THE PEOPLE

Despite the complexities of the constitutional process in Ukraine, all editions of the Constitution call for basic principles of democracy: the people are the bearers of sovereignty and the only source of power in Ukraine; the people exercise power directly as well through state authorities and local self-government; state power is divided into legislative, executive, and judicial branches; and local self-government is recognized and guaranteed. However, the history of Ukraine as an independent nation proves that having these norms in the Constitution is not enough to ensure democratic principles will be upheld. This requires vigilance among the leaders and the people.

⁷⁴ / Andriy Holub. "Pre-Constitutional Changes." The Ukrainian Week, 2017. <http://ukrainianweek.com/Politics/198467>



EXERCISE 2

EVALUATING CHANGES TO THE CONSTITUTION OF UKRAINE

To fully appreciate the impact of these changes on society as a whole is difficult. An indicator of the impact of “political” constitutional changes should be a stable sustainable government system that effectively ensures the fulfillment of the positive and negative obligations of the state, regardless of the change of political elites. Based on your understanding consider these questions:

1. Do you think the constitutional changes have improved political, social and economic conditions in Ukraine?
2. Where do you think democratic reforms have been successful?
3. Where do you think more reform is needed?

3.3

ADMINISTRATIVE-TERRITORIAL DIVISION AND STRUCTURE OF GOVERNMENT IN UKRAINE

ADMINISTRATIVE-TERRITORIAL DIVISION OF UKRAINE

According to the Constitution, Ukraine is a **unitary** state. In its territory there is a unified system of higher state power and administrative institutions, the jurisdiction of which extends to the whole territory; the Constitution and the legislation are in force throughout the entire territory. Additionally, there is a single system of judicial and constitutional control, a single citizenship, justice is carried out within the framework of a centralized system based on uniform rules of material and procedural law, the country has one currency, one capital, and one set of state symbols and other attributes of statehood.

The territory of the state is divided into ordinary administrative-territorial units. The system of administrative-territorial organization includes the Autonomous Republic of Crimea, oblasts, rayons, cities, districts in cities, villages and settlements. The Autonomous Republic of Crimea is the only region in Ukraine that has autonomy. In accordance with the Constitution of Ukraine, the Autonomous Republic of Crimea has *administrative* autonomy. At the same time, there have been ongoing discussions on the status of the peninsula since the drafting of the 1996 Constitution. The essence of this “opinion conflict” is contained in the fact that the Crimean autonomy has many features of *political* autonomy: its own government (the Council of Ministers), parliament (Verkhovna Rada), its own legislation (including the Constitution). Actually, the very name “republic” may indicate that

Crimea's autonomy is not purely administrative. Other researchers consider Crimea's autonomy to be semi-political. Proponents of national autonomy assert that the territory of this relatively small peninsula accommodates more than 100 nationalities and peoples who have their own traditional way of life, history, culture, customs, etc. However, the presence of an autonomous region in Ukraine in no way casts any doubt on the unitary nature of the Ukrainian state.

Due to Russia's military aggression in the east and occupation of Crimea, Ukraine does not have full control of parts of its territory. The autonomous Republic of Crimea and the city of Sevastopol are occupied by the Russian Federation (the start date of the occupation is agreed to be February 20, 2014⁷⁵); also, certain regions of the Donetsk and Luhansk oblasts have been (since April 2014) under control of Russia-led forces. The international community has deemed the Russian Federation an aggressor and named it responsible for violating the territorial integrity of Ukraine, and infringements on human rights and freedoms continue in territories under Russian control.

Among reforms declared by the state authorities in 2014 is the administrative-territorial one, the Concept of Reforming Local Self-Government and Territorial Structure of Power.⁷⁶ The purpose of this reform is to transfer most of the authority from state institutions to local communities. At the moment, this is one of the tasks of the Constitutional Amendment Commission.

STRUCTURE OF GOVERNMENT IN UKRAINE

Constitutions, as a rule, separate powers not only horizontally (at the level of national central power), but also vertically (locally, regionally). Because all states are composed of territorial entities (city, province, region or countryside), each state needs to systematize these territorial units. This is essential to make it easy for national authority to govern the state on the one hand, and to enable population to be close to its government and resolve the problems of daily life on the other.

75 / Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and Legal Regime in the Temporarily Occupied Territory of Ukraine." <http://zakon5.rada.gov.ua/laws/show/1207-18>

76 / "Decentralization." <http://decentralization.gov.ua/en/about>

In Ukraine, the bodies of state power are divided by functions: legislative, executive, and judicial, along with the President of Ukraine as Head of State. This division represents a separation of powers horizontally among the different branches of government, as well as vertically among the different levels of government and the populations served.

Ukraine is also divided vertically into local self-governments, regional governments and the national government. Both the horizontal and vertical divisions are discussed in this section.

LOCAL GOVERNANCE

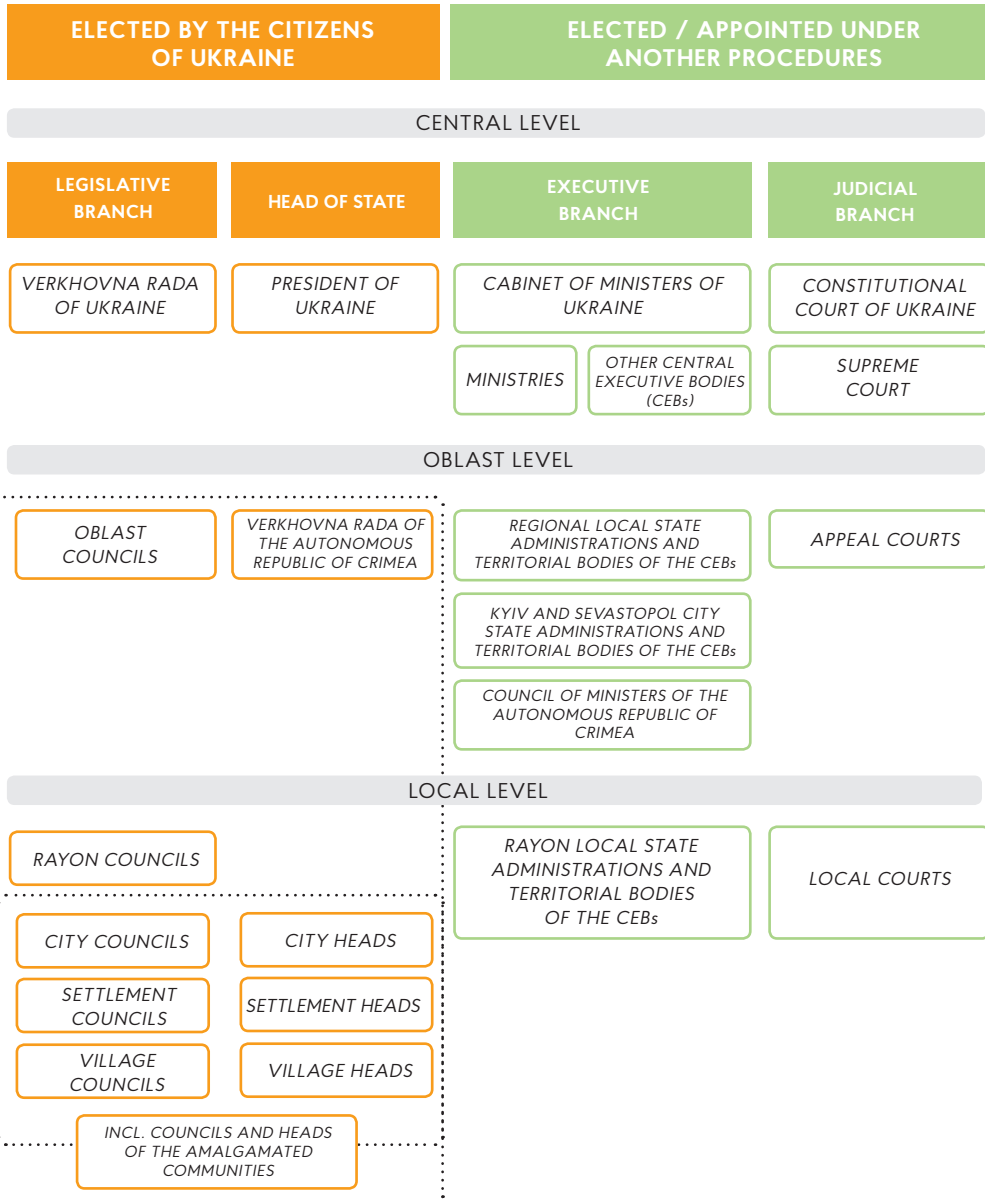
Though political infighting on the national level attracts most of the media attention, in fact many issues of concern for people are the responsibilities of the local authorities.

The administrative division in Ukraine was directly inherited from the local republican administration of the Soviet Union, the Ukrainian SSR, and has not changed significantly since the middle of the 20th century. Beginning in 2014, there has been an effort to decentralize the power in Ukraine, moving much of the power from the central government to the local level.

Local self-government bodies (village, settlement, and city councils), as well as village, settlement, and city mayors (acting as heads of councils) are elected by citizens at local elections. The system of local governance in Ukraine is not efficient at the moment (which is the main reason for reforming it now); nevertheless, local authorities are directly responsible for running the schools and primary healthcare facilities, as well as other issues of importance such as the provision of public transportation, utilities, sewage/waste, and drinking water quality control.

Figure 8:

Structure of Government in Ukraine



This means that if you are not happy with your tram route or you believe your local park needs improvement, you should not write to the President, but instead talk to your local representative or government.

Though local self-government is very important for a thriving democracy, it is only successful in representing and engaging the local population when the people are informed and engaged. Without this engagement, it is possible for a few individuals to amass great power at the local level and serve their own interests. Just as citizen engagement and the principles of democracy are important at the national level, so are they at the local.

REGIONAL GOVERNANCE

Currently, Ukraine is divided into oblasts (or regions).

They are governed by a **regional state administration**; Heads of the Regional State Administrations are appointed by the President after a nomination by the Cabinet of Ministers. As an executive body, the Heads of the Regional State Administrations and regional state administrations are responsible for implementing state policies at the regional level.

For example, they assist in implementing the state program “Affordable Medications” (initiated by a national authority, the Ministry of Health, in 2017) by raising awareness about the program among regional residents, engaging local pharmacies to take part in the program, distributing state funds allocated to finance the program at regional level, etc. Regional state administrations also develop and implement strategies of development for the region, and they oversee that national legislation is implemented on the local level.

NATIONAL AUTHORITIES

On the national level the power is separated between legislative, executive and judicial power.

THE LEGISLATIVE BODY

The **Verkhovna Rada of Ukraine** is the representative body of all the people in Ukraine. This body adopts laws, which are the major rules that regulate the behavior of individuals, groups and legal entities.

The laws must comply with the Constitution of Ukraine. The Verkhovna Rada also controls other public authorities — the President, the Cabinet of Ministers, the courts. For example, the Verkhovna Rada is responsible for forming the Cabinet of Ministers. In order to do this, they have to officially form a coalition which will represent the majority in the Parliament. Then the coalition nominates and vote for ministers. The Parliament also controls the Cabinet, as it can summon the Cabinet or individual ministers to report on different issues in the Parliament or in its committees. This is part of the checks and balances system, which will be discussed further below.

BODIES OF EXECUTIVE POWER

In order to ensure the implementation of laws and the realization of people's rights and freedoms at the national and local levels, there are several **bodies of executive power** in Ukraine. These include the government (the Cabinet of Ministers of Ukraine), central executive bodies (ministries, services, agencies, inspections), local executive bodies (Council of Ministers of the Autonomous Republic of Crimea, local state administrations).

The highest body in the system of executive power is the Cabinet of Ministers of Ukraine. This is a collegiate body consisting of the Prime Minister of Ukraine (Head of Government), the First Vice Prime Minister and other Vice Prime Ministers (Deputy Prime Ministers) and Ministers — heads of ministries. The ministers are heads of separate ministries (except for the Minister of the Cabinet of Ministers, who is responsible for organization of the work of the Cabinet). Ministries are central executive bodies (CEBs) responsible for specific policy areas. Additionally, there can be other types of CEBs, like services (State Statistics Service, State Tax Service or State Emergency Service), agencies (State Agency for Roads or State Agency for Civil Service) and inspections (State Inspection for Educational Institutions or State Inspection for Atomic Regulation). The chart on the next page illustrates the structure of executive bodies in Ukraine.

The government collectively makes decisions affecting the whole state in compliance with the Constitution and laws of Ukraine. Draft decisions are developed by central and local executive authorities in accordance with their authority and submitted for consideration before the government. For example, draft regulations on the provision of medicinal products is developed and submitted for consideration to the Cabinet of Ministers by the Ministry of Health. After a decision is made, this Ministry is responsible for implementing it.

THE PRESIDENT OF UKRAINE

The President is not formally related to a branch of power and does not head any of them, unlike the head of state in a presidential republic (such as the USA, Belarus, or Brazil) or in an absolute monarchy (such as Saudi Arabia or Qatar). Instead, he is the head of state and must guarantee that the Constitution is observed and rights and freedoms of citizens are secured. He is a part of the system of checks and balances and has to prevent the abuse or usurpation of power by one state body.

Figure 9:

Structure of the Executive Bodies in Ukraine



THE JUDICIARY

The right to judicial protection is one of the fundamental human rights and is guaranteed by Art. 55 of the Constitution of Ukraine. According to the Constitution, everyone may challenge, in court, the decisions, actions, and inactions of state authorities, local self-government bodies, officials, and public servants. Justice in Ukraine is the province of the courts; Art. 124 of the Constitution of Ukraine emphasizes this special function of the judiciary and prohibits its delegation to or appropriation by other authorities and officials.

The organization of the judiciary and their administration of justice are determined by the Law of Ukraine "On the Judiciary and the Status of Judges." According to this Law, courts in Ukraine are defined by three principles: territorial principle (the jurisdiction of each court is restricted by territory), court's specialization (certain courts hear certain categories of cases which allows the judicial system to proceed more efficiently), and their position (or "instance") in the appeals process (verdicts in lower courts may be appealed to in a higher court, such as the appropriate court of appeal or the Supreme Court).

The highest body in the system of general jurisdiction courts is the Supreme Court. General local courts and courts of appeal are also included in this system. They resolve civil disputes (such as divorce cases, cases related to conclusion and fulfillment of contracts, cases related to acquisition of inheritance rights, etc.), as well as criminal and administrative offense cases; they also consider any other categories of cases not pertaining to the terms of reference of the specialized courts or the Constitutional Court.

Moreover, to ensure more efficient consideration of certain categories of cases, the specialized courts were created in Ukraine, namely, local and appellate commercial courts (they consider disputes relating to commerce), as well as district and appellate administrative courts (they consider cases brought by or against the state (that is, against government authorities or officials).

The Constitutional Court of Ukraine has a unique role in the judiciary system of Ukraine. It is vested with the sole authority to interpret the Constitution and the laws of Ukraine; it also adjudicates the constitutionality of laws, as well as decrees by the President of Ukraine, the Cabinet of Ministers of Ukraine and some other governmental bodies in Ukraine. The Constitutional Court plays a key role in implementing the principle of the separation of power, a system of checks and balances, and the rule of law.

3.4

MECHANISMS OF DEMOCRACY IN GOVERNMENT

THE SYSTEM OF CHECKS AND BALANCES

As mentioned in the previous chapter, the principle of separation of powers is based on a system of checks and balances, which is implemented by combining the principles of interaction and interdependence of the branches of state power. The main “players” of the system of checks and balances according to the Constitution of Ukraine are the Verkhovna Rada, the President, the Cabinet of Ministers, the Constitutional Court (the only body of constitutional jurisdiction) and the Supreme Court (the highest judicial body). This system is expressed, first of all, through the powers of these bodies, which include strictly defined mutual restrictions.

SIMILAR TO THE CONSTITUTIONS OF OTHER STATES WORLDWIDE, THE CONSTITUTION OF UKRAINE PROVIDES FOR THE FOLLOWING ELEMENTS OF THE SYSTEM OF CHECKS AND BALANCES:



A veto by the President on the law passed by the Verkhovna Rada;



A mechanism for overcoming the President’s veto by the Verkhovna Rada, as well as the promulgation of the law by the Verkhovna Rada in case it is not signed by the President after overcoming the veto;

- ✓ The impeachment of the President by the Verkhovna Rada, which leads to his or her removal from office;
- ✓ The participation of the Supreme Court and the Constitutional Court in the procedure for the President's impeachment on behalf of the Verkhovna Rada;
- ✓ The early termination of the Verkhovna Rada's authority by the President (under certain conditions);
- ✓ The no-confidence resolution by Verkhovna Rada to the Cabinet of Ministers, which results in the Cabinet's resignation;
- ✓ The dual subordination of the Cabinet of Ministers to the Verkhovna Rada and the President, and the collective responsibility of the Cabinet of Ministers to the Verkhovna Rada;
- ✓ Different means of forming the branches of state power (the Verkhovna Rada and the President are elected through universal, equal and direct suffrage by secret ballot, the Cabinet of Ministers is appointed);
- ✓ The creation of control and investigative commissions (by the Verkhovna Rada);
- ✓ Countersigning — individual acts of the President cannot come into effect unless they are sealed by the Prime Minister and a minister responsible for its execution;
- ✓ The authority of the Constitutional Court to declare laws as well as acts of the President, the Cabinet of Ministers, and other bodies as unconstitutional and void.

Under the current Constitution, the authority of the Verkhovna Rada is stronger than that of the powers of the President. For example, the Verkhovna Rada has the powers to form the Cabinet of Ministers and appoint heads of CEBs after the application by the President; the power to adopt a resolution of no confidence to the Cabinet of Ministers; and to overcome the President's veto by a $\frac{2}{3}$ majority vote.

Additionally, the President has been stripped of the following powers: to resign the Cabinet of Ministers and to make an independent decision on the pre-term termination of the Verkhovna Rada's powers. However, Ukraine is a parliamentary-presidential republic, which means the two entities must work together in several ways that ensure the system of checks and balances. For instance, the President appoints a Prime Minister who is confirmed by the Verkhovna Rada. Another example is that when a new Verkhovna Rada is elected, the Cabinet of Ministers resigns and the Verkhovna Rada has to form the new Cabinet of Ministers within 60 days after the election. However, if a new Cabinet of Ministers is not formed in this time, the President can apply his right to dissolve the Verkhovna Rada.

TRANSPARENCY

An essential element of democracy is transparency. As you read in the principles of democracy, transparency is necessary to ensure that the government remains accountable to the people. Transparency is ensured when the press is able to report on government actions without threats of reprisal by government and when the public is regularly informed of government actions and offered opportunities to comment. Many methods for how the public can comment will be discussed in depth in section 5 of this text. For now, it is important to understand that in Ukraine it is the responsibility of the executive authorities to consult with the public on the draft decisions they are developing. The purpose of these consultations is to involve citizens in the management of state affairs and to provide them with free access to information on the activities of executive bodies. Public consultations are conducted in the form of public discussion, public consultation (direct forms) and public opinion polling (indirect form). All draft decisions of the government and CEBs are then recorded for review in a special electronic archive.⁷⁷ The direct involvement of citizens in decision-making bodies is standard practice in democratic countries.

Some experts believe that this process in Ukraine is lacking due to the advisory (non-binding) nature of such consultations. In a democracy, citizens play a vital role in the policy-making process by sharing their views on issues; however, this

77 / "Civil Society and Government." <http://civic.kmu.gov.ua/>

does not guarantee that all interests and views can be represented in policy decisions. It is only natural that contradictory and diverse views will exist in society. Responsive government bodies should consider carefully the diverse views, needs, and wants of society when making policy.

At present in Ukraine, the decisions of the executive are subject to obligatory public consultations; this is not the case for laws passed by Parliament, however. Still, it is typical to involve the public in developing legislation by inviting experts to committee sessions or public events to discuss specific draft laws or policy ideas. Additionally, in 2017, the official website of the Verkhovna Rada of Ukraine introduced a heading for public discussion of bills.

GOVERNMENT AS A SERVICE-PROVIDER

At first glance, one might conclude that the state bodies of the executive authority are outside the public influence. After all, they are not chosen directly, since – unlike local self-government bodies, Parliament or the President of Ukraine – citizens do not appoint heads of state institutions.*

One of government's primary functions is to provide for the general welfare of the society. This is accomplished in large part through "public goods." Public goods are provided by government to the benefit of all members of society and are funded through tax revenues. A public good (or service) may be consumed without reducing the amount available for others. No market exists for such goods, and they are provided to everyone by governments. Examples of public goods are the existence of a military to provide for the defense and security of a nation, and public education, which ensures that there is an educated citizenry. One unique feature of a public good is that consumption is not decided by the individual, but by society as a whole⁷⁸ based on the needs and values of the society. For example, while an individual can choose to purchase items at a local store, citizens are not asked if they would like to purchase military defense on an individual basis,

* Except in cases stipulated by law, participation of the labor collective, employees, students in the appointment or election of the head of the institution.

78 / "Public Good." <http://www.businessdictionary.com/definition/public-good.html>

although policy decisions can reduce or increase spending on the military. When one judges how well the government is performing, the delivery of public goods is one measure to consider: for instance, does the government provide services that serve the public good?

The public interacts with government representatives in the process of securing government services, fulfilling responsibilities to the state, or realizing one's rights through the protection of the government. These government representatives provide administrative service when a person needs to receive items such as passports, certificates, licenses and other documents. The government also provides social services, particularly to care for sick people, elderly people, and people with disabilities, and to provide educational and other social services. The government also performs a protective function by maintaining public order, territorial integrity, and peace in the state. For this purpose, police, border guards, armed forces, national guard, and other organs were created. Additionally, the government also monitors the fulfillment of citizens duties, such as in the payment of taxes and compliance with laws. In all of these instances, the public interacts with government representatives.

An analysis of the activity and public statements of government leaders indicates positive changes in government officials' orientations towards providing services to society, rather than managing society, as was the case in Soviet times. Thus, while presenting reforms for the State Fiscal Service (SFS) and customs, the Minister of Finance Oleksandr Danyliuk* pointed out that the

*"SFS needs to be reformed due to the high level of corruption and the low level of trust in SFS bodies, the dominance of the fiscal function over the service, inefficient organizational structure with redundant administrative staff."*⁷⁹

This example suggests that government officials recognize the need to be responsive to the citizens of Ukraine and are working towards such reforms. However, there is still work to be done to make government more responsive to the constituency. Citizens have the right to communicate dissatisfaction with government services and should as part of their role as an active citizen. Citizens can use mechanisms to voice

* Appointed in 2016.

79 / "The Government Approved the Concept of Reforming SFS and Customs." <https://www.ukrinform.ua/rubric-polytics/2201977-urad-shvativ-koncepciu-reformuvanna-dfs-ta-mitnici.html>

their concerns such as the right to file a complaint, appeal, proposal, or petition. More on how these mechanisms can be utilized will be addressed in sections 4 and 5 of this book.

In general, the government's changing role reflects positive and necessary steps towards democratic reform. However, it is important to keep in mind that not all issues should be resolved by government. Part of the shift towards a more democratic state must come from the people. Active citizenship also means knowing when to bring attention to issues of public importance, who to bring them to (the appropriate level of government) and when to work through civil society or take individual actions.



EXERCISE 3

LIMITS TO POWER

In this last section, you learned about the need to limit the powers of government and the role that checks and balances play in this process. You also learned that the Ukrainian Constitution has been amended many times leading to shifts in power for different entities in government. Review past and the present structure of government and answer the following questions:

1. What aspects of the current structure do you think are important to ensure that no single branch or entity in government becomes too powerful?
2. Would you recommend any changes to improve the distribution of powers?

3.5

ELECTIONS AND POLITICAL PARTIES

ELECTIONS AND ELECTION SYSTEMS

In a representative democracy, people **elect** their representatives and **entrust** them with the right of a governing authority. Transfer of this right is based on the principles of effectiveness and efficiency. People are not always able to directly make significant political or social decisions on a daily basis. Therefore, representative bodies that are elected should, on the one hand, maintain links with the source of authority – the people – and, on the other hand, ensure timely and effective decision-making.

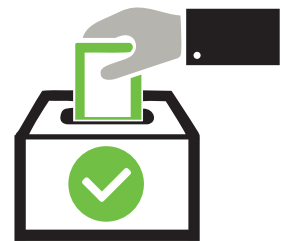
Maintaining a constant connection with the people is crucial for the functioning of a representative democracy. This can be facilitated through periodic elections, or applying a form of direct democracy – a referendum. The election of representatives to positions of power is a requisite for accountability toward the electorate. It is important for citizens to understand the power they hold vis-à-vis a single ballot; it is equally important however, for citizens to stay engaged before and after elections in order to hold their elected officials accountable for their promises. Citizens should always remember that their representative are chosen by them and that they pay the salaries of their representatives (by paying taxes).

In modern representative democracy decision-making, the majority prevails. However, this does not mean unlimited power in the hands of the majority. Democracy should not serve only the majority, but also protect the dignity and freedom of each and every member of the society, including the minority (that is, religious, ethnic, sexual, and political minorities, among others). Therefore,

the majority functions under the law, which strives to balance individual rights and powers so that the powers of the majority do not infringe on the rights of a minority. The protection of human rights and the separation of powers are critical elements of modern democracy. Typical elements of a representative democracy, such as periodic elections and government checks and balances, do not fully ensure an effective relationship with the source of power – the people. For this reason, in addition to institutions like the judiciary and the parliament, it is also very important to maintain cooperation between the state and society. A society actively involved in government processes acquires a sense of responsibility and a feeling of being a part of a state.

WHAT IS THE ROLE OF ELECTIONS IN A DEMOCRACY?

The expression (the vote) of people's views on any issue can be done in two ways, and accordingly, there are two forms of democracy: *direct* and *representative*. In the first case (direct democracy), it is the citizens who decide on societal problems that are of direct interest to them by means of voting, rather than elected or assigned officials. An essential condition for using this tool is a comparatively small number of voters and issues submitted to the agenda that do not require a lot of the voters' time and energy. Direct democracy can be implemented, for example, at village meetings or at general meetings of local organizations of trade unions or political parties, etc. Modern democracy is mostly representative: citizens directly elect their representatives who, in turn, makes political decisions, create laws, develop policies and strategies, and contribute toward their implementation.



The manner of people's participation in exercising political authority, including by means of direct democracy, when citizens solve important political, state and public issues not through the agency – the parliament, but directly, by themselves, is established by the Constitution. The forms of direct democracy are *elections* and *referendum*.

The **election** of representatives is a procedure through which individuals can exercise one of their fundamental rights – the right to participate in the governing of their country and to assign state authority and influence policy together with their fellow citizens.

Article 21 of the UDHR reads as follows :

- Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- Everyone has the right of equal access to public service in his country.
- The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

When we talk about elections in a modern state, we are referring to the direct election of a country's higher government body (the parliament) and high-ranking officials of executive authority (typically the president) by the citizens, as well as the election by a parliament of high-ranking officials of executive and judicial authorities and the election of local government bodies.

There are three major electoral systems in modern world: *majoritarian*, *proportional* and *mixed* electoral systems. The mixed system combines the elements of both majoritarian and proportional systems. Each of these systems is discussed here.

Under the majoritarian system, voters always vote for candidates, rather than for political parties. In some majoritarian systems a candidate needs only to receive

the most votes on order to be elected. In other systems, a candidate must receive an absolute majority of the votes cast to be elected. If no candidate receives an absolute majority of votes, a second round of voting is held to select the winner from the most successful candidates. In the second round, a candidate needs to receive more votes than another candidate running in the second round to be elected. This system is called “two-round system.”

In most European states, the parliaments are elected based on the proportional electoral system. Under this system, voters vote for the party/independent candidate lists, and seats in the parliament are distributed to political parties proportionally to the number of votes received by the party list. To prevent political fragmentation of the parliament, the law often sets an electoral threshold, i.e. the minimum number of voters a party must receive either nationally or in specific district to get representation. In general, such a threshold varies from two to five per cent of the valid votes cast. If a party receives less votes, it will not be represented in the elected body, while the votes given for such a party will be distributed between the parties which passed the threshold. In some countries voters are allowed to vote not only for party lists, but also for specific candidate(s) on the party list. If such an option is available, then such a system is called an “open list proportional system,” since voters can change the sequence of distribution of the seats included in the party lists. If voters are allowed to vote only for the party lists and cannot change the party-determined sequence of distribution of seats inside the lists, such a system is called a “closed party list proportional system.”

Merely having an active electoral system is not enough for guaranteeing democratic elections in a state. Transparency in the implementation of a system and electoral legislation for interested persons and organizations is also essential. Active civil society should closely follow the development of electoral processes to ensure transparency, accountability and credibility of the process as well as the results. This could include observing and asking critical questions of the pre-election period (for example: “Is the media providing accurate, independent information? Are political parties transparent in their campaign spending? What is the role of administrative resources in an election campaign?”), providing input to election law discussions, observing elections and confirming the results. Civil society has a vital role in the electoral process, as do individual citizens. Just how these entities can play a role to ensure the integrity of elections will be discussed in other sections of the text.

POLITICAL PARTIES AND PARTY SYSTEM

Modern political life and elections cannot be imagined without political parties. Political parties are the key organizations to realize public interests through political processes. The identification of political candidates, the election process, and the realization of political positions by state institutions are greatly aided by political parties. Therefore, to understand the instruments for working modern democracies, it is necessary to study political parties. Modern representative democracy has in fact formed together with political parties – or rather, it would be more accurate to say that the formation of representative democracy required political parties.

Classic democracy did not require political parties, since people were directly involved in governance and there was no need for any mediating organizations to realize their interests. The formation of political parties started in the 17th and the 18th centuries in Anglo-Saxon countries and West Europe. However, the classic political parties were formed only in the 19th century. As new social groups emerged in the society, they competed for power and it became necessary for such groups to form organizational structures to achieve their goals. While the citizens are not directly involved in political life in representative democracy, they face

necessity to form organizations, through which it will be possible to represent and safeguard people's interests. Hence, formation of political parties is one response to this need.



Edmund Burke
(1729-1797)

There are many definitions of political parties. One of these definitions was formulated by Edmund Burke (1729-1797), a British statesman of the 18th century. According to Burke, a political party is an organization formed by individuals with a common ideology, outlook and attitude. The term “party” originates from Latin word “pars” and means a certain part of some entity.

In short, the aim of parties is to gather people with common values, viewpoints and objectives with regard to the state and state systems, and to advance their common views through political processes.

There are positive and negative consequences of political parties in a democratic system. The competition among parties may benefit society by offering choices to represent varied views and alternate ways of development. In case of competition, society is not dependent on only one doctrine of ideology. However, when political parties become too powerful, some individuals may feel that their choices are limited to the parties with the power, even when their views are not represented by the controlling parties; in this case, their opportunity to be represented by the government may feel limited. This has been the case in the United States where the two major parties, the Democratic and Republican parties, are the only viable options for high offices, so individuals from smaller parties like the Green Party may feel disenfranchised at the national level.

Advanced political parties have a more or less stable organizational structure, administration, and budget. The budgets of parties form mostly through donations or membership fees paid by party members. In recent years, in many countries, including Ukraine, certain resources have been allocated from the state budget for political parties. This practice became popular in order to prevent domination of the interests of one wealthy group or person within a political party and to maintain key functions of the organizations.

Organizational structures of many parties are decentralized; within such structures the roles of party leader and central administrative units are not very important. The political parties of the USA are classic exemplars of such decentralization; these parties are composed of local autonomous committees quite independent from central administrative bodies. In political parties similar to the parties of the USA, strict organizational discipline is weaker. Political parties of continental Europe are formed in different way. They are far more centralized and the role of party leader and central administrative structures is more significant. Parties in the USA are mostly financed based on free-will donations, while in Europe membership fees and allocations from state budget are more important

In some systems parties may participate in the elections separately, in coalition, or in blocs formed together with other parties. If a political party thinks that it lacks enough financial and human resources to win, it often forms a coalition with other similar parties to participate in the election. Such coalitions are mostly typical for European countries, including former Soviet states, in contrast to Anglo-Saxon states. As a rule, in the modern history of Great Britain, coalitions have been created several times, but generally parties prefer to participate in the election separately.

There are two main models of party systems: single-party systems and multi-party system. Multi-party systems, in turn, are divided into several subsystems: *two-party* systems, *multi-party* systems and *dominant-party* systems.

The Soviet Union and Nazi Germany under Hitler are classic examples of single-party systems. Within these single-party systems, all other parties are banned. The winner is always one party and citizens have no other choice. The party is fully integrated into state institutions e.g. the party and state institutions are the same. Hence, such states are often called party-states. There was, for example, only one party in the Soviet Union; if an individual desired to achieve success in his/her career, he/she would have to become a member of the Communist Party because there was no other choice. The situation was the same in Nazi Germany, where the National-Socialist German Workers' Party was the single legitimate party holding all political posts and ruling development of the country. Currently, classic examples of single-party systems are China and North Korea; communist parties of these countries are the only legitimate political groups, and the formation of all other parties is strictly banned.

Within a two-party system, the presence of any party is permitted, but only two major parties win elections regularly and hold power. Sometimes one party may dominate, sometimes the other party. Great Britain and the USA are classic examples of the two-party system. There are two major parties in the USA: the Republican Party and the Democratic Party. One of these two parties usually wins elections; there are also other parties in the USA, but they are rarely successful in winning elections. The Conservative Party and Labour Party dominate in Great Britain. As a rule, one of them holds power, though many other parties act in the country.

Within a multi-party system, usually several parties win elections and as a consequence none of them are able to form majority. When this happens, they form coalitions in order to create a government; without such coalitions, it is impossible to form a government. Germany and almost all European states are classic examples of multi-party systems. In Germany, the Christian-Democratic Union, the Social-Democratic Party, the Green Party and the Free Democratic Party (liberal party) usually form government coalitions, thus governing the state and implementing different political lines.

Within a dominant-party system, one party always dominates, but other parties are not banned. As a rule, many parties participate in elections and take certain seats

in legislatures; even so, one party always wins majority of votes. Japan is a classic example of a dominant-party system in which the Liberal-Democratic Party has held power for decades. The existence of other parties is permitted in Japan and they take certain seats in legislatures; nonetheless, they cannot compete with Liberal-Democratic Party and replace it in the government.

POLITICAL PARTIES AND FORMATION OF PARTY SYSTEM IN UKRAINE

The 34th President to the United States, Dwight D. Eisenhower, stated,

“If a political party does not have its foundation in the determination to advance a cause that is right and that is moral, then it is not a political party; it is merely a conspiracy to seize power.”⁸⁰

As you read about the history and role of political parties in Ukraine, consider how President Eisenhower would view this process. Also, consider what function political parties have played in moving Ukraine towards a more democratic system of governance, or in what ways political parties have served as barriers to democratic reform.

A HISTORY OF PARTIES

Political parties first emerged in Ukraine at the end of the 19th and beginning of the 20th centuries amid favorable political conditions in Western Ukraine under the Austro-Hungarian Empire. In the 1890s, three political parties were formed: the Rus-Ukrainian Radical Party, founded by Ivan Franko; the Ukrainian National Democratic Party; and the Ukrainian Social Democratic Party. All shared a joint platform that envisaged political independence for Ukraine and the unification of all Ukrainian territories into one country with wider autonomy as a part of the Austro-Hungarian Monarchy. Party members played an important role in organizing the Ukrainian Sich Riflemen, the 1902 peasant riots in Galicia, and in

80 / “Remarks at Fourth Annual Republican Women’s National Conference.” <http://www.presidency.ucsb.edu/ws/?pid=10746>

resisting Polish nationalism in the region. They also occupied leadership positions in the government of the West Ukrainian People's Republic.

Due to restrictions imposed by Russia, political parties did not emerge in territories held by the Russian empire until the beginning of the 20th century. The Revolutionary Ukrainian Party (RUP) was the first in the region, established in 1900 in Kharkiv to protect the interests of peasants. In 1902, RUP founder Mykola Mikhnovsky launched a second party, the Ukrainian People's Party, which called for national independence. Calls for national autonomy and opposition to the Tsarist regime were common among these early parties; they were mostly left-wing, and supported the establishment of political rights and freedoms for Ukrainians.

These parties disappeared under the single-party system of the Soviet Union, whose 1977 Constitution declared the Communist Party the main "leading and guiding force" of the country.⁸¹ Even before Ukraine gained its independence in 1991, however, intellectuals and dissidents had already begun to form country's first modern parties.⁸² These were the parties that formed the parliamentary opposition at the first convocation of the Verkhovna Rada of Ukraine – among them, the People's Movement of Ukraine (the "Rukh") and the Republican Party of Ukraine. Nevertheless, since the country did not hold its first parliamentary elections until 1994, the Communist Party remained in control of Ukraine during its first three years of independence. This delay may have allowed the Communist Party to impede democratic reforms in Ukraine, particularly in contrast to newly independent Central European countries that held free parliamentary elections much earlier.

During the Leonid Kuchma presidency (1994-2004), parties began to consolidate around politicians who advanced the interests of Ukrainian oligarchs. In 2002, they coalesced into two main political camps: a coalition of those who supported incumbent President (centrist coalition of former Soviet nomenklatura, including "For United Ukraine!," the Social Democratic Party of Ukraine (united), and independent single-mandate district MPs) and an opposition to current President (including nationally-oriented Viktor Yushchenko's Bloc "Our Ukraine," Yuliya Tymoshenko's Bloc, and left-

81 / "Constitution of the Union of Soviet Socialist Republics." <https://www.departments.bucknell.edu/russian/const/77cons01.html>

82 / I.B. Tauris. "Black Sea Politics: Political Culture and Civil Society in an Unstable Region." 2005.

wing Communist Party of Ukraine and the Socialist Party of Ukraine). When the left-wing coalition split during the Orange Revolution, a re-alignment divided the parties into a pro-western camp (including Viktor Yushchenko Bloc's "Our Ukraine" and the Yuliya Tymoshenko's Bloc) and a pro-Russia camp (including the Party of Regions, the Communist Party, and the Socialist Party).



Today, Ukraine is represented by more than 300 political parties, operating at multiple levels and among multiple constituencies. There are national parties with branches in the majority of oblasts; there are local parties organized in particular regions and cities, such as the Ukrainian Galician Party in Lviv; and there are parties organized around minority groups, such as the Political Party of Polish People. Typically, 50-80 political parties nominate candidates to participate in the parliamentary elections, but of that roster only 5-8 parties pass the electoral threshold for parliamentary representation. Usually no single party has a majority support among the population; this often forces parties to merge into unproductive coalitions that are unable to pass bills without significant support from the opposition.

Some of these represent left- or right-wing ideologies, but most are "elite-based rather than mass-based,"⁸³ organized around well-known personalities.

This uncoupling of representation from political ideology, in tandem with the parliamentary dysfunctions that emerge from the sheer number of parties in Ukraine, and with the country's significant history of political corruption, has seriously eroded popular confidence in Ukrainian political parties. One poll by the Razumkov Center, for example, has placed public trust in the political parties among Ukrainians at 14.7%.⁸⁴ Nevertheless, parties continue to play an important role in political outcomes in Ukraine, with direct consequences for the freedom and prosperity of Ukrainians.

83 / Paul D'Anieri, M.E. Sharpe. "Understanding Ukrainian Politics: Power, Politics, And Institutional Design." 2006.

84 / "Ukrainians believe in the church, the army and the Ukrainian media." <http://www.pravda.com.ua/news/2014/05/19/7025797/>



EXERCISE 4

ANALYZING THE FUNCTIONS OF POLITICAL PARTIES

Freedom of expression, assembly, protest, and the collection and dissemination of information are essential rights for citizens to have in a democracy. These are crucial to form one's position on public issues, to elect the candidate who best represents one's interests and views and to foster self-determination. The role of political parties was discussed in this section and presented as a necessary mechanism for a stable democracy. Political parties provide citizens with a means to organize and combine resources with others to support preferred candidates and advance issues in government. Clearly these are important vehicles of democratic participation. There are many examples in the world where a multi-party system has not been able to develop due to denial of civil rights by the government in power. In such instances the outcome of elections cannot be considered truly democratic or representative of the people. However, are there downsides to the political party system? Political parties may develop too much power and thereby limit opposing views. Review and discuss the questions below then determine what recommendations would you make to improve the party system in Ukraine?

QUESTIONS –

- Does a two-party system limit people's choices?
- Does a two-party system grant too much power to the leaders of these two parties?
- On the other hand, does this system foster compromise between extreme factions within each party and thus produce more moderate party platforms?
- Is a multi-party system better to promote diversity of views?
- What are the disadvantages and disadvantages to a multi-party system?

CONCLUSION

You should now possess an understanding of how the government of Ukraine is structured and in what ways the principles of democracy have been incorporated into the system. However, you should also recognize areas where democracy can be strengthened. Some of this may require changes to the Constitution, laws or practices. What role can you play in this process? In the next two sections of this text you will learn how it truly is the people who are the “watch-dogs” of democracy. People fulfill this role through collective actions and individual actions. The collective response will be studied next in the section on civil society.



SECTION 4

**CIVIL SOCIETY
AND DEMOCRACY**

“ Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes. ”⁸⁵

⁸⁵ / United Nations General Assembly Resolution. “Declaration on the Right and Responsibility of Individuals.”

When the French diplomat and political scientist Alexis de Tocqueville visited the United States in the 1830s, it was the American propensity for civic association that most impressed him as the key to their unprecedented ability to make democracy work. Why did Tocqueville, and so many social scientists after him, conclude that civic association is a vital part of a healthy democracy?

As the quote above states, there are many elements and actions essential to promoting and safeguarding democracy. The first two sections of this text have provided an overview of the role and nature of government in a democracy, principles of democracy and human rights. The government's obligation to protect the rights of citizens has been a recurring theme, but so has the potential for self-interest and corruption among government officials. For these reasons the responsibility to preserve and advance democracy cannot be left solely to the government. In this section you will learn about the area referred to as civil society, and the role played by civil society in healthy democracies.

After the completion of this part of the text, the reader will be able to discuss these topics:

- What is the meaning of civil society?
- What are the changes that the notion of civil society has undergone from ancient times to the present day?
- What are the functions of civil society in a democratic political system?
- What is the meaning of social capital and how does it contribute to community effectiveness?
- What is the right to free association and why is this important to the success of civil society?
- What are the challenges presented by civil society?
- To what extent did elements of civil society exist in Ukraine prior to communism?
- What are the factors that hinder development of civil society and social capital in post-communist Ukraine?

4.1 DEFINING CIVIL SOCIETY

KEY CHARACTERISTICS OF CIVIL SOCIETY



Civil society is the public space where people can freely organize and associate to share interests, take actions in their communities, advance positions on policy issues, educate the public, ensure the proper functioning of government and the protection of individual rights, or simply share a common hobby such as stamp collecting.

Civil society is sometimes referred to as the “third sector” in public life, along with the other two sectors of public life, government and business. How is it that a branch of society that is so diverse, and that can serve so many personal and public functions, be viewed as an integral part of democracy?

In some respects, civil society can be viewed as an extension of the social contract. Under the social contract, the power of the collective is recognized as providing more benefits than individuals can obtain on their own; therefore, some personal concessions are made in order to reap these benefits. A clear example is that taxes are paid to the government to support the presence of police or a military to ensure safety and security. A question then might be: why not let the government handle most matters and thus leave members of society free to pursue their own individual interests? There are several answers to this question. First, such an arrangement would deny the citizens of basic liberties related to self-realization and self-determination. A society in which the government makes all of the major decisions and provides most of the services is also prone to becoming totalitarian. Additionally, forming associations with others enables members to access and share resources. This potential leads to possible outcomes that the individual cannot achieve on their own. In this way the arrangement is similar to the social contract with government.

There are various definitions of civil society. The most common broadly defines civil society as a type of voluntary organization where ordinary citizens are actively involved in public life. The 20th century German political theorist Jürgen Habermas explains that,

“Such associations range from, for example, churches, cultural associations, sport clubs and debating societies to independent media, academies, groups of concerned citizens, grass-roots initiatives and organizations of gender, race and sexuality, all the way to occupational associations, political parties and labour unions.”⁸⁶

Based on Habermas’ explanation it can be seen that active engagement in community life, civil society, incorporates not just one but many areas of public engagement – everything from pressing issues of public concern, such as the

86 / Jürgen Habermas, quoted in Bent Flyvbjerg Bent. “Habermas and Foucault: Thinkers for Civil Society?” *The British Journal of Sociology* 49, No. 2. 1998. p. 210-33.

management of public resources, enhancing local schools, and organizing protests against government actions. Another feature of civil society is that citizen initiation, or willingness to participate, is generally required. Civil society organizations (CSOs) are controlled by citizens operating outside of government, which is why the name non-governmental organizations (NGOs) is often applied. Lastly, its competencies do not include activities that fall under explicit obligations of a state, such as the adoption of laws, court proceedings, defense, security, law enforcement, foreign affairs, and the discharge of executive powers. However, many CSOs work in conjunction with the government to ensure laws are enacted and that government resources and services are provided to those who need them.

For the former states of the Soviet Union, the development of civil society has been especially relevant following the collapse of Soviet system. At that time there was also an increasing interest in democratic institutions and building new, democratic states worldwide. The questions of citizenship, of civil society, its functions and its role, which seemed to have been thoroughly answered by democratic and liberal societies of the West, re-emerged in the 1990's with a brand new extent and relevance. The publicly declared aspirations to create liberal and political democratic systems faced these newly formed states with many challenges. Conducting and ensuring free and fair elections, introducing and reinforcing democratic political institutions, establishing elements of active and participatory political culture, forming political parties and party systems as well as an independent judiciary are only a few of the challenges that the newly-formed states (or the post-communist countries) were facing. One of the key issues in this list of problems is forming an effective civil society and thereby promoting active citizenship.

As noted above, there are different definitions of civil society. There is an array of opinions about which types of associations are categorized as civil society and which are not. Are political parties a part of civil society? Are religious groups? Are all types of associations civil society, or does it depend on goals of these associations?

Some guidelines to understand what is or is not considered civil society:

- 1** Civil society implies activities and social relationships that do not fall within the field of family life. It is clearly in the public domain and therefore it falls beyond narrow friendship or kinship ties and relationships.
- 2** Civil society entails activities and social relationships that do not fall within the field of business. Unlike CSOs, people join enterprises and businesses to gain profit. However, some CSOs are formed to advance the business interests of individuals, groups, organizations or corporations.
- 3** Although political parties are types of associations that mostly aim to hold power in government, they also act as intermediary organizations and serve as a link between the state and various segments of civil society. Therefore, because of their nature, their type and one of their functions, political parties can be viewed as part of a civil society.
- 4** Media. As noted above, government and business fields do not fall within the scope of civil society activities. Nowadays, however, it is difficult to draw a clear line between them. Media is probably the best example to illustrate this point. Because of their nature, media outlets fall within the category of business groups because they aim to gain commercial revenue; however, public interests are most of all articulated and aggregated through media. Media can be successful in mobilizing the public about an issue. Citizen mobilization for community goals is the key mission and expression of civil society. Therefore, oftentimes media is viewed as part of civil society (the term "fourth branch of government" perhaps best expresses its importance and role).
- 5** Trade unions. Similar to media, trade unions are an interesting case of civil society categorization. Naturally, trade unions are associations of certain types of workers hired by either government or the private sector. They have their own economic benefit and usually, their demands aim to increase benefits, improve working conditions or advance personal

economic interests. Although trade unions are closely tied to the fields of business and government, membership is generally voluntary and the organizations exist to serve the common interests of the members, through collective action, thus they are viewed as one of the segments of the broad spectrum of civil society.

6

Religious associations, churches and groups. These types of organizations are a special case because their members come together to advance free, voluntary and non-profit interests; they clearly fall within the broad spectrum of civil society; however, their members rarely view themselves as part of a civil society.

7

Different types of private associations that seemingly serve their private interests fall under the same category – e.g. associations of golf, football, bowling or other sports fans. Although their functioning does not require having relationships with elements of civil society, it does not mean that they do not view themselves as a part of civil society.

8

Various types of terrorist, far-right, far-left, religious-fundamentalist, violence-oriented or fascist organizations. In general, the notion of civil society has originated from the depths of liberalism (later to be discussed in detail). Therefore, liberal values play a decisive role in the definition of civil society. However, what happens when a civil association seems to meet all of the civil society “criteria” even as its values essentially contradict liberalism and often clearly support violence? For instance, al-Qaeda, Hezbollah, racist groups such as the Ku Klux Klan, the Islamic State and similar associations that are often engaged in social activities in support of certain groups, with the aim of reinforcing their positions among these target groups. Often, scientists use the term “non-civil society” to denote such associations. However, it is difficult to draw a distinct line between them, because they exist in the same sphere as organizations based on liberal values and seem to fulfill similar criteria for external characteristics.

Given that participation in civil society can take numerous forms, civil society offers many opportunities for citizens to become engaged in the public sphere and to collectively achieve goals that would be difficult for the individual alone. However, the mere desire to join and collaborate with others is not enough to ensure a vibrant civil society. For this to occur several conditions must exist in a society, which will be discussed in the next section.

CONDITIONS FOR CIVIL SOCIETY TO FLOURISH

Why isn't the action of individuals joining together with others enough to support a healthy, functioning civil society? To understand this point better consider instances where social scientists might discuss the existence of civil society in non-liberal and non-democratic regimes. For example, you may come across terms like "civil society in Iran" or "civil society in Pakistan" – however, it is generally recognized that civil society can only effectively function in democratic states. When the rights of individuals are limited, organizations might form, but the scope of their influence, or the realm that they may operate in, can be seriously limited. The more totalitarian the government is in nature, the more limited the influence of civil society can be. In the extreme, "civil society" may function merely as a puppet of the regime. The Hitler Youth organizations or Young Pioneers of the Soviet Era, are examples of "voluntary" associations that merely functioned as agents of the government to socialize youth to meet the government's goals. In the Nazi regime,

"the purpose of the Hitler Youth was to ensure that young people would adhere to the principles of Nazism in the future."⁸⁷

The following elements must be present for civil society to fully develop. These are:

- Political structures that protect the freedom of association and freedom of expression;
- The decentralization of the government and delegation of social and other responsibilities to independent entities;
- A culture of trust and cooperation among members of society and in the rule of law.

87 / "Understanding the Role of the Hitler Youth in Nazism." Hitler's Children. <http://www.hitlerschildren.com/article/1431-understanding-the-role-of-the-hitler-youth-in-nazism>

FREEDOM OF ASSOCIATION AND FREEDOM OF EXPRESSION

The freedom of expression is integral to the development of civil society. Joining with others who share common interests, values and/or goals are the primary reasons for the existence of civil society. Without the right to freely express opinions, individuals would be reluctant to share views that are uncommon, controversial or that are critical of government actions. Assurance that one is free from government reprisal for expressing one's views in a public space is a requisite. Without this right, individuals may keep views, interests and criticism private. Equally important is the freedom of association, which is the right to form societies, clubs or organizations and to meet to pursue common interests free from government interference. This doesn't mean that the government can't establish basic guidelines for the formation or regulation of organizations, but in general the organization should be self-governing. The ability to voluntarily join or leave an organization is another important guarantee under this right. The importance of the freedom of association for a democratic society was affirmed in a high court ruling in Australia where the court found this right to be



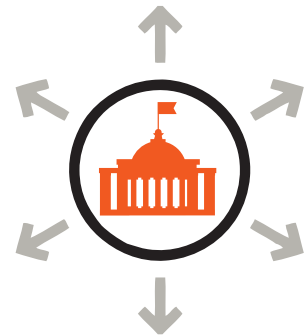
“a vehicle for the exercise of many other civil, cultural, economic, political and social rights.”⁸⁸

Together, these two rights form the basis for which individuals can collectively and publicly pursue common interests.

88 / “Freedom of Association.” Australian Human Rights Commission. www.humanrights.gov.au

DELEGATION AND OF SOCIAL RESPONSIBILITIES AND DECENTRALIZATION OF GOVERNMENT

A state has certain responsibilities before constituents, including social, economic, legislative or other types of obligations. Based on the theory of liberalism, states are created by people to fulfill certain obligations and they give up their right to absolute freedoms to ensure fulfillment of these obligations. However, in a democratic state characterized (or perhaps driven by) a powerful civil society, the state delegates certain rights and obligations. Non-commercial associations – e.g. theatres, schools, kindergartens – enjoy a certain degree of freedom, while at the same time they are accountable to the state to a certain extent. Additionally, CSOs can play important roles in ensuring that laws and rights are enforced for all citizens. For example, a law prohibiting gender discrimination in hiring practices might be supported by local organizations that provide trainings and support for women entering the workforce.



In highly centralized systems, governance is conducted from a top-down approach; therefore, little to no input comes from local levels and the articulation of interests from below isn't sought. Such systems foster dependence on the central government and may stifle voluntary participation in public life at the local level. A condition of civil society is the voluntary nature of association in order to pursue interests. When power is dispersed, or decentralized, opportunities for participation in local governance increase and the interests from the local level may be better represented. This in turn can empower individuals to participate in public life, and social groups are able to form on the basis of independently articulated interests and goals.⁸⁹ This way, elements of civil society can include various NGOs or a group of citizens with

89 / Marcia A. Weigle and Jim Butterfield. "Civil Society in Reforming Communist Regimes: The Logic of Emergence." *Comparative Politics* 25, No. 1. 1991. p. 1-23

an extremely broad scope of activities, from human rights advocacy all the way to movements against prohibition, charity organizations, community foundations, cooperatives, environmental organizations, community police initiatives, and so on.

A CULTURE OF TRUST AND COOPERATION



Francis Fukuyama
(born 1952)

Francis Fukuyama (born 1952), a renowned American political scientist, has written extensively on the role that trust among individuals plays in fostering cooperative associations outside of the family or government. He states that without trust, relationships, if they occur, are guarded and encumbered by legalistic contracts and processes.⁹⁰ He further argues that in countries with a low degree of mutual trust among individual citizens, the degree of state dependence is high. When people are not able to join together and solve problems by helping each other, trusting and supporting each other, they expect that the state will solve these problems. This way, as the state interferes in the realm of their private activities, the degree of freedoms and independence of these citizens is reduced. A culture of trust and cooperation is considered by some social scientists to be of such paramount importance in the success of civil society that these topics will be presented in more depth in future sections.

Many of the conditions discussed in this section were not present during the period of Soviet and communist rule in Eastern Europe. The totalitarian governments used laws and intimidation to limit the influence, and even existence, of a functioning civil society. Developing necessary conditions has become a primary objective of those who embrace the ideals of liberal democracy. The former president of the Czech Republic, Václav Havel, stated in a speech in April of 1999:

90 / Francis Fukuyama. "Trust: The Social Virtues and the Creation of Prosperity." New York: Free Press. 1995.

"A totalitarian system of the Communist type could now and then coexist with private ownership, and sometimes even with private enterprise; it could, as a matter of principle, never coexist with a developed civil society. Genuine civil society is the truest fundamental of democracy and totalitarian rule can never, by definition, be reconciled with that."⁹¹



It was the collective organization of the people that led to the revolutions that brought down the communist systems of eastern Europe in the 1990's (examples of this will be explored in a later section). So perhaps the desire for self-actualization and public association is stronger in humankind than the oppressive forces of government. A review of the development of civil society throughout history illustrates that this impulse may indeed be a part of human nature, but is subject to the limits or support of government and cultural structures. A review will be provided next, but first, completing the following exercise will help you explore some of the complexities that arise in the protection of freedom of speech and association.



EXERCISE 1

HOW FAR SHOULD THE PROTECTION OF FREE SPEECH AND ASSOCIATION EXTEND?

Below are two real examples of CSOs whose existence is controversial. Read both cases and then answer the questions that follow.

⁹¹ / Václav Havel. "Václav Havel's Civil Society Symposium." Macalester College, Minneapolis / St. Paul, U.S.A. April 1999. http://www.vaclavhavel.cz/showtrans.php?cat=projevy&val=106_aj_projevy.html

CASE STUDY: THE KKK IN THE UNITED STATES

An active civil society and protection of the right to association are often viewed as conditions of a healthy democracy. Sometimes upholding this principle can challenge the norms and values of the majority in society. In the United States, the Ku Klux Klan (KKK) is an organization that holds values that many find disturbing and even threatening (The KKK is known for racist views and actions), yet the right for this organization to exist has been upheld many times. In 1969, the U.S. Supreme Court was presented with a case involving a member of the KKK, Mr. Brandenburg, who was convicted of a crime that involved making a speech at a Klan rally where he advocated taking vengeful actions against the government. The law he violated made it a crime to engage in public speech that advocated various illegal activities.⁹² The Supreme Court ruled that Mr. Brandenburg's right to free speech had been violated and that speech can be suppressed only if it is intended, and likely to produce, "imminent lawless action." Otherwise, even speech that advocates violence is protected.⁹³ Leaders from The American Civil Liberties Union (ACLU), a leading defender of civil rights in the United States, have often defended the right of free speech and association for all. A statement on the ACLU website explains that,

"If only popular ideas were protected, we wouldn't need a First Amendment. History teaches that the first target of government repression is never the last. If we do not come to the defense of the free speech rights of the most unpopular among us, even if their views are antithetical to the very freedom the First Amendment stands for, then no one's liberty will be secure. In that sense, all First Amendment rights are "indivisible."⁹⁴

92 / "Brandenburg v Ohio." <https://www.oyez.org/cases/1968/492>

93 / "Freedom of Expression." American Civil Liberties Union.

94 / Ibid.

CASE STUDY: THE UKRAINIAN NATIONALIST SELF-DEFENSE

The Ukrainian Nationalist Self-Defense is a military wing of the UNA-UNSO political party that is responsible for the PR of the party, and that trains the army volunteers. The party has existed since 1990 and became a legal, registered political party in 1994. It has had periods of popular support, such as from 1994-1997 when the members became prominent for anti-Russian activities such as the destruction of a Russian flag in the Verhovna Rada. However, it was shut down as illegal military unit in 1995 and then reregistered in 1997. In more recent years the party has been seen by many to be an extreme right-wing group that threatens stability in the country through intimidation and even violence. The nationalist stance of the group has led to acts such as anti-African rally held near the Shulyavsky market in Kyiv in 2007 where participants made fascist salutes and yelled "Ukraine for Ukrainians!"⁹⁵ After 2014, activists from the organization launched an unofficial fight against Russian forces in the Eastern Ukraine and joined the Aidar and Azov Battalions in Donbas. In 2015, efforts to bring an end to the conflict in Donbas by granting the region special status were interrupted by right-wing groups, such as Azov. During the first reading of a bill in Parliament to grant the special status, ultranationalists killed four guardsmen and injured over 100 others in a grenade attack outside the building.⁹⁶ The opposition groups believe that granting special status to the region undermines Ukrainian nationalism, and have continued to oppose such actions.

95 / "Ukraine: The Activities of the Ukrainian National Assembly." UN Refugee Agency, 2011. <http://www.refworld.org/docid/4e43d3bf2.html>

96 / "The Ukrainian Far Right - and the Danger It Poses." The Nation. December 5, 2016. <https://www.thenation.com/article/the-ukrainian-far-right-and-the-danger-it-poses/>

REFLECTION QUESTIONS –

- Why should I value the right to freedom of expression and association for others?
- Do I believe that groups should be allowed to organize (form an organization, hold rallies, etc.) even if I don't agree with their message or goals?
- Would I protect somebody's right to hold a peaceful rally if I disagree with the message of the rally? Why or why not?

4.2

HISTORICAL OVERVIEW OF CIVIL SOCIETY IN EUROPE

The concept of “civil society” has roots in Ancient Greece. The Greek city-state of Athens was known for a high level of cultural development and democracy. As explained in section 1, citizens in Athens were allowed to actively participate in public life and had the opportunity to freely express their views and ideas. Political and public life of Athens was not totally dictated by the government. Initiatives of citizens also played a role in the political and public life of the metropolis. These actions were the first shoots of civil society. However, the scope of this activity by citizens was limited to only free men who were born in the city-state of Athens.



In Ancient Greece, the notion of civil society and the state were synonymous. Civil society existed where political entities or the “polis” existed. Notions of citizen and citizenship were first discussed in Aristotle’s “Politics,” and it was Aristotle who used the term “civil society” for the first time. In the 4th century BC, Aristotle, a great Greek philosopher from Athens, wrote in his work “Politics” that man is a political animal who finds purpose and achieves self-realization in a civil society or *politeia* (state). A polis (unlike any other type of public union)

is a form of organizing where people come together to advance common causes. To Aristotle, civil society stood above all other associations because it combined all of the other associations, including family, village, kinship and community. He viewed civil society to be the only association that aimed to achieve the common good, as opposed to good for any one of its parts, e.g. the family.

Aristotle’s definition of a citizen is someone who participates in judicial and political activities. However, Aristotle concluded that the virtue of a good man and a good citizen were not the same. Who was a good citizen according to Aristotle?

The answer was, a good citizen follows laws, whereas a good man is someone with certain moral virtues and other personal characteristics. To Aristotle, good citizenship meant the fulfillment of civil obligations and is associated with law abidance. He stated,

“A citizen is one who shares in governing and being governed. He differs under different forms of government but in the best state he is one who is able and willing to be governed and to govern with a view to the life of virtue.”⁹⁷

This emphasis on “a view to the life of virtue” is important in understanding the higher calling to serve the common good through public association and political activity, and not merely personal goals.

From Aristotle’s writings we see that notions of achieving the common good through association with other citizens existed in Ancient Greece. An example of collective action by citizens, outside of coercion of government, was policing in Ancient Athens. There was no standing army and only a small number of slaves who served the magistrates of Athens, yet through a citizen militia, governmental decisions were generally enforced and security achieved.

“Most of the major tasks of policing – investigation, apprehension, prosecution, and even in some cases enforcement of court decisions – fell to the citizens themselves. For private initiative and self-help were the rule. ... Here punitive enforcement is not the result of coercion by a central authority but of autonomous self-regulation on the part of the community. ... For many of the functions that the modern state now entrusts to bureaucracy, police, or judiciary were embedded in a variety of social institutions...”⁹⁸

In the Middle Ages, the development of civil society was interrupted. As the powers of church and government increased and absolute monarchy prevailed in many states, the development of civil society as an idea and a notion stopped. This was the result of the feudal society which had formed where religious ideology was strictly oriented towards ensuring dependency of the subjects on the government and the church. Strict obedience to the church and monarchy discouraged private initiatives. Under such conditions civil society could not develop.

97 / Aristotle. “Politics.” Kitchener, 1999.

98 / Robert Long. “Civil Society in Ancient Greece: The Case of Athens.” 1998.

In the period of the Renaissance (1300 – 1700), feudalism began to disintegrate as the absolute rule of the church was losing power. Capitalism began its formation, which gave rise to a middle class that challenged the existing social structures. Added to this social upheaval was a revival of democratic ideas from Greece and Rome and the influence of the political philosophers Thomas Hobbes and John Locke who, similar to Aristotle, regarded civil society and state as synonyms.

Unlike Aristotle, Hobbes believed civil society to be artificial as opposed to natural, stemming from logical reasoning, consent and unanimity among humans. However, these factors are insufficient to cause civil society (or the state) to protect citizens' civil and political rights successfully. Rather, it requires supreme authority or government to protect the key objective for creating civil society and ensures its realization. Thus, from Hobbes' reasoning it follows that the existence of supreme state authority leads to the existence of civil society, i.e. political community.

Locke believed that people, having left their state of nature, transform their natural freedoms into civil (or political) freedoms by entering into a social contract, which is a community of people based on principles of personal freedom, formed as a unified political body. Civil society is different from "natural society" where people act without any restrictions. In this way, the "civil" aspect of a society envisages restrictions that people voluntarily impose on themselves. Instead, their life is safer and more secure, or to put it differently, more civilized. This idea of civil society originates from the thinking of founders of liberalism. Understanding the state as a "public contract," and the principle of voluntary agreement of humans, is close to understanding civil society itself.



**Georg Wilhelm
Friedrich Hegel
(1770-1831)**

German philosopher Hegel (1770-1831) also added to conceptions of civil society. He was the first to differentiate between civil society and political society and attribute contemporary meaning to the term. He used the term "civil society" to denote non-political associations of humans that aim to advance diverse, different and sometimes opposing interests of individuals.

Hegel highlighted three different levels of human existence: family, civil society and state. However, he also believed that the basis for civil society's

existence is the state – the strong, impersonal institution that stands above all interests and cares equally for everyone. On the one hand, civil society is an expression of personal interests, while on the other hand these interests are driven by common public interests. He argues that civil society positioned between family and state is an association of organizations or institutions that undertakes type of activities in the country that government cannot or will not perform.

This brief historical overview clarifies a few points about civil society. First and foremost, even in ancient times, humankind has been finding ways to collectively organize to pursue common interests. Secondly, that conditions in society can foster or limit these impulses, as the strict obedience required by the church in medieval times did. It is also seen that notions of civil society are embedded in the thinking of the founders of liberalism. A final point is that the government plays a central role in the development and “type” of civil society that emerges.

4.3

DEMOCRATIC FUNCTIONS OF CIVIL SOCIETY

HAVEL & THE ROLE OF CIVIL SOCIETY IN DEMOCRACIES



Václav Havel
(1936-2011)

Václav Havel (1936-2011) was a Czech statesman, writer and former dissident, who served as the first President of the Czech Republic from 1993 to 2003 and who has contributed to modern conceptions of civil society. According to Havel, civil society, first and foremost, generates and promotes pluralism. Pluralism means competition, which produces quality. In all spheres, from economic, market and commercial activities to the realm of private interests, large-scale competition, when conducted fairly and transparently, leads to quality when the best idea wins. Relying on the capacity of central authorities or central bodies to always decide what is best eventually leads to a regress. The bigger the power, the bigger the initiatives that central government can take, and the bigger the risks of monopolization of power. As Havel has put it,

“If we want freedom, we must grant the right of existence also to that which constitutes its expression and actual fulfillment; that is, to civil society.”⁹⁹

99 / Václav Havel. “Václav Havel’s Civil Society Symposium.” Macalester College, Minneapolis / St. Paul, U.S.A. April 1999.

His second assertion is that the more the civil society thrives, the more stable is the domestic political situation. Civil society protects citizens from being excessively affected by changes at the center of political power. As demonstrated by David Easton's model of political systems,¹⁰⁰ conductors or civil society serve as an intermediary between government and ordinary citizens. Consequently, a strong connecting link means that the system can maintain its balance and therefore stability even amid difficult political changes. It absorbs at lower levels some of the effects of such changes and attenuates them. As Havel notes, in a functional civil society, a change of government does not have to mean "*a windstorm that leaves nothing in its place.*"¹⁰¹ When civil society is weakly developed, all changes that occur in the political center strongly affect civil society members and later the government. Therefore, the government has to deal with matters that it would not have to deal with otherwise. Often, in Havel's view, these issues are dealt with at the expense of matters that are the exclusive responsibility of state and can be solved by no other institution. In addition, broadening such obligations is often followed by rise of authoritarianism. The more power is left at the center, the more favorable are the conditions for such forces to gain broad control.

Another factor highlighted by Havel is purely economic. Sometimes when things are paid for by the state, more financial resources are required due to the bureaucracy of government as substantial sums can be lost in transfers, on the way up and again on the way down. Conversely, CSOs might not face the same bureaucratic circumstances. A final important aspect of civil society that Havel talks about is the fact that people are not only manufacturers, profit-makers or consumers; above all, they are political animals. According to Aristotle, an inherent character of human beings is their desire to connect, to have relationships, and to associate with other human beings. Civil society is a form of association where people are best able to express their nature and themselves. Thus, civil society serves many important functions for individual and democratic societies.

100 / David Easton. "An approach to the Analysis of Political Systems." World Politics Vol. 9, No. 3. April 1957. p. 383-400.

101 / Václav Havel. "Václav Havel's Civil Society Symposium." Macalester College, Minneapolis / St. Paul, U.S.A. April 1999.

LARRY DIAMOND – TEN FUNCTIONS OF CIVIL SOCIETY



Larry Diamond
(born 1951)

The renowned contemporary American political scientist Larry Diamond (born 1951) has also researched and written extensively on the role and function of civil society in non-democratic or partly-democratic states.

Diamond differentiates between ten key functions of civil society in the consolidation of democracy.¹⁰² Let's discuss each of these functions.

1.



The first democratic function of civil society is to provide “the basis for the limitation of state power.” This function has the following two dimensions: civil society monitors and restrains (when needed) the exercise of power in a democratic political system. Diamond also believes that in a non-democratic, authoritarian governance system, civil society institutions (or its rudiments) turn into mechanisms that exercise the function of democratization of power.

2.



Common functions of CSOs in democratic (as well as non-democratic) political system are as follows: socializing and mobilizing citizens, articulation political interests, aggregating them, and raising general awareness. When CSOs are particularly active and widely involved in tackling actual problems, they also provide a good example to other citizens.

102 / Larry Diamond. “Rethinking Civil Society: Toward Democratic 33 Consolidation.” *Journal of Democracy*, 5(3). 1994. p. 4-17.



3.

Civil society, as an association of different groups with a variety of interests, is crucial for developing democratic attributes, such as tolerance, cooperation, respect for opposing viewpoints, consensus and compromise. Although in any democratic state all of these values are legalized and formalized at the legislative level, whether values implemented and established by the state at the vertical level is meaningful and valuable for ordinary citizens is a different matter. The state is not able to tackle these problems alone, especially if society is heterogeneous and less tolerant. In addition, these societies generally lack experience of democratic governance. Establishing and practicing of these values among citizens by CSOs at the horizontal level is far more efficient and effective.

4.



Civil society may also serve democracy by offering citizens additional channels for articulating diverse interests, thus providing more opportunity to balance these interests. This way, where strong civil society exists, political parties are no longer the only vehicle for articulating citizen interests and broadening the reach of citizen voices. According to Diamond, this function is especially important when democratic institutions are weak, and for providing traditionally excluded groups – such as women and religious, ethnic or racial minorities – with access to power. For these historically marginalized groups, civil society becomes the field where they can best articulate their interests.

5.



Richly pluralistic civil society tends to protect and advocate for a wide range of divergent interests, thus promoting the idea of pluralism. When individuals with multiple interests join a wide variety of organizations to pursue those interests, they are most likely to clash with radically opposite ideas

and approaches. In a common legal space all actors abide by the same laws and therefore, by associating themselves with different types of people holding divergent political ideas, they are most likely to become more open to seeking compromise and consensus. In addition, each actor learns to tolerate or at least get used to different ideas.



6.

Another function of a civil society as an institution that aims to consolidate democracy is finding and recruiting new political leaders, similar to political parties. Often in successfully functioning CSOs, their leaders and activists gain skills and experience that qualify them well to assume high-level offices in government and join party politics. This way, a sixth function of civil society, as argued by Diamond, is the training of political leaders. Civil society workers learn how to organize and motivate people, how to plan and carry out fundraising activities, and therefore they become experienced in working with international or national donors.



7.

Civil society can play an important role in consolidating a democratic political system. In transitional non-consolidated democracies, segments of civil society – and in particular, NGOs – often take on functions like election system reform, election monitoring, drafting plans for the democratization of parties and decentralization of government, and promoting the implementation of these plans through judiciary reform, prison monitoring, etc.

8.

Media as one of the segments of civil society serves as a vehicle for providing the public with information about government activities, problems in the country, etc. Independent organizations may also give citizens hard-won information about activities of different branches of the

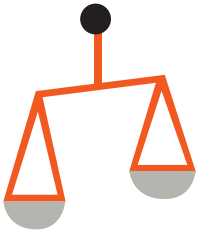


government, information that is hardly accessible to ordinary citizens; in addition, media covers not only government's views but also different opinions and assessments.



9.

Civil society plays a positive role in the implementation of new ideas and reforms in the state, especially in the field of economy. Economic reforms certainly fall within the functions of the state; however, civil society can prepare and inform ordinary citizens about these reforms. Economic reforms require broad public support. Usually, they are implemented quickly and forcefully in response to crisis situations are rather painful; so are more long-term reforms for sustainable development.



10.

When civil society is able to successfully contribute to the enhancement of democratization, improving election systems and election monitoring, protecting human rights, and keeping the public informed about reforms and government initiatives in general, using language that ordinary citizens understand, it reinforces the legitimacy of the political system. The higher the legitimacy, the higher the citizens' respect for the state and their voluntary obedience, which leads to high level of trust. This way, tenth function of civil society is largely contingent upon success of remaining nine functions.



EXERCISE 2

HOW CIVIL SOCIETY CAN HELP BRING DEMOCRATIC REFORM

Larry Diamond has stated that,

*“Political reform to improve or build institutions of accountability can come from four possible sources: from inside, from above, from outside, and from below.”*¹⁰³

In the same paper Diamond goes on to state that,

“effective reform of corrupted...political systems typically must be led from outside the political system...from inside the country, in civil society,”

and he calls on several areas of civil society to form coalitions to bring about democratic reforms. Diamond has highlighted seven types of CSOs that could play a role in this process. Review the list below and answer the questions that follow. Be sure to apply the principles discussed by both Havel and Diamond when answering them:

- Civic organizations: good government NGOs and foundations whose explicit purpose is to campaign for transparency, accountability, civic participation, human rights, and the deepening of democracy.
- Other issue-oriented “movement” NGOs: for the environment, women’s rights, consumer protection, peace, social justice, minority rights, and so on.
- Traditional sectoral interest groups: business, labor, students, lawyers, doctors, and other professional organizations.
- Religious institutions, organizations, and thinkers.
- Cultural organizations at the national, municipal, and community level.
- Informational and educational organizations, particularly think tanks and foundations, but universities can play an important role.
- Recreational and social clubs.

QUESTIONS –

1. Review each of the types of organizations and consider, what benefits would members of this type of organization possess to help facilitate democratic reform?
2. Diamond calls for a coalition among CSOs, and between CSO and government. Where do you see potential for coalitions and for what purpose?

103 / Larry Diamond. “What Civil Society Can Do to Reform, Deepen, and Improve Democracy.” Tokyo, June 12-13, 2001. <https://web.stanford.edu/~ldiamond/papers/civJap.pdf>

4.4

THE POWER OF CIVIL SOCIETY IN DEMOCRATIC REFORM IN EASTERN EUROPE

You have read in this chapter that democratic traditions, such as freedom of expression and association, are essential in developing and maintaining a vibrant civil society. However, you also learned that civil society itself can be a democratizing force in a society. A study of some of the movements that occurred in Eastern Europe in the 1980's and 90's allows us to explore how some of the organizations reviewed in the last section have contributed to the transformation of society and launched a new epoch of active civil society in the post-totalitarian state.

CIVIL SOCIETY MOVEMENTS IN COMMUNIST EASTERN EUROPE

In the late 1980s, communist countries were engulfed by a large-scale public unrest. Changes in the Soviet system coupled with civil activism in communist countries threatened the power of the communist camp and eventually ended its existence (along with other factors). Unrest and protest in the region ended with the final collapse of the communist camp in 1990 and the creation of independent states. Developments such as the "Velvet Revolution," a non-violent transition of power in what was then Czechoslovakia, occurring from November 17 to December 29, 1989, led to a new chapter in recent world history and played a crucial role in political, economic, social and cultural transformation, and promoted better understanding of the role of civil society and its importance. Each country of the former communist camp that participated in demolition of the system is an interesting case for studying outcomes of civil activism and civil society functions

but in the present document we will examine a few of those countries – Poland, Czech Republic, Romania and Ukraine.

STORY OF POLAND: SOLIDARITY MOVEMENT

The election of Poland's John Paul II as the head of the Roman Catholic Church gave a new boost and impetus to the dissident movement launched in Poland in the early 1970s. John Paul II enjoyed wide popularity and respect, not only in Poland, but also among Catholics in general. On June 2, 1979, during his first official visit to Poland, Pope John Paul II urged thousands of people attending his mass in Warsaw to protect freedoms and religious traditions. Highlighting Poland as a great defender of Catholicism and Christianity in general, and a country with an important spiritual mission amid communist governance, was certainly perceived as a threat to the system. The historic speech of John Paul II in Victory Square in Warsaw and his nine-day long visit to Poland is considered the moral basis for revolution, soon followed by comprehensive political and social transformation. His speech became a symbol of the start of Polish People's fight for freedom.

Amid the economic crisis that started in 1980 in Poland, shipyard factory workers went on a strike in the city of Gdansk in the early spring, led by an electrician Lech Walesa. The workers were seeking higher wages and the reinstatement of workers who unfairly lost their jobs. As word traveled about the strikers, workers from nearly 200 factories joined the strike. Fearing the strike would spread across the nation, the Communist government was forced to make concessions and meet requirements of protesters as part of the Gdansk Agreement, which ended the strike. It was signed by Lech Walesa on behalf of the workers, using a pen bearing a massive picture of Pope John Paul II. Soon the first independent trade union led by Lech Walesa was established in the communist system, named Solidarity – a movement also dubbed as a "giant tree planted by awakened conscience." In about two years, the number of Solidarity members reached 10 million. It was a unique event considering that about one-fourth of Poland's population voluntarily joined the first independent organization created in the country. Jan Rulewski, one of the leaders of Solidarity, declared during a meeting of the organization: "*Solidarity as*

a giant hammer must smash the totalitarian system.” After the rise of the wave of mass rebellion, the Polish communist government instituted martial law, arrested Walesa, the leader of the movement, and prohibited Solidarity. After another visit of Pope John Paul II in 1983 in Poland, the communist government lifted martial law, Solidarity was legalized and Walesa was set free.

As a result of increasing public discontent and civic activism, roundtable negotiations were launched between the communist government and Solidarity, initiated and mediated by the Polish Catholic Church. The church carried a lot of weight with the population and played a decisive and most crucial role in a peaceful resolution of the situation between the two opposing forces, which eventually resulted in holding of independent elections in 1990. A friend of Pope John Paul II and a clergyman named Mycheslav Malinski highlighted the positive role of church as a civil institution in these processes by saying that Gdansk protesters were once children who took lessons about freedom, religion and morality from the clergymen, which they later utilized remarkably during civil activism.

STORY OF CZECH REPUBLIC AND VÁCLAV HAVEL

In 1967, students staged anti-Soviet demonstration in Prague. Starting from January 1968 these demonstrations became more extensive and large-scale. The head of Czechoslovakia, Alexander Dubcek, who had recently assumed his office, made a statement about *“the necessity of democratization of socialism”* and launched a liberalization policy that led to the weakening and eventual abolition of censorship. At the same time, anti-Soviet sentiments were becoming more widespread in the country. In response to these developments, the Soviet authorities sent troops to Czechoslovakia on August 21, 1968 (Operation Danube). As the Czech government was prohibited from using military force, Czech people confronted Soviet troops with their own forces, in an action that became known as the “Prague Spring.” Eventually the protestors were suppressed by tanks in 1968, resulting in the death of over 100 people; 500 citizens of Czechoslovakia were injured. Václav Havel, a renowned Czech writer and playwright and future prominent intellectual and politician, whose anti-Soviet proclamations and work was largely popular among Czech youth from the late 1960s, was the first to

confront these developments openly. The communist government arrested Havel and threw him in prison for 4 months and his plays were prohibited. After he was released from prison, Havel continued participating in the dissident movement and soon established an organization named Charter 1977. Havel was arrested once more, and this time sentenced to 4 years in prison.

In the 1980s, civil unrest in Czechoslovakia returned. In response to the brutal dispersal of a peaceful manifestation of students on November 17, 1989, and under the initiative of Havel, the “Civic Forum” was established, which later spearheaded the most large-scale and widespread movement for liberating Czechoslovakia from the communist regime. The Catholic Church was actively involved in civil activities, and although the Catholic Church in Czechoslovakia did not carry as much weight as it did in Poland, it clearly supported the citizens. The process ended successfully with elections in 1990, the defeat of the communist party and the coming of Havel into power.

Throughout his political work, Václav Havel highlighted many times the role of civil society participated in the Czech Republic in the fight against the communist regime. He often talked about the idea of civil society and attributed great importance to the development of true civic activism in the post-totalitarian epoch.

“Civil society, at least as I see it, is simply one of the great opportunities for human responsibility for the world.

I certainly do not need to stress how important it is in today’s world, which is endangered by so many different threats, that we cultivate opportunities of this kind.

This finally brings me to the point that perhaps most clearly concerns in the same measure both my fellow citizens and yourselves: In the world of today – enveloped by a global, essentially materialistic and widely self-jeopardizing civilization – one of the ways of combatting all the escalating dangers consists in the systematic creation of a universal civil society. In my opinion, the state in the next century – in the intrinsic interest of a rapidly growing humankind – should visibly transform itself from a mystic embodiment of national ambitions and a cult-like object into a civil administration unit, and it should get used to the necessity of delegating many of its powers either to the levels below it, that is, to organisms of civil society, or to those above it, that is, to the transnational or global – and thus actually civic – communities and organizations.

I am certainly not against patriotism. We should love our country at least as much as we love our family, our village or town, our profession, as well as the planet on which we are destined to live and on which we have, among other things, the country that is our home. I am only against nationalism – a blind elevation of national affiliation above everything else.

Nor am I against any religion, any culture or any specific tradition of the human civilization. I am only against all kinds of fanaticism or fundamentalism which, again, blindly elevates one level of human identity above all its other levels.

It seems to me that the most open arrangement – one that best enables all types of human self-identification to develop alongside one another – is an arrangement based on the civic principle, an arrangement founded on faith in the citizen and on respect for him.

One of the most important expressions of such a civic arrangement is that which we call civil society.

I wish you success in your deliberations on this subject, in the faith that all those who reflect on it without bias advance us all towards a better future.”¹⁰⁴

STORY OF ROMANIA

Similar to Poland and Czechoslovakia, a general public movement in Romania grew into a large-scale event. Unlike the previous two cases, the head of the Romanian government, Nicolae Ceausescu, known as a dictator for his authoritarian regime, refused to make any concessions in response to public demonstrations. Amid aggravated civil protests, military forces opened fire on civilians. Following clashes in 1989, more than a thousand people died, including demonstrators and members of the armed police. Nicolae Ceausescu was forced to flee with his wife, but he was soon captured and promptly convicted by a military tribunal. Ceausescu and his wife were sentenced to the death penalty. The meeting of the tribunal was broadcast on TV; the punishment was shortly executed and both were

104 / Václav Havel. “Václav Havel’s Civil Society Symposium.” Macalester College, Minneapolis / St. Paul, U.S.A. April 1999.

shot by a firing squad. This was the only case in the revolutions of Eastern Europe during this time period when the highest representative of the communist regime was convicted by a military trial and executed.

The above cases of Poland, Czechoslovakia and Romania are only a part of the protest wave following citizen activism in Eastern Europe. The same wave engulfed virtually all countries in the region. The first two, Poland and Czechoslovakia, are examples of civil activism that ended peacefully, without a violent revolution, while in the third case, in Romania, the process of liberation ended in bloodshed. All three cases share one feature: active citizenship and engagement. There are differences too. Poland and Czechoslovakia had strong foundations of civil society: the dissident movement of the 1970s and broader, more distinct civil associations in the 1980s. Both countries had the church acting as a civil society institution, though Poland was exceptional, since the church's weight and active involvement prevented violence throughout the process of civil activism and the authorities did not use force against demonstrators. In Romania, meanwhile, where the communist government grew into a distinctly authoritative power, CSOs were clearly weak. The dissident movement in Romania was not as actively developed as it was in Poland and Czechoslovakia. Considering the lack of strong and formalized civil society institutions and a strong leader, the use of force by the authorities comes as no surprise, and neither does the fact that Romania was unable to ensure the peaceful development of revolution through elections. The regime change occurred at the expense of hundreds of lives, including the head of the country. As argued by Larry Diamond, and presented in the previous section, promoting the democratization of the regime in an authoritarian system is, among ten key functions, the first and foremost function of civil society. His argument is clearly supported by cases of Eastern European countries.

UKRAINE AND THE GRANITE REVOLUTION

As the Soviet Union began to crumble, dissidents who had hidden from the government began to feel free to organize publicly. In this atmosphere, the Ukrainian Student Union was launched in August 1989. During this time the Communist Party was losing popularity in Ukraine; however, when the elections for the Verkhovna Rada were held in 1990, the Communists got a majority

of the seats and the democratic forces got only 126 seats. Many young people were dissatisfied with the democratic forces holding only a third of seats in the parliament. At a People's Movement of Ukraine (Rukh)'s conference, student Oles Donii declared that the democrats ought to win a majority. The Student Union intensified its work and began to prepare for a large-scale protest. On October 2, the students announced a hunger strike and occupied the square that was to be called Independence Square (Maidan Nezalezhnosti). Thus, began the 16-day protest which had five demands:¹⁰⁵

- preventing the signing of a new Union Treaty;
- holding a multiparty Verkhovna Rada election no later than the spring of 1991;
- returning Ukrainian soldiers to the USSR and military service for young Ukrainians exclusively on the territory of the republic;
- the nationalization of the property of the Communist Party of Ukraine and Komsomol;
- the resignation of the Chairman of the USSR Council of Ministers Vitalii Masol.

This hunger strike was well organized by the Ukrainian Student Association and supported by the Lviv Student Association. Tents, press groups, and security were provided, and round tables, rallies and press conferences were held. It lasted for only 16 days and was represented by 298 participants from 24 cities (Oles Donii, Oleh Tyagnybok, Oleh Kuzan are the most known). The protests were joined by other people outside Kyiv, including university professors. Due to the scale of the protest, authorities formally considered all demands of participants and satisfied some of them. They adopted a Resolution of the Verkhovna Rada of the USSR "On the consideration of the requirements of the students who are conducting hunger strike in Kyiv from October 2, 1990"; the Chairman of the USSR Council of Ministers Vitalii Masol resigned, and they amended major documents, including the Constitution. The Granite Revolution accelerated decommunization in Ukraine. Many parties began to leave the Communist Party when the strike started. The youth declared the desire for democratic change, and showed the strength and significance of self-organization that can lead to real changes.

105 / "The Lesson of the Revolution on Granite." <https://day.kyiv.ua/en/article/day-after-day/lesson-revolution-granite>



EXERCISE 3

CASE STUDY ANALYSES OF CIVIL SOCIETY ORGANIZATIONS

You just read four cases of how CSOs played a central role in shaping the future of in their respective countries. Review the actions taken by the groups and complete the tasks below.

- Analyze other functions that these organizations play in society based on the 10 Functions of Civil Society noted by Larry Diamond.
- What factors do you think led to the success of these organizations?
- What have you learned about civil society from these examples?

4.5

SOCIAL CAPITAL: SIGNIFICANCE AND FUNCTIONS

Social capital is one of the most widespread and important terms in contemporary democracy. There is no single, widely accepted definition of social capital. Out of its many definitions, a few are important to highlight and will be discussed in this section.



Pierre Bourdieu
(1930-2002)

The notion of social capital was introduced by French social scientist Pierre Bourdieu (1930-2002) in 1980 to denote social networks that may bring us profit. Bourdieu argued that interactions which relied on the government as an intermediary led to cumbersome bureaucracy and even expensive fees, which he referred to as “transition costs.” He theorized that by avoiding these interactions with the government and relying on social capital, which are the connections held within a group and the social networks one has¹⁰⁶ transaction costs can be reduced, thus leading to increased profits. The stronger and the tighter the ties within profit-seeking groups, the stronger the social capital. Through these ties and networks found in civil society, individuals achieve gains. Strong social capital in its turn reduces costs: costs of signing agreements, introducing formal regulations, concluding written documents, while the capital is boosting.

106 / Martti Siisiäinen. “Two Concepts of Social Capital: Bourdieu vs. Putnam.” Trinity College, Dublin, Ireland July 5-8, 2000. <http://dlc.dlib.indiana.edu/dlc/bitstream/handle/10535/7661/siisiainen.pdf>



**James Coleman
(1926-1995)**

James Coleman (1926-1995), an American social scientist who coined the term “social capital” itself, offered a renewed and somehow different definition of social capital in 1988 in his article titled “Social Capital in the Creation of Human Capital.”

“Coleman described social capital as the networks and relationships that people have that give them advantages in society. He explains that through social networks (social capital) individuals get certain needs/goals met in a manner more efficient than possible without such social capital.”

For social capital to exist, certain social norms must be in place and abiding by these norms reduces the necessity of bureaucracy and decreases transaction costs to the minimum, as also argued by Bourdieu. In Coleman’s opinion social capital is profitable if it is actively consumed.

Coleman introduced the concept of “credit slips” – I will do a favor for you if you do a favor for me. Doing a favor for someone with the belief that it will be reciprocated at some point. The stronger the sense of obligation inside a group, the more close-knit the group is and the higher the quality of social capital. People are reluctant to leave the group because they are “indebted” to someone. The more their obligations, the stronger the bond within the system. In a practical sense this can be viewed as the favors individuals in an organization might offer to one another to secure employment opportunities. At another time the recipient would be expected to return the favor in a like manner, thereby providing both individuals access to social capital.



**Robert Putnam
(born 1941)**

Another American scientist, Robert Putnam (born 1941), introduced a new and different structure of social capital:

“Whereas physical capital refers to physical objects and human capital refers to the

properties of individuals, social capital refers to connections among individuals – social networks and the norms of reciprocity and trustworthiness that arise from them. In that sense social capital is closely related to what some have called ‘civic virtue’. The difference is that ‘social capital’ calls attention to the fact that civic virtue is most powerful when embedded in a network of reciprocal social relations. A society of many virtuous but isolated individuals is not necessarily rich in social capital.”¹⁰⁷

Therefore, Putnam clarified that social capital is obtained not just through social networks, but when there is an ethos of mutual trust between citizens.¹⁰⁸

When discussing social capital Francis Fukuyama highlights importance of having common norms and rules within a group as they make it possible for these groups to exist and operate. He explains,

“social capital is an instantiated informal norm that promotes cooperation between two or more individuals. The norms that constitute social capital can range from a norm of reciprocity between two friends, all the way up to complex and elaborately articulated doctrines like Christianity or Confucianism.”¹⁰⁹

In his conception, it is the norms that create social capital and ensure that members of the group trust each other and fulfill their obligations. Therefore, for both Putnam and Fukuyama, spending free time with friends, relatives or co-workers and participating in social organizations, serves the purpose of creating, increasing and solidifying social capital.

STORY OF ITALY: 19TH CENTURY

In his book “How to Make Democracy Work – Civil Traditions in Contemporary Italy,” Robert Putnam discusses one of the most important democratic institutions

107 / Robert Putnam. “Bowling Alone: The Collapse and Revival of American Community.” Simon & Schuster Paperbacks, New York, 2000. p. 19.

108 / Martti Siisiäinen. “Two Concepts of Social Capital: Bourdieu vs. Putnam.” Trinity College, Dublin, Ireland July 5-8, 2000.

109 / Francis Fukuyama. “Social Capital and Civil Society.” IMF Conference on Second Generation Reforms, October 1, 1999. <https://www.imf.org/external/pubs/ft/seminar/1999/reforms/fukuyama.htm>

in Italy, the development of local self-governments, and the relationship of local self-government and civic engagement. Putnam measured active citizenship by citizen engagement in associations, participation in elections and involvement in self-governance. To study and analyze self-government entities in Italy, Putnam researched the social, political and cultural situation in the country during 1960s-80s, and examined historic, political and cultural heritage of various regions in an attempt to explain outcomes of his own research. He found radically different experiences of Italian regions and in particular, northern Italy's traditions of republicanism, city-states and self-government on the one hand, and on the other hand, southern Italy's experience of being a kingdom and papal residence greatly contributed to a differentiated political, economic, social and cultural development of the country. He concluded that with the same legal base and equal standards (at least at legislative level) throughout the country, only the North was able to establish successful local government and create effective local government entities. In turn he found that citizens in the north were also more active and people were able to use powers transferred to them to their advantage. In the southern region, which was characterized by more centralized, hierarchal control, the delegation of responsibilities to local levels of government further deteriorated quality of governance in the South where the population was already passive.

After studying cases from the past and present, Putnam concluded that the scarce social capital and the lack of mutual trust among members of society which distinguished the southern regions of Italy from northern ones over the centuries contributed to the weak development of civil society institutions and grew into a key obstacle that hindered the establishment of effective self-government agencies and development. He wrote,

"In all classes the absence of a community sense resulted from a habit of insubordination learned in centuries of despotism. Even the nobles had become accustomed to obstruction, and thought that governments could be fairly cheated without moral obliquity so long as the cheating was successful. ... Instead of recognizing that taxes had to be paid, the attitude was rather that if one group of people had discovered a profitable evasion, then other groups had better look to their own interests. each province, each class, each industry thus endeavored to gain at the expense of the community."¹¹⁰

110 / Robert Putnam. "How to Make Democracy Work – Civil Traditions in Contemporary Italy." Princeton University Press, Princeton, New Jersey, 1993. p. 143

The description of rural areas of southern Italy in 1880-1920 presented below elaborates on the absence of trust and the detrimental impact of this on cooperation.

*"The peasant classes were more at war amongst themselves than with the other sectors of rural society; a war which fed off a terrain of recurring and real contrasts, both economic, psychological and cultural... The weight of the past, when combined with the failures of state authority after 1860 and the disastrous peasant-landlord relations produced a society where civic trust had been reduced to a minimum: 'he who behaves honestly comes to a miserable end' was a noted Calabrian proverb."*¹¹¹

This primeval mistrust was captured in many proverbs:

"Damned is he who trusts another."

"Don't make loans, don't give gifts, don't do good, for it will turn out bad for you."

"Everyone thinks of his own good and cheats his companion."

*"When you see the house of neighbor on fire, carry water to your own."*¹¹²

In contrast, northern Italy's historic experience is radically different, as the description below illustrates:

*"In the 1870s, one can say that the most advanced provinces of Italy already were expressing their preferences through free institutions or associations – agrarian associations, mutual aid societies, chambers of commerce, savings banks – while the southern ones were more inclined to make use of personal contacts or parliamentary and municipal clientele."*¹¹³

111 / Ibid. p.143.

112 / Ibid. p.144.

113 / Ibid, p.145.

COMMON CHARACTERISTICS OF SOCIAL CAPITAL

Although there are many definitions of social capital, there are also shared conditions and characteristics of social capital:

- Everyone agrees that social capital is a set of certain norms and regulations.
- Social capital, like any other form of capital, is accumulated over time. It may not be obtained in a single day. Accumulation of effective social capital requires quite an effort.
- Social capital, like any other form of capital (e.g. economic capital) may not only be created but also reduced, wasted and even lost.
- There are two types of social capital: bonding and restrictive. Restrictive social capital entails ties of a clan or a group, which eventually restricts spread and broadening of social capital. Bonding social capital creates links not only between relatives and friends but also between strangers.
- Social capital requires setting up associations. Ties between people will grow into formalized associations to achieve long-term goals.
- The notion of social capital is broader than that of civil society. Forms of social capital may be evident in fields of politics and economy, i.e. where profit is sought. In contrast, when a CSO starts pursuing political activities or seeking economic profit, it usually surpasses the virtual borders of civil society but continues to bear social capital. In short, unlike civil society, social capital is everywhere where there are associations.
- Any form of social capital is comprised of the following three elements: donors, who share their social capital with others (e.g. introduces people to their friends and relatives); recipients, who receive social capital and resources; and the capital itself, which is shared by donors with recipients.
- Trust. Some scientists believe that trust is a necessary precondition for social capital, while some argue that social capital engenders trust

among individuals. Despite these competing opinions, one thing is clear – social capital and trust are intertwined. The United States is known to have many associations and a strong sense of trust within these associations. As early as in the 19th century, in his book “Democracy in America” (1835), Alexis de Tocqueville expressed his admiration with uniqueness of the U.S. and the ability of Americans to create private associations. Despite the fact that every association sought economic, political or other types of benefits, they all shared one key feature – overall, these associations sought to create benefits greater than any individual benefit of its members. In associations people learn about democratic values, rules of the game and eventually promote deepening of social capital. As argued by Alexis de Tocqueville, voluntary associations can be viewed as a large school for everyone to learn about the general theory of association.



David Hume
(1711-1776)

The case below about a village community discussed by Scottish philosopher David Hume (1711-1776) is a great example of the relationship between trust and seeking of profit in social capital. Where there is no trust, it is difficult to gain material benefit. The case below clearly shows how rational and profitable it is for individuals to trust each other, regardless of whether they like each other or not.

“Your corn is ripe today; mine will be so tomorrow. ‘Tis profitable for us both that I shou’d labour with you today, and that you shou’d aid me tomorrow. I have no kindness for you, and know that you have as little for me. I will not, therefore, take any pains on your account; and should I labour with you on my account, I know I shou’d be disappointed, and that I shou’d in vain depend upon your gratitude. Here then I leave you to labour alone: You treat me in the same manner. The seasons change; and both of us lose our harvests for want of mutual confidence and security.”¹¹⁴

114 / David Hume. “A Treatise of Human Nature.”



EXERCISE 4

SOCIAL CAPITAL, SOCIAL NETWORKING AND THE BENEFITS

Individuals and society benefit when there are high degrees of association among the members. Robert Coleman explained that individuals obtain benefits from the relationships they form through associations, through the exchange of favors. Francis Fukuyama emphasized the norms that create social capital and ensure that members of the group trust each other and fulfill their obligations as benefitting organizations at many levels. And Robert Putnam found that representative governments operated more effectively in regions of Italy where there were higher levels of civic engagement.¹¹⁵ All of these individuals view engagement in civil society as desirable and recognize this can occur in many forms. Fukuyama and Putnam view membership in choral societies and football clubs to be as valuable as participation in trade associations or political parties. Putnam and Larry Diamond also see civil society associations as serving important functions to support democracy. What many other social scientists concluded is that associations enable the development of *networks*, *norms*, and *social trust* that lead to coordination and cooperation among members of society for mutual benefit. How can you apply these ideas to your own life and Ukrainian society?

ACTIVITY –

- Think about clubs or societies that you belong to, or have belonged to. Can you identify examples of social capital resulting from these associations?
- Now list of the types of activities you regularly engage in with others in the groups identified. Review the list and analyze which of these activities could be useful to help you develop skills associated with effective democratic

115 / Robert Putnam. "Bowling Alone: America's declining Social Capital." *Journal of Democracy*, Volume 6, No. 1.

citizenship. Such skills include the ability to compromise, listen to others, clearly express views, collaborate with others, set and reach goals, take or provide direction.

- Based on your analysis, how would you explain the relationship between membership in organizations, social capital and effective representative governance?

4.6

CHALLENGES OF CIVIL SOCIETY

Throughout this chapter civil society has been presented as having multiple benefits to individuals, society and democracy. However, there are also challenges that accompany this third sector of society. These challenges may come from within organizations, challenges to government or challenges from government. Each of these areas will be discussed.

CHALLENGES FROM CIVIL SOCIETY

One of the Founding Fathers of American Democracy and a strong supporter of the U.S. Constitution was James Madison. Madison believed deeply in the system of representative government and the need for people to freely associate and align themselves with others who shared their interest and values. However, he also warned against “factionalism” which he described as,

“a number of citizens, whether amounting to a majority or a minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.”¹⁶

Madison warned of the potential for factions to obtain power that would be used to either represent the interest of a small group and not the common good, a “tyranny of the minority” or for those who gain majority power to overlook the interests of

116 / James Madison, “Federalist 10.” 1787. <https://history.hanover.edu/courses/excerpts/111federalist.html>.

the minority, leading to a, “tyranny of the majority.” Both situations threatened the health of a democracy. Madison argued that a representative government must be structured so that,

“the representatives must be raised to a certain number, in order to guard against the cabals of a few; and that, however large it may be, they must be limited to a certain number, in order to guard against the confusion of a multitude,”

in this way safeguarding against tyranny of the minority or majority. Madison’s concerns dealt with the structure of government and not the influence of CSOs, however his fears may be relevant, particularly in systems where special interest groups are able to influence government officials.

CHALLENGES FOR GOVERNMENT

“Freedom of speech means freedom for those who you despise, and freedom to express the most despicable views. It also means that the government cannot pick and choose which expressions to authorize and which to prevent.”¹¹⁷

In the quote above, scholar and author Alan Dershowitz reaffirms the need to respect the right of others to freedom of expression, however he also raises the critical issue of government upholding this right. When he stated, *“It also means that the government cannot pick and choose which expressions to authorize and which to prevent,”* he is speaking about the challenge this poses for government. As illustrated in Exercise 1 “How far should the protection of free speech and association extend?”, fulfilling this obligation may mean defending the rights of organizations to exist and express their views, even if the views are abhorrent to the majority of society. Democratic governments are charged with the responsibility to ensure the rights of all citizens are protected, which can mean allocating resources to ensure this right. For example, if members of an unpopular organization receive death threats, the government must mobilize forces to investigate and protect the individuals. Even unpopular organizations and their members have the right to security.

117 / Alan Dershowitz. “Quotes About Freedom of Speech” http://www.azquotes.com/author/3892-Alan_Dershowitz/tag/freedom-of-speech

CHALLENGES FROM GOVERNMENT

The first function of civil society presented by Larry Diamond in this section was to provide “the basis for the limitation of state power.” This was explained as the need for civil society to monitor and restrain the exercise of power in a democratic political system. For this reason, CSOs are sometimes referred to as “watchdogs of government.” In this role, CSOs can be an important mechanism of public oversight and accountability of government and state institutions. In parts of the world where democracy is developing, this role has been extremely important.

Dr. Carlos Eduardo Ponce Silén, who has studied the rise of civil society in developing democracies, offers some insights and warnings about the process. Dr. Ponce Silén has found that in many countries where civil society was developing and contributing to democratic reforms, a backlash from government resulted. Dr. Ponce Silén explains that direct actions against groups and individuals have been taken in order to suppress and dismantle the work of CSOs.¹¹⁸ These actions include intimidation and harassment, arbitrary arrest and detention, disappearances, torture, and other acts of physical violence. Other forms of repression occur through national legislation and the judicial systems. Legislative actions often result in making it extremely difficult for CSOs to form or do their work by requiring extensive registration systems, denying applications and expelling international organizations and workers from the country. Other legislative actions make it difficult or impossible for organizations to keep the public informed of their work or to mobilize the public by limiting access to the press or prohibiting public gatherings. A report from The International Center for Not-for-Profit Law (ICNL) has identified a “*growing regulatory backlash against civil society organizations in many parts of the world.*” ICNL, notes that, particularly in Latin America, the Middle East, the former Soviet Union and Africa, not-for-profit organizations have encountered a range of obstacles including the outright seizure of assets and facilities, dissolution, delicensing, restrictions or bans on the use of foreign funding and intimidation.¹¹⁹

118 / Carlos Eduardo Ponce Silén. “Limitations to Freedom of Association of Civil Society Organizations in Latin America: Comparative view and special case study of Nicaragua, Bolivia, Ecuador, Cuba and Venezuela.” 2010. http://www.ohchr.org/Documents/Issues/FAssociation/Responses2012/other_contributions/World-Report_of_Sr.Ponce_on_Free_Association_in_Latin_Am.pdf

119 / Ibid.

4.7

UKRAINE AND CIVIL SOCIETY

THE HISTORY OF CIVIL SOCIETY IN UKRAINE

During the period of Soviet rule civil society did not exist as it has been defined throughout this chapter. While it is true that organizations such as the Young Pioneers or Members of Komsomol existed, as well as the Communist Party, the goals, organization and actions of the groups were closely monitored and controlled by the state. For many, participation may have been less voluntary and more a necessity to be secure in society. Thus, for the vast majority of Ukrainians, forming voluntary associations to pursue common goals was viewed unrealistic, inefficient and even a dangerous pursuit. Attempts at collective action, even the collective petition to the government, was seen as a crime or acting against the ruling party.¹²⁰ Those who didn't agree with the party policies were prosecuted, imprisoned and executed by shooting. An example is the Executed Renaissance, also known as Red Renaissance of 1920s, a movement that was represented by writers who were characterized by independent thinking. They challenged the Soviet values, which placed mass needs over individual ones and wrote about it in their novels. For this reason, the Communist regime prosecuted, killed and imprisoned representatives of the Executed Renaissance into concentration camps. The long period of Soviet rule and a lack of true civil society has had a great impact on Ukraine today. As you read through this section of the text, it is important to note the progress that has been made, as well as what still can be achieved. Reflecting on the work of scholars such as Alexis de Tocqueville, Larry Diamond, Václav Havel and Robert Putnam, and models of societies with more advanced systems of civil society, can serve as guides for this critical analysis.

120 / Myroslav Popovych. "Civil Society of Ukraine." Den, 1999. <http://incognita.day.kiev.ua/gromadyanske-suspilstvo-ukrayini.html>

Before examining the status of civil society in Ukraine today it is important to explore the historical roots of civil society in Ukraine. Civil society in the territory of Ukraine started developing by the end of the 19th and beginning of the 20th centuries. However, essential differences between the Eastern and the Western parts of the country made this development processes differ too.¹²¹ In the region of Ukraine that belonged to the Austro-Hungarian Empire, there was respect for the rule of law that allowed for individuals to influence the decision-making process in Austria.¹²² This facilitated the further development of civic activity and promoted a wide and well-developed network of cooperatives, educational societies, political parties, etc.¹²³ One of the phenomenon of Ukrainian civil society in Western Ukraine was the development of cooperatives. The first cooperative “Vira” was established in 1894 in Peremysl to provide low-interest loans to peasants. In 1904, a central association of Ukrainian cooperatives was formed, which had 550 institutional affiliates and 180,000 individual members.¹²⁴ The civic movements in Dnieper Ukraine arose almost at the same time as the ones in Galicia did (after the 1860s reforms). Those movements were less successful and were focusing mainly on the educational work. Unlike in Galicia, the civil society in Dnieper Ukraine was formed in the circumstances of the constant pressure from government with strict regulations and monitoring of their actions.

In addition, the women’s movement emerged during this time. In Galicia, Nataliya Kobrynska established the Ruthenian Women’s Society and became one of the founders of the women’s movement in Western Ukraine. The Society published the literature journal “Fist Chaplet” which collected the stories of women writers.¹²⁵ Another example of the women’s movement is Ukrainian Women’s Union, which was the biggest women’s organization in Galicia. The main purpose of



121 / At the time, Ukraine was divided between Russian and Austro-Hungarian Empires.

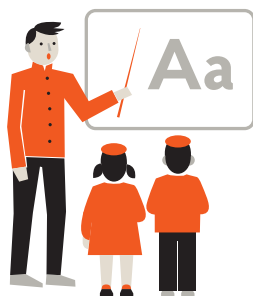
122 / B. Tsymbalysty. “The Brand of Non-Statehood. Political Culture of Ukrainians.” Kyiv, 1994. p. 58.

123 / A. Kolodij. “Historical Evolution of Civil Society and Perceptions about It (Formation of an Ideal).” The Independent cultural journal “I”, 2001. <http://www.ji.lviv.ua/n21texts/kolodij.htm>

124 / Orest Subtelny. “Ukraine: a History.” Toronto: University of Toronto Press, 1988. p. 324-325 and p. 437-438.

125 / Mariia Pavliuk. “Women’s Movement in Galichyna. Ukrainian Prominent Women.” Ethnographical Notebooks, 2014. <http://nz.ethnology.lviv.ua/archiv/2014-2/15.pdf>

the organization was to make Ukrainian women more active and improve their education and economic skills.¹²⁶



In both Western and Eastern parts of Ukraine, several organizations gained influence and had an impact on civic and political life. Some of these organizations included the Brotherhood of Saints Cyril and Methodius, "Prosvita" fellowship and "Plast." They all were founded as cultural communities, but as time passed, the organizations started being civically and politically active. In particular, they were working on Ukrainian national consolidation and towards raising the national consciousness. Members of "Plast" and "Prosvita" became the founders of the first Ukrainian political parties, participated in state-building process and were fighting for the Ukrainian People's Republic's and Western Ukrainian People's Republic's independence.

The development of civil society was stunted by the rise of Bolshevik rule. The Soviet regime attempted to wipe out all the elements of civil society. However, some elements of collective organization remained in Ukraine. An example of this is the Ukrainian Liberation movement, which was formed in the 1920s (existed until 1950s) to regain Ukrainian independence and operated as an underground movement. The movement united representatives from a wide-range of political parties – from socialistic to conservative ones (e.g. Ukrainian Military Organization, Organization of Ukrainian Nationalists, Anti-Bolshevik Bloc of People, Kuban Kozaks Movement, etc.). In 1941-1943, 621 members of the Organization of Ukrainian Nationalists were killed in Babyn Yar.

During the Krushchev Thaw (1953-1964), the Sixtiers movement emerged. The Sixtiers were focused on creating an organized liberating movement in Ukraine. The movement started with political opposition to the communist regime and members soon became active in the dissident movement in Ukraine. For instance, they became the members of Ukrainian Helsinki Group, which was focused on defending the rights and liberties of the citizens. These developments contributed

126 / "Women's Organizations in Ukraine." <http://smolich.cbsdarniza.com.ua/index.php/pidpisatisyana-zakhodi/631-zhinochi-organizatsiji-v-ukrajini>

to the fact that in the late 1980s the organizations such as labor unions and artistic communities developed. In addition, leisure centers started emerging, ecological protests started and the rock bands and new music genres appeared. These organizations and activities served as early signs of civil society and many of the individuals who participated in these movements later became active in civil society of an independent Ukraine.

CIVIL SOCIETY IN AN INDEPENDENT UKRAINE

In section three of this text, you learned that although Ukraine became independent in 1991, the process of becoming a democratic nation has been evolving. Democratic reforms have taken time and the course has been uneven, even with periods of backsliding. This extended and sometimes difficult period of transition applies to the development of civil society in Ukraine as well. However, it could be argued that positive advances towards democracy have only come about as a result of the collective actions of Ukrainian citizens and civil society. As you read about the role civil society has played in Ukraine pay careful attention to the following points: the role civil society has played in bringing about changes; the conditions that enabled civil society to flourish; and instances where more actions are needed in order for sustained democracy to become a reality.

In the early years following independence, civil society developed among the former party organizations and members. For this reason, CSOs were mostly heterogeneous and not open for participation by the majority of Ukrainians. Therefore, these early organizations were not very effective as vehicles for change in society. The organizations were weak and struggled to keep pace with the civil societies in other European countries, including post-socialist states in Central and Eastern Europe. On top of the low civic engagement and organizational problems, the NGOs at the time did not receive support through laws to regulate and ensure their legal status and rights.¹²⁷ As Ukraine was undergoing a transition from a state of total control to a society based on liberal, democratic principles, it was necessary to reconsider the function of civil society institutions in a democratic, independent state.

127 / Law of Ukraine "On Public Associations."

At the time the government tended to see civil society rather as a counterweight, or, even, a rival to the political power that accumulated during Leonid Kuchma's Presidency (1994-2004). Therefore, the development of civil society structures, practices and values were blocked and the discourse of the civil society in public politics and media were limited. It was not until 1996 that the importance of the development of public policy for civil society was expressed in the annual president's address to the Verkhovna Rada by Kuchma and in the address to the Verkhovna Rada "Ukraine. March into the XXI Century. A Strategy of Economic and Social Policy for 2000-2004." While these public statements on the need for civil society were promising, most people at that time did not understand the concept or role of civil society in a democracy. It was rather understood more as an idea in a democratic state and therefore not a developed reality.

During the period between 2000-2004 violent political struggles occurred that led to active engagement within sectors of civil society. In many respects this engagement helped to strengthen the role of civil society. After the journalist Georgiy Gongadze disappeared in 2000 and during the following cassette scandal,¹²⁸ CSOs became mobilized and led to movements of the early 2000s, such as "Raise, Ukraine"¹²⁹ and "Ukraine without Kuchma."¹³⁰ During this period the media was also largely privatized¹³¹ which allowed for journalists to more openly exercise freedom of speech, which is a crucial element in informing the public and holding government accountable.

The 2005 Orange Revolution played a significant role in the formation of Ukrainian civil society. Some experts went as far as calling it "the birthday" of civil society in Ukraine.¹³² Concerns among many active in government and politics that the presidential elections of 2004 would not be fair led to invigorated action in civil society. Groups such as "Pora" actively recruited young people in the fight against

128 / The cassette scandal is a political scandal in Ukraine erupted in 2000 after the release of cassette recordings from the office of President Leonid Kuchma, testifying to the involvement of him and a number of other Ukrainian high-ranking officials and politicians in the murder of the journalist Georgiy Gongadze.

129 / "Raise, Ukraine!" – a large-scale protest campaign, operated by the Ukrainian opposition in the second half of 2002 - beginning of 2003 which influenced Ukrainian politics before the 2004 Presidential election.

130 / "Ukraine without Kuchma" – a protest campaign in 2000-2001 in Ukraine, organized by the political opposition. It advocated the impeachment of L. Kuchma.

131 / Mridula Ghosh. "In Search of Sustainability: Civil Society in Ukraine."

132 / Arel D. "Orange Revolution Paradoxes." Krytyka. 2005.

government corruption and to ensure free and fair presidential elections. Such groups played a crucial role in mobilizing the public during the Orange Revolution. Pora has been described as giving

“the frustrations of young people a non-violent discipline and focus, without which they might have petered out in uncoordinated protests and worse.”¹³³

Although civil society was instrumental in the success of the Orange Revolution in demanding new elections, the impetus for the protests came from opposition among politicians.¹³⁴ This can be understood as the pervasive attitude of the public that government must be responsible for bringing reforms. Later developments in civil society would signal a shift in the people’s attitudes over responsibility for change.

In 2005-2009, civil society continued to develop with a new level of engagement from the citizens of Ukraine. After the Orange Revolution there were widespread hopes that democratic reforms in government would follow. Many of the leaders of the Orange Revolution and civil society joined government, giving the public a sense of trust and security, which may have led to complacency among the people.¹³⁵ However, continued political infighting, economic problems, corruption and the manipulation of the media by wealthy oligarchs¹³⁶ made reforms difficult. A lesson learned from this period was that continued pressure from civil society was a necessity in order to sustain democratic practices in government and policy-making.

This experience led to a recognition among the public of the need to take part in grassroots initiatives and unite to defend their interests. This increased interest caused the number of NGOs to increase greatly during the period from 2006-2009.¹³⁷ The table presented below illustrates these increases. For example, the number of registered NGOs and their local centers rose to 46,682 in 2006 and to 59,321 by 2009. Increases in labor unions and their local centers and charitable organizations are also seen during this time period.

134 / Martin Morgan. “Analysis: Ukraine’s Youth Rise Up.” BBC News. December 23, 2004.

135 / Sylvie Kauffmann. “Ukraine’s Activists are Taking No Chances.” The New York Times April 25, 2014. <http://www.nytimes.com/2014/04/26/opinion/kauffmann-ukrainesactivists-are-taking-no-chances.html>

136 / Ibid.

137 / “Ukraine.” Freedom House, 2009. <https://freedomhouse.org/report/freedom-world/2009/ukraine>

138 / The number of Unified State Register of Enterprises and Organizations of Ukraine subjects, by branches of economy and organizational and legal forms of management, as of 01 January 2009.

Figure 10:

Dynamics of Registration of Public Associations (2006-2009) According to the State Statistics Committee of Ukraine

ASSOCIATIONS OF THE CITIZENS	2006	2007	2008	2009
NGOs and their local centers	46 682	50 706	54 862	59 321
Labor unions and their local centers	15 639	17 360	20 405	22 678
Charitable organizations	9 590	10 319	10 988	11 660

Due to the increases in CSOs, the government's institutions had to account for the civil society as an active subject of social and political influence in the country. CSOs continued to advocate for democratic reforms to ensure citizen participation in decision-making, etc. Public councils were created as CSOs that served to advise the executive power institutions, in particular, the government and the ministries, although this practice is still developing and not yet very efficient. Other measures were taken to improve communication between government and society: web pages for the government and the Parliament were introduced, and active public participation in the development of laws and State policies became a more common practice with public hearings.

The influence of CSOs began to be felt in other spheres as well. Fruitful relations developed between CSOs and business representatives leading to actions such as the emergence of the "Yalta European Strategy (YES)" foundation. A large part of the NGO sector became focused on activities such as working with children and youth, resolving social issues, advancing human rights, civic education, and so on. Some groups of CSOs, such as the Anticorruption Action Center, fought against corruption, and others worked with vulnerable groups to provide treatment for serious diseases like HIV and Tuberculosis. As the presidential election of 2010 approached, the role of civil society and citizen engagement was evident in

actions like the so-called “New Citizen” platform, which was launched by over 50 NGOs with the specific goals of monitoring the presidential election campaign, the promises and programs of different candidates, and demanding that those promises to become a part of public policy after the election. The campaign was launched in November 2009 under the motto *“These are not politicians that will change Ukraine, but responsible New Citizens.”*¹³⁸

The Euromaidan (also known as the Revolution of Dignity) in 2013 became a new milestone in the history of civil society development in Ukraine. The dynamics of the Euromaidan demonstrate that this new phase, as the impetus for the revolution, came from the people and not from politicians or existing CSOs. The protests came from people taking to the streets in response to President Yanukovich’s unilateral decision to delay the signing of the European Union Association Agreement. This action signaled a shift in people’s willingness to take action and more people than ever before showed a readiness to go out of their homes, stand up, and join others to make a difference. A second important point is that civil society responded by providing the necessary logistics and infrastructure for the protests and to channel the energy of the protests in a constructive and sustained way.¹³⁹ The combined forces of citizen engagement and civil society were illustrated in many significant ways during the protest. Among the most visible initiatives during Euromaidan were Automaidan – a movement of car-owners, who used their cars to provide protesters with help and even to protect the barricades from the police, and Euromaidan SOS – a group that gathered information on people in need of help who were either detained, injured or reported missing.

Since 2014, civil society has moved into a new phase of development with strong organizations, a supportive legal framework for their activities, and professional and community support. The legal and regulatory framework defining the rights and functioning of CSOs was defined in the National Strategy for the Promotion of Civil Society Development. The law ensured the rights of citizens to participate in the decision-making process at the local level, the right to information, to appeal, and to conduct public examinations. Through such measures CSOs can hold government bodies more accountable and influence actions taken.

138 / “New Citizen.” <http://newcitizen.org.ua/en>.

139 / Sylvie Kauffmann. “Ukraine’s Activists Are Taking No Chances.” The New York Times, April 25, 2014. <http://www.nytimes.com/2014/04/26/opinion/kauffmann-ukrainesactivists-are-taking-no-chances.html>

The availability of a proper legal framework and a shift in public attitudes appear to have facilitated significant growth in CSOs in Ukraine. As of September 2017, there were more than 125000 CSOs registered in Ukraine.¹⁴⁰ The actions of most CSOs focus on monitoring government actions, advocating for socially important decisions, fighting against corruption, providing assistance to the army and internally displaced persons, and providing social services ensuring people's education. Below are some examples of CSOs exercising influence in Ukraine.



An example of a newly established, effective CSO is the Anti-Corruption Action Centre established in 2012 to identify and counteract high-level corruption. According to the organization, as a result of its anticorruption activities 150 criminal cases have been brought.¹⁴¹



Another example of an influential organization is the NGO "Crimea SOS." This group was established by volunteers as a Facebook page on the first day of the peninsula occupation by the Russian Federation on February 27, 2014, to provide up-to-date and verified information on the situation in Crimea. Gradually the scope of the organization's activities has been extended, and currently they actively deal with internally displaced persons (IDPs), Crimean issues, and the coordination of public movements and initiatives on IDP issues. Over time, the Crimea SOS has assisted approximately 10000 families, supported 170000 IDPs and provided accommodations to more than 1000 families from Crimea and eastern regions of Ukraine.



Think tanks and universities also play an important role for civil society as they educate people, provide analyses, influence decision-making process and the development of legislation. The Ukrainian Center for Independent Political Research (UCIPR) is a non-governmental and non-partisan think tank center that develops and advocates democratic procedures in government policy. It is one of the oldest organizations in Ukraine, established in 1991 during Revolution on Granite. UCIPR is focused on the

140 / Data as of September 1, 2017. http://www.ukrstat.gov.ua/edrpoj/ukr/EDRPU_2017/ks_opfg/ks_opfg_0917.htm

141 / "Anti-Corruption Action Centre." <https://antac.org.ua/pro-nas/>

study of political processes in Ukraine and the EU Member States, generates ideas and advocates proposals for good governance, carries out civic and political educational activities, and creates social communication platforms.

In 2013, the Center for Innovation Development was created as a subdivision of the National University of Kyiv-Mohyla Academy. The work of the Center is primarily focused on the development of e-democracy in Ukraine. In cooperation with governmental institutions, this organization develops policy documents and successfully introduces specific electronic instruments of public participation. The StopFake.org project was founded in 2014 by Kyiv Mohyla Journalism School lecturers, graduates and students in response to the spread of fake news and propaganda produced by Russian Federation in regard to Ukraine, followed by the growth of the project to cover other countries. These are two great examples of how universities become a platform for civil society development in Ukraine.



Charitable organizations also constitute a significant part of civil society in Ukraine and mostly aim at providing assistance to different groups of people in various areas of charitable activities. For instance, the International Charity Fund "Tabletochki" protects the interests of children with cancer in Ukraine. The fund was set up by volunteers in 2011. Over 6 years of work, it has helped 43 children to undergo treatment abroad, provided 1650 children with medicine, ensured secure conditions for blood transfusion in Okhmatdyt, provided palliative and psychological support to children, support to parents, and voluntary donor movements in Ukraine.¹⁴²



Since the beginning of war in Ukraine, the volunteer movement in Ukraine, and in particular in the military, has significantly grown. Most volunteers operate with charitable organizations, including the Charitable Foundation "Return Alive" established in 2014 to support particular army divisions. The group provides military



¹⁴² / "Tabletochki." <http://tabletochki.org/ua/pro-nas>

equipment, introduces software programs for intelligence, teaches snipers, and repairs cars.

CIVIL SOCIETY ORGANIZATIONS INFLUENCE WITH GOVERNMENT

The credibility of civil society increases as a result of performance and effectiveness. In particular, nowadays the Reanimation Package of Reforms (the RPR) coalition of NGOs and experts, established in 2014, remains one of the most influential instruments in advocating reforms in Ukraine. The coalition experts collaborate in working groups and develop draft legislation and work to influence the adoption of laws in different areas, including public administration, anticorruption, decentralization, law enforcement agencies, judicial sector, electoral law, economic development, etc. Through lobbying and collaboration with public authorities, it has successfully advocated for adoption of a number of laws, including those providing the launch of independent public broadcasting, the autonomy of universities, better access to information, the establishment of an independent system of investigative agencies specialized in high-level corruption (National Anti-Corruption Bureau and Specialized Anticorruption Prosecutor's Office), launching of Prozorro online public procurement system, establishment of the National Agency for Prevention of Corruption and the launching of the electronic declaration system of incomes and property of public officials.

The RPR's experience of cooperation with public authorities may serve an example of the mutual benefit from constructive cooperation between civil society and authorities. Without such partnerships, Ukraine wouldn't have been able to implement all important reforms required for a visa free regime within the EU and for receiving loans from International Monetary Fund.

The European Business Association is another example of civil society, functioning as the largest and the most influential lobbying group with more than nine hundred members, and which is working to improve legal environment for business. It was established in 1999 in an effort to improve the legal environment for business in Ukraine and provides a forum in which members can discuss and find solutions to common problems in that regard. It has relationships with numerous big companies and its activities are aimed at protecting the interests

of foreign and domestic investors, promoting leading businesses with their peers, helping businesses make their mark on the Ukrainian map, providing member-companies with full-scale comprehensive information about developments in the country and its regulatory environment.

CHALLENGES FOR CIVIL SOCIETY

Despite the many positive developments for civil society in Ukraine, there are still many challenges to overcome before the full potential of civil society is a reality. Among these challenges are a lack of cooperation between public authorities and civil society, inadequate implementation of reforms, limited resources and low levels of engagement among the public.

Most funding for CSOs come from external sources.¹⁴³ Limited state support and a dependence on foreign donors make sustainable development of the sector difficult. Due to the lack of financial resources, the majority of local civil society activists is not engaged full time in CSO work and devote only a small percentage of their time to the civic activities and often on a volunteer basis.

Furthermore, the interaction between state authorities and civil society sometimes remains ineffective due to a lack of transparency in the work of public institutions and their bureaucratic procedures. In addition, the poor implementation of civil society enabling legislation has led to barriers for conducting civic initiatives, participating in public consultations, conducting public expertise and engaging civil society in decision-making processes by the state authorities and local self-government authorities. There are examples of legislation which makes the work of CSOs difficult, such as with a Tax Code that allows for the possibility to conduct activities for profit by CSOs and to use this income for organization's activities; however, sometimes CSOs are required to delete this provision from CSO Charter by regional tax authorities. Due to this situation some CSOs lose the opportunity to attract funding for its activities.

143 / Sylvie Kauffmann. "Ukraine's Activists Are Taking No Chances." The New York Times, April 25, 2014. <http://www.nytimes.com/2014/04/26/opinion/kauffmann-ukrainesactivists-are-taking-no-chances.html>

Despite the right of civil society activists to conduct public review of documents drafted by state authorities and local self-government bodies, in particular regulating civil society, sometimes CSOs are excluded from the process and therefore the quality of drafted documents does not comply with the best standards and practices. As an example, the adoption, without public consultation, of requirements for asset declarations by anti-corruption activists lead to human rights violations which received serious criticism from the Ukrainian civil society and international community.



EXERCISE 5

YOUTH AND CIVIL SOCIETY: A CASE STUDY

It is often said that the youth are the future. What will this mean for Ukraine? As you read the case study below, consider the actions taken by the youth of Khmelnytskyi, the reasons for these actions and the conditions that were necessary for this youth to succeed.

The Khmelnytskyi youth development club (KYDC) is a non-profit organization founded in 2013 just before the Euromaidan Revolution, under inspiration of Khmelnytskyi's own small revolution. In 2012, local officials and businesspersons decided to build a block of flats in the only beach-green area close to the river Pivdennyi Buh in the city center. This action was a "wake-up call" for the local youth to rise up and protect this area. In order to draw media and community attention to this problem, young people created an eco-festival at that place. Nowadays the "Green Fest" is one of the biggest eco-events in the region, gathering people from different parts of the region every year at the same place in Khmelnytskyi, which is still green and protected by citizens.

"Sometimes society needs a "kick" from the government or whoever, as a reminder that we should be aware about things which are going on in order to make some positive changes or prevent bad decisions. The possible occupation of the city's beach and green area by a business was a "magical slap" of the community's face," commented activist Arthur Kokarevich.

"Yes, definitely the Euromaidan was a kind of "wake-up call" for the civil society of our city, but just for some particular people. Our team was "awake" a long time before the revolution, it's just that the community didn't pay attention to us. The events of the last 2 years in Ukraine are creating a new philosophy in the minds of Ukrainians – a philosophy of caring after each other, helping for free, and taking responsibility for your city. I am sure that it's not the end, for us it is just a permanent process of development, in which we were engaged before the revolution. It is about it that we were talking from the Euromaidan stage

and which we are doing now,” commented the President of Khmelnytskyi youth club of development Stepan Kushnir.¹⁴⁴

QUESTIONS TO CONSIDER –

1. Should it take a “kick” or “slap in the face” before citizens are moved to take action to improve their community?
2. Do you agree that a “new philosophy in the minds of Ukrainians – a philosophy of caring after each other, helping for free, and taking responsibility for your city,” is occurring in Ukraine? Do you agree with this philosophy?
3. What conditions will be necessary for continued collective actions, such as the KYDC, to occur?

144 / “Euromaidan was a “Wake-Up Call” for Civil Society in the Regions of Ukraine.” <http://euromaidanpress.com/>

CONCLUSION

In this section of the text you learned about the integral role that civil society plays in a democracy. However, Ukraine faces challenges in the development of a vibrant civil society. The history of totalitarian rule still impacts how many Ukrainians view their role and the role of government. A cultural change is needed where more people recognize their rights to monitor and influence government, demand government be accountable to the people and actively work through civil society to bring about change in their communities, region and nationally. When such a shift occurs, civil society has the potential to ensure adequate and efficient public control over all activities of state authorities and local self-government bodies, as well as to influence and address the issues which are important for citizens. In the final section of this text you will consider the how individuals can play a part in the development of this cultural shift and in making democracy in Ukraine more of a reality in strengthening democracy in Ukraine.



SECTION 5

**CITIZEN
PARTICIPATION**

“ As soon as any man says of the affairs of the State ‘What does it matter to me?’ the State may be given up for lost. ”

Jean-Jacques Rousseau,
The Social Contract

One of the most basic principles of a democracy is citizen participation in government. In section one of this text, the 14 principles of democracy were introduced. All of these principles are important – but the very first one was “Citizen Participation.” Was this by chance? Citizens are central figures of democratic political systems: they found the state, and power and legitimacy rests in their hands. When citizens elect representatives, they are exercising one of the most important aspects of democratic citizenship by conferring responsibilities to the government. However, the role that a citizen can and should play in a democratic state goes well beyond exercising the right to vote. In a truly democratic state, individuals have a whole range of actions they may take to improve the quality of their own lives, to advance the lives of others and to advance society. How this can be done is the focus of this chapter.

Understanding how one can participate in civic and political life is of utmost importance in a democracy; however, equally important is understanding why citizens should participate. The role that active citizen participation plays in ensuring that many of the remaining principles of democracy are upheld will also be explored in this section. In addition, the responsibilities and duties of citizenship in a democracy and different perspectives of what makes a “good” citizen will be presented. The primary goal of this chapter is to prepare and encourage the reader to take on the important role of citizen actor in democratic society.

After the completion of this part of the text, the reader will be able to discuss these topics:

- What is the meaning of citizen participation?
- Why is citizen participation important in democratic societies?
- How can a system become more citizen-oriented?
- What strategies are available to achieve citizen participation?
- What factors influence civic engagement?
- What can individuals do to be better informed citizens?

5.1

CITIZENSHIP & DEMOCRACY

WHAT IS CITIZENSHIP?

What does the term citizen mean? The legal designation of “citizen” of a state confers rights on the individual and opportunities to participate in the civic and political life of society, such as the right to vote or hold public office. Citizenship in a democracy also implies a responsibility to society to practice and respect rights guaranteed by the state, to help other citizens enjoy their rights, and to strive to improve the existing environment.

Constitutions may make a distinction between the rights of citizens and the rights of residents who do not have the legal status of citizen; however, all individuals residing within the same geographic community are expected to fulfill the responsibilities of citizenship, and in all cases members of society have a responsibility to uphold the human rights of all.

RESPONSIBILITIES OF CITIZENS IN A DEMOCRACY

In the article “Citizenship Norms and the Expansion of Political Participation,” American political scientist Russell Dalton (born 1948) identifies characteristics and actions that citizens in democracies should fulfill for the maintenance of a healthy democracy. Dalton views citizen participation to be such a vital component of democracy that he wrote,

“Unless citizens participate in the deliberation of public policy, and their choices structure government action, then democratic processes are meaningless.”¹⁴⁵

145 / Russell J. Dalton. “Citizenship Norms and the Expansion of Political Participation Political Studies.” p. 76–98.

Dalton identifies several duties of citizens in a democracy:

- stay informed about government in order to effectively participate;
- participate in democratic deliberation and discuss politics with other citizens, and ideally understand the views of others;
- be committed to social order and the acceptance of state authority (respect for the rule of law);
- possess an ethical and moral responsibility to others in the polity, and beyond.

History has shown that the rights and privileges of citizenship are not sufficient to engender a sense of belonging to a state. A sense of commitment and responsibility to the state is developed through the engagement of citizens in governance, political processes and civic life. Inclinations to fulfill the responsibilities of citizenship have been referred to as “citizenship norms.”

Fulfilling the duties of citizenship may require expending certain resources, such as time, effort and finances. For example, serving in the military can deprive one of time and income in order to fulfill this role. Such sacrifices can compel us to ask: Why should a citizen become civically engaged? What benefits does he or she get in return? Answers to these questions will be explored in the next section.

BENEFITS OF CIVIC ENGAGEMENT

Being an engaged and responsible citizen is an important feature of a democratic society. Throughout history, political scientists and theorists have provided many explanations for why civic engagement – which simply means participation in public life – is important. Some believe that individuals should meet the obligations of citizenship to obtain personal benefits, while others see this as benefitting society, the common good and democracy itself. Another reason that civic participation is needed is that social order depends on responsible citizenship. Political scientist William Galston writes,

“Citizens’ effective incentives to obey the law are to some extent conditional on others’ behavior. Obeying traffic signs and making honest declarations

of taxable income cease to make sense when large numbers of one's fellow citizens are openly flouting the law...once a tipping-point of disobedience has been reached, even the most law-abiding citizens begin to feel like suckers if they continue to comply."¹⁴⁶

Galston suggests that the community has an incentive to promote internalized norms of law abidingness through both formal and informal processes.

Republican systems of government, or representative government, vest the power of the people in representatives, who are there to serve the people. A common complaint among citizens in democracies is that government officials are seemingly unaware, or disinterested, in the wishes of the electorate. Though government representatives make decisions that impact the lives of the public, they might not accurately understand the needs of the people or the circumstances of a given situation. Therefore, there may be outcomes with unforeseen events that lead to inefficient and even unwelcome situations for the constituents. Some of these problems can be prevented by ensuring the participation of all relevant stakeholders in the process of decision-making. This level of engagement is also important in holding the government accountable, which is a crucial element of a healthy democracy. In some instances, government officials may use their position to enrich their own lives or they might become accountable to special interests, which are usually individuals or organizations who have a great deal of money and may entice officials to enter into corrupt deals that are not in the public interest.

When citizens are **engaged** they have the opportunity to influence public policy and to hold government accountable. The public plays a role in accountability by monitoring the actions of officials and voicing support or displeasure.

The ultimate tool citizens can use is to remove an official from office through voting. When there is accountability, government representatives view their powers as a responsibility as opposed to a privilege, and each civil servant understands that he or she is accountable before the citizens.

146 / William Galston. "Pluralism and Civic Virtue." *Social Theory and Practice*. Vol. 33, No. 4, October 2007, p. 629.

5.2

METHODS OF CIVIC PARTICIPATION

Informed participation is the central role of citizens in a democracy. It is not just their right – it is their duty. Citizen participation may take many forms, including standing for election, voting in elections, becoming informed on important public issues, debating issues, attending community or civic meetings, being members of private voluntary organizations, and attending peaceful rallies. Informed participation builds a better democracy.

For civic participation to hold government officials accountable, another component of democracy must be in place: transparency. Transparency means that citizens are informed about government's past, present and future activities. To guarantee transparency, citizens need a base of legislation in place that provides public access to relevant information. Many countries, including Ukraine, the United States of America, and the United Kingdom, have adopted freedom of information laws¹⁴⁷ that oblige authorities to provide access to public information, both by proactive disclosure and upon request. The public information must be published and provided in a legible form.

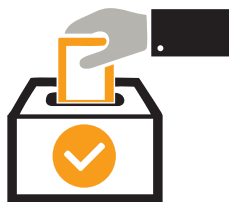
In a transparent system citizens are allowed to closely follow the process of governance, control decision-making and implementation, and get involved as needed. A transparent system decreases risks of corruption and criminal actions and widens the potential for cooperation between citizens and civil servants, which in its turn promotes a more democratic system. The degree to which citizens have access to information and are able and willing to educate themselves about public issues is directly tied to holding government accountable. Transparency, accountability of the government, and citizen engagement are crucial to a healthy democracy. There are many mechanisms that citizens can engage in to enact these principles of democracy.

147 / Law of Ukraine "On Access to Public Information." <http://zakon2.rada.gov.ua/laws/show/2939-17>

Civic participation can be aimed at making changes of a political or social nature. The political aspect means influencing political actors and/or participating in the process of making and executing decisions, as well as monitoring the actions of the government and holding officials accountable. The social aspect entails actions to help other members of society, care for the environment and improve the quality of life in a community.

In democratic nations, including Ukraine, there are many different methods of participation that enable citizens to achieve different goals.

VOTING AND ELECTIONS



Elections are one of the oldest forms of participation for citizens in political governance, enabling citizens to personally participate in the decision-making process and make their own free choices. Although modern democracies are primarily republican or representative democracies, there are some instances of direct democracy where it is the citizens who make decisions by means of voting, rather than through elected or assigned officials. An essential condition for using this tool is a comparatively small number of voters and issues submitted to the agenda that do not require a lot of the voters' time and energy. Direct democracy could be implemented, for example, at village meetings or at general meetings of local organizations of trade unions or political parties, etc. Modern democracy is mostly representative: citizens directly elect their representatives who, in turn, make political decisions, create laws, develop policies and strategies, and contribute toward their implementation.

Making **informed decisions** in voting for candidates is one of the most important responsibilities individuals in a democracy have.

However, there are many other ways for citizens to have a voice and influence policy-making and government.

The current legal framework in Ukraine provides conditions for the implementation of public activities and encourages the involvement of citizens in the decision-making process, both at the national and local levels. In addition, the National Strategy for Civil Society development in Ukraine for 2016-2020 provides for improving the legal environment for civil society and the development of citizen engagement in Ukraine. Below are descriptions for many tools that members of Ukrainians society may use to engage with government and influence conditions. Some of the methods presented are fairly new to Ukraine and still developing. As you read about each method, it is important to consider when each method might be useful. It is also important to ask yourself if you feel able to use the method described – and if not, how could this be changed? Knowing your rights, the tools available to you and being ready and able to use them are all extremely important in becoming active in the democratic process and having a voice in your society.

DIRECT APPEALS & COMMUNICATIONS WITH GOVERNMENT

Appeals of the citizens are the most common tool of public participation in Ukraine. Citizens of Ukraine have the right to send individual or collective written or oral appeals to the state and local governments authorities and officials of those institutions. The consideration and response to the appeal shall take place during the established time limit. Types of appeals include: proposals (remarks), statements (petitions), complaints, and electronic petitions. The statement is an appeal in which citizens ask for something, and a complaint is an appeal in which a demand is expressed.



Electronic petitions are a type of appeal from citizens to state authorities and local councils with the demand to consider an important issue or to solve a problem.

An electronic petition can be initiated by citizens by collecting signatures on an official website of the institution or on a public association website. An electronic petition is considered by the local or national government agencies if the required number of signatures has been collected. The requirements for the number of signatures to be collected in support of the electronic petition and the time for the collection of signatures are determined by the ordinance of the territorial community. Each citizen can create an electronic petition and start the process of collecting signatures.

Advisory councils are the institutions, created by the authorities to assure the participation of citizens in the processes of decision-making, providing free access to drafts of the decisions, etc. Advisory councils are bodies created in various forms: public councils, expert commissions, advisory councils, etc. Institutions of this type can be established at the local councils, executive committees, executive institutions attached to the council, and permanent deputy committees. In addition, citizens may initiate the creation of a working group or commission by themselves. In this case it is obligatory to describe the objectives, the period of work, the personal composition and the result of the group's work in the appeal; results may include the draft decision of the council session, the draft decision of the executive committee or the draft order of the mayor. Currently, there are a large number of different consultative and advisory bodies on a variety of issues. Examples of advisory councils include the National Reform Council, the Coordination Council for Civil Society Development, the ATO Veterans Council, the Coordination Council on National and Patriotic Education, etc. How well these methods work depends on the engagement of citizens and the willingness of government officials to cooperate with the citizen groups.

Consultations with the public provide a space for discussing issues of state economic development, the protection of human rights and freedoms, and other with the public. Consultations are organized and conducted by the institution that is in charge of the legislative draft, or that prepares suggestions for a particular area of public policy. Even though this method is regulated by the Resolution of the Cabinet of Ministers of Ukraine¹⁴⁸ (which makes this method not obligatory for the local self-government), local self-government authorities can also be involved in consultations with the public. Consultations are conducted in various forms,

148 / Resolution of the Cabinet of Ministers of Ukraine "On Ensuring Public Participation in the Formation and Implementation of State Policy." <http://zakon3.rada.gov.ua/laws/show/996-2010-%D0%BF>

such as public discussions, public e-consultations, and opinion polling. Public discussion involves holding public events (conferences, forums, public hearings, round tables, meetings with the public, Internet conferences, videoconferences).

Voters have the right to issue **voters' orders** to the deputies of local councils, with the goal to resolve certain problems. The deputy shall accept written orders to address the problems of the city or the constituency during the reporting meetings and during meetings with voters. Issues that are addressed by the citizens must not violate the law and have to fall within the competence of the respective deputy.

Local initiative is a way for citizens to prepare a draft decision that the local council is obliged to consider. Requirements for drafting a decision are defined in the local council regulations. This provides the opportunity for local inhabitants to participate in a local council "without a badge," since they are able to submit draft decisions on any issues that fall within the competence of a respective council.

The Constitution of Ukraine guarantees the right of citizens to conduct a **local referendum**, which enables members of the territorial community to directly participate in decision-making processes through direct voting. Any questions that fall within the competence of local government may be submitted to a local referendum, but due to the lack of a regulatory framework for the local referendum process, this tool is not used.

Members of the community may initiate **public hearings** with local authorities if they can obtain the required number of signatures on a petition (the exact number of signatures needed varies by city). The public hearings are meetings with deputies and officials of the local council in which citizens listen to them and submit their own proposals on how to solve local problems. The proposals are sent to the local authorities and are subject to obligatory review.

All of the methods described above provide opportunities for communication between the public and government. A method's success depends on many factors, such as how well informed citizens were about an issue and how seriously government officials take their responsibility to consider proposals – whether they listened to their citizens, or merely put on a "show" of doing so. Petitioners must also present a compelling case and demonstrate support from other citizens for the position. If that support is lacking, or if one's proposal fails to the common good, petitioners may be left unsatisfied and forced to accept a compromise

position. This is a reality in a democratic system. However, if an individual isn't satisfied, they might continue to use the methods described or try a different approach. Several other methods of civic engagement are presented below.

PARTICIPATION IN ORGANIZATIONS



Individuals are free to join groups in order to address an issue or interest. Examples of this are joining a church group or religious organization, a school group, a sports or recreation association, civic associations and community clubs. In some respects, participating in a group may seem similar to partnering with civil society. However, in this instance the focus is on acts that an individual can take to become civically engaged and address an issue, as opposed to acts that CSO may take. Another distinction is that some of these groups may only exist to serve a specific community or interest, such as a neighborhood cultural organization. There are examples of organizations and clubs throughout the world where individuals join with others who share common interests and perhaps to serve their community. One such example is to join a local garden club. Members of garden clubs often meet to share information about gardening but also engage in projects such as planting and maintaining a garden for the community, perhaps in a local park. This type of association may be very informal with no rigid hierarchy of leadership or requirements for membership. Other organizations can have a more formal structure and rules about who can join. For instance, there are some civic organizations that only admit members that have been invited to join, and membership requires payment of dues and fulfilling other obligations. These organizations host many social functions for members, and they also serve the community in ways such as fundraising and donating funds to important causes, and providing educational and awareness programs to serve the public. Choosing to participate with an existing group or to form a new group is a means to serve one's interests and the community. Such groups can make important contributions to society.

There are several specific mechanisms available to citizens of Ukraine to do this.

Public associations and charitable organizations in Ukraine may be created based on the procedure outlined in the Law of Ukraine “On State registration of legal entities, individual entrepreneurs and community groups.” The creation of a public organization enables people to unite into one community to create conditions for the effective protection and pursuit of common interests.

Apartment building co-owners associations are an example of legal non-profit entities created by apartment owners for the joint use, maintenance and management of their home and adjoining territory. Apartment building co-owners associations are also created to legally register property rights of apartment owners to buildings and their adjoining territory.

General meetings at places of residence exemplify direct participation in solving local issues. The meeting is initiated by collecting signatures, followed by sending a message to the mayor. The quorum for a general meeting is determined by the number of community members who could potentially attend: for example, if a general meeting is held at a multi-apartment house, then in order for the meeting to be representative, at least half of the inhabitants participate. The decisions of the general meeting are subject to mandatory review and are taken into account by institutions of local self-government.

Self-organization entities are representative institutions created by citizens from a given area who come together for the purpose of improving its interests. They can:

- represent the interests of the residents of the house/street/district at local council meetings, in particular by submitting proposals for projects, programs, and city budgets;
- monitor the quality of utility services, the quality of the building repairs (repairs of entrances, insulation), preparation for winter, etc.;
- take measures for the maintenance of the territory, planting and maintenance of the greenery.

In order to solve the problems of the community of a city or village, the local council can establish **permanent or temporary commissions**. Those commissions consist of the deputies of the local council and may include public representatives,

such as academicians, activists, journalists, etc. The public representatives have no right to vote at the commission meetings, but they do have the right to speak and to chair the meetings.

MONITORING GOVERNMENT



One of the most important roles that a citizen can play in a democracy is to monitor the actions of the government and hold the government accountable to the people and the rule of law. There are several mechanisms available to citizens of Ukraine to do this.

Public expertise is another opportunity for public participation. Public experts can evaluate the activities of executive institutions, the decision-making processes and their implementation efforts in order to address socially important problems. Public expertise can be provided by public associations, community councils, charitable organizations, grass root initiatives, apartment building co-owners associations, etc. After obtaining expert opinions, executive institutions are obliged to publish them on their official website, to consider them with the participation of CSOs, and to develop and approve the necessary conclusions.

Mayoral advisors are chosen by city mayors as experts in a particular area, such as youth policy, architecture or environmental policy. Advisors have the opportunity to directly convey their ideas to the center of decision-making. They also gain an opportunity to share options for solving community problems by directly submitting them to community leaders. Generally, advisors have the opportunity to speak at executive committee meetings, to hold operational meetings, to receive information from council executive boards, to submit drafts of the leader's regulations or even to present their expert conclusions to the draft regulations. This role can be filled by both a paid staff position or by a volunteer citizen.

Review of draft decisions is the simplest tool of public control over the decision-making processes. Decisions, after being drafted, must be made public; otherwise they may not be enacted. If a citizen has any suggestions or comments on the

draft, they may send an official written application to the city mayor, heads of parliamentary factions and members of the executive committee. Citizens can also express their opinions at meetings of the permanent deputy commission, which reviews draft decisions.

Citizens can freely **attend meetings** of councils, executive committees, commissions, and the presidium of district and regional councils. The Verkhovna Rada and local councils may establish visiting procedures but they cannot restrict attendance. Moreover, citizens have the right not only to attend sessions, but also to record everything that is happening.

Membership in an executive committee allows citizens to work on the implementation of city council decisions (about the draft budget, policy objectives, territorial plans, public transportation tariffs, and so on). The members of the executive committee may work either on a regular or on a voluntary basis.

CONNECTING TO INFORMATION AND CURRENT EVENTS

In a democratic society, individuals have a responsibility to remain informed about current events. When individuals are informed they are better positioned to participate in public decision-making and to monitor the actions of government, business, organizations, and individuals, watching for behaviors that are threatening to the welfare of society.



There are many ways that individuals can obtain information, such as watching news on the television, reading newspapers and magazine, listening to the radio, locating information on-line, attending lectures, and discussing issues with others (often using technology, such as internet message boards or social media platforms). Civically minded individuals who are informed about current events typically engage in these behaviors on a regular basis and see it as their responsibility to remain informed and to act on information as needed. For example, an individual who

has been following news stories about proposed tax increases that would unfairly hurt small business owners might use this information to educate others, to write letters voicing opposition to the plan to local politicians and newspapers, and to attend a rally protesting the tax proposals. Learning to critically assess sources of information is a very important issue that will be addressed in depth in a future section. There are important policies in Ukraine that citizens may use to help them be informed about important public issues and acts of government.

Requests for public information allow the public to ask public institutions and officials to provide information (for example, on the use of budget funds or on a decision by the city council). The information can be gained orally (by making a phone call to an authority) or in writing (by requesting information through mail, e-mail or fax). The institution with the information must respond to a request no later than five working days after the date of receipt of the request (or 20 business days if the request relates to the provision of a large amount of information).

The law requires MPs, deputies of the local councils, and mayors to report on their activities to citizens in open meetings, develop reports and publish them on the official website of the government structures, and local media. Citizens have the right to demand an annual, public report at an open meeting from the mayor. They can also demand that deputies systematically hold meetings and report on their work (for instance, on decisions, the course of their implementation, the activity in discussing and supporting draft decisions; on meetings with voters, sent parliamentary requests and appeals, use of funds, etc.).

ECONOMIC ACTS



Sometimes citizens can exert influence through economic actions. This can be accomplished by either buying or boycotting a product or service to show opposition or support for a producer's values or practices. For example, there have been instances where large numbers of individuals have stopped buying a particular brand of clothing after learning

that the items were produced under conditions that violated the human rights of others. When companies are faced with large scale loss of profits they sometimes choose to change their practices to please the public and regain their customers.

A boycott in Ukraine took place in 2013 after Russia blocked Ukrainian goods. Ukrainians responded with a boycott of Russian goods and products. The boycott started with social media by the Civic Movement "Vidsich."¹⁴⁹ In the course of the campaign, activists developed stickers and leaflets which called for boycotting Russian goods, shops, banks, social media and gas stations. Moreover, a manual on Russian goods was published and a mobile app was developed to assist individuals in identifying products to boycott.

The boycott was renewed after Russia's 2014 occupation of Crimean and Russia's aggression in eastern Ukraine. It was supported by entrepreneurs, including cinema houses (which refused to show Russian movies), some supermarkets, and concert halls which cancelled concerts of Russian artists. In 2016, the Ukrainian government also launched a boycott when the President of Ukraine enacted the Decree on Personal Sanctions. It affected over 105 legal and 388 physical persons working in different areas of economy (transport, enterprises, banks, TV channels, war supporters, and so on).¹⁵⁰ Then in 2017, Russian social media and software products were banned by another Presidential Decree.¹⁵¹ These boycotts decreased the dependence of the Ukrainian economy on Russia and negatively affected Russian imports to Ukraine.¹⁵² The boycotts are an example of how citizens and governments can use this method as a form of protest in hopes to bring a change in behavior.

149 / "In Social Networks Ukrainians are Called to Boycott Russian Goods." <http://tyzhden.ua/News/87066>

150 / "Ukrainian Sanctions Against Russia. A Complete List of People and Companies" http://espresso.tv/article/2015/09/17/ukrayinski_sankciyi_proty_rosiyi_povnyy_spysok_lyudey_ta_kompaniy

151 / Decree of the President of Ukraine. "On the Application of Personal Special Economic and Other Restrictive Measures (Sanctions)." https://ukurier.gov.ua/media/documents/2017/05/16/2017_05_17_133upu.pdf

152 / "Geographic Structure of Foreign Goods Trade in 2016." http://ukrstat.gov.ua/operativ/operativ2016/zd/ztt/ztt_u/ztt1216_u.htm

SUPPORT FOR POLITICAL ACTIONS



There are many very important actions that individuals can take to be politically engaged. For instance, showing support for one party or candidate. Individuals can choose to show their support for a candidate by wearing buttons or displaying bumper stickers on their cars with the candidate's name or campaign slogan printed on it; by attending or helping to organize fundraising events for a candidate or political party; by contributing money to a campaign, making phone calls or volunteering for a candidate. Outside of elections, citizens can play an important role in influencing public policy; by obtaining signatures to petition Parliament or local government to make changes in laws; by contacting local and national officials or attending public meetings to express views on an issue; or by educating the public on important issues in order to motivate others to take action. Other methods of communicating views to public officials include organizing or attending peaceful rallies and demonstrations. Public officials who are elected should be particularly sensitive to listening to the public who they serve. For this reason, citizens can play a crucial role in policy-making if they are vocal in demonstrating their views on issues.

SERVICE OR ACTS OF VOLUNTEERISM



Volunteers can provide many services to others and their community. Volunteering can occur with regular frequency, for example once a week, or can be a solitary one-time act. The distinguishing feature is that an individual is giving his time freely to serve others or advance a cause. The potential to address societal issues through acts of volunteerism are almost unlimited. A few examples would be serving meals to elderly or homeless individuals, reading to or teaching children at an orphanage, or helping to clean

up a town park. Sometimes individuals can volunteer on their own, for example by directly contacting an orphanage and offering to provide a needed service. Other times individuals can volunteer through an organization that has identified needs and has established systems and relationships to address the need. Regardless of the time frequency or the type of action taken or the method (alone or through an organization), volunteering is a means that almost all individuals can engage in to address issues in society.

CONDUCTING AN AWARENESS CAMPAIGN

Sometimes individuals choose to become civically engaged when there is an issue they feel strongly about and want to educate others in hopes of bringing about changes. The issue does not need to be political, but rather could be an important social issue. An example might be raising awareness about the value of wearing a helmet when riding a bicycle. For instance, an individual may have witnessed a friend or family member suffer a head trauma after being thrown from a bicycle in an accident. The individual might learn that the injuries could have been prevented if the victim had been wearing a helmet. Feeling a strong desire to prevent future such tragedies, the individual may gather facts about the benefits of wearing a helmet when biking and then spread this information through an awareness campaign. The campaign might include displaying signs and posters, sharing information via social media, giving speeches and even paying for advertising on radio or local TV.





EXERCISE 1

EVALUATING METHODS OF CIVIC PARTICIPATION¹⁵³

In this last section, many ways for individuals to be engaged in civic and political life were presented. There are many reasons why someone might choose one method or another. Some of the methods might require very little time, and some may require that an individual possess certain skills like organizing events. Additionally, some methods may seem more likely to affect change than others, or have more potential to monitor government's actions.

In this exercise you will evaluate ways for citizens to be civically engaged. Review the list below and answer the following questions:

1. What are the advantages and disadvantages of each form of participation that is listed? Consider aspects such as: will the method require a great deal of time? What is the likelihood the method will work?
2. Are all these forms of participation equally important in protecting our basic rights? Why or why not? Which seem the most important?

METHODS OF CIVIC/POLITICAL PARTICIPATION:

- looking for information in newspapers, magazines, and reference materials and judging its accuracy;
- voting in local and national elections;
- participating in a political discussion;
- signing a petition;

153 / "How Can Citizens Participate?" We the People: The Citizen & the Constitution, 2nd Edition. The Center for Civic Education, 1998. <http://www.civiced.org/resources/curriculum/lesson-plans/456-how-can-citizens-participate>

- wearing a button or putting a sticker on the car that shows support for an issue or political candidate;
- writing letters to elected representatives;
- contributing money to a party or candidate;
- attending meetings to gain information, discuss issues, or lend support;
- canvassing for a candidate (actively trying to build support for a candidate through phone calls, speaking with friends and neighbors or using social media);
- lobbying for laws that are of special concern to you;
- demonstrating through marches, boycotts, sit-ins, or other forms of protest;
- serving as public official;
- partaking in acts of civil disobedience (disobeying laws and taking the consequences to demonstrate that a law or policy is unjust and increase public awareness).

5.3

AN INFORMED CITIZENRY



An important component to being an active citizen is to be informed on current issues and able to make responsible decisions on issues of public importance. Meeting this responsibility requires much more than following current events through social media. Individuals need to be prepared to analyze information critically in order to recognize bias and assess the credibility of a source. Seeking information from varied sources and with different perspectives is also important in forming an educated opinion.

In the age of the internet, citizens have access to more information than at any other time in history. Innovations in technology and access to information continue to transform the way youth engage with or disengage from their democracies across the globe. From the printing press to Twitter, Facebook and Instagram, the way humans receive, share, and interpret information will continue to be an important influencing factor on the health of our democracies.

The growing ubiquity of smartphones, coupled with social media's ever-expanding datasets and fine-tuned algorithms about our behaviors and preferences, equates to a new reality wherein these powerful tools can be employed to influence citizen engagement on a level that far surpasses anything that has been seen by our civilization to date. While social media and new technologies can and should be used as tools that support informed voter engagement, we must remind ourselves that they are only tools; tools that can be used for good and for bad.

Combatting disinformation and searching for objective truth starts with the individual. Ask yourself the following questions to help you critically think about the information that you are receiving through social media and other outlets, and how you might be processing it.¹⁵⁴

How many viral posts* — whether articles, videos or photographs — do you click on each week? How many on average do you share on social media?

1. How often do you check to make sure what you are sharing or commenting on is real? How do you go about finding that out?
2. How much do you care if a story purporting to be real actually is?
3. How much more careful are you with online sources when you are doing work for school than when you are simply surfing the web for fun? How do you decide what is a reliable source for your schoolwork?
4. What sources of news do you usually trust? What sources do you rarely trust? Why?
5. What responsibility do journalists and news outlets who post or link these stories have to make sure they are true? Is it their job to make sure

154 / Katherine Schulten "Skills and Strategies. Fake News vs. Real News: Determining the Reliability of Sources." The New York Times, October 2, 2015. <https://learning.blogs.nytimes.com/2015/10/02/skills-and-strategies-fake-news-vs-real-news-determining-the-reliability-of-sources/>

*A viral post is a link, message, image, or video that spreads quickly through a community or communities and are frequently shared by various individuals.

something is not a hoax before they cover or link to it? How do you think they go about verifying information?

6. Can embellished, or outright fake, stories have real-world consequences? What examples can you give?
7. In a world where news can be reported by anyone with a cellphone, how do you decide what is true? What questions should you ask to find out? What personal rules might you develop to decide what news you post and when you post it? What harm might be done by not following those rules?

While traditional media such as newspapers, television and radio have been, and continue to be, potent influencing tools for engaging voters around the world, today, the growing dominance of digital technology and social media equates to a new reality. If in the past, citizens selected the newspaper, radio or television channel they preferred to digest, view or listen to, today, social media and digital technology, through their growing databases of information about citizens' needs, desires and preferences, are growing in their ability to seek out the consumer, rather than the other way around.

The concept of “**fake news**” and **misinformation** designed to mislead the public on issues is another grave concern. Detecting fake news stories is essential to being an **informed citizen**. Even when the news is not based on false information, bias and propaganda need to be recognized and dealt with when educating oneself on issues.

Learning to analyze news sources is an important skill for citizens to develop. Following the guideline presented next can be helpful.

WORD CHOICE

Paying attention to the words that are used is important since small changes in word choice can change the meaning. For example, look at the two sentences below that appeared as news headlines and determine how they are similar and how they differ.

“War in Iraq”

“War On Iraq”

A single word is changed, yet the meaning is quite different with this change. In the first statement, it appears that the news story will be about a war that is occurring in Iraq, but there is no blame suggested. However, the second headline suggests that war is being waged on Iraq by an outside party, which sounds more ominous. The headlines appeared in very different news sources, which is also an important key in recognizing bias, on the same day referring to the same U.S. led war against Iraq. The headline, “War in Iraq” appeared on the CNN’s Iraq page, whereas the second headline appeared on Dar Al Hayat’s Iraq page. Dar Al Hayat is one of the leading daily Pan-Arab newspapers, whereas CNN is a U.S. news outlet.

SELECTION AND OMISSION

News stories can be biased when some details are left out or other information is included to give readers or viewers a different opinion about the events reported. This can extend to complete omission by not covering a newsworthy story. Similar to this is “placement” which means where a story is placed. Front page news stories or stories on electronic sites that can only be accessed by scrolling down the page are not likely to get the same attention by the public.

LIMITING THE DEBATE

Sometimes a story is presented as the only perspective or logical conclusion, however, there may be other interpretations that are not offered. In this way, it is hoped that the public will accept the conclusions offered. Asking questions may help the reader determine if the debate is being limited. Some useful questions are; is evidence offered to support the claims provided? Are different perspectives provided? Does it appear that an “agenda” is being promoted?

SOURCES

It is very important to analyze the sources used in a news story. Determining the credibility of a source or a relationship of the source to the story are very important. If it appears that the source could have a vested interest in the outcome of the story, additional sources should be sought. In general, if the perspectives

of several, varied sources are presented, the story is likely to be more credible. News outlets, websites and other publications can also be biased. Always check who the publisher of information is. If the name is not known to you investigate the individual or organization a bit to determine if they have an agenda.

Many news sources claim to be bias-free but utilizing the techniques listed above can be useful in determining if there is a trend towards bias whether the source is print, online or video/audio media. It is always always a good idea to check multiple sources before drawing conclusions about an issue. The diagram below also offers helpful recommendations linked to consumption breaking news.

Figure 11:

***Breaking News Consumer's Handbook*¹⁵⁵**

1. In the immediate aftermath, news outlets will it wrong.
2. Don't trust anonymous sources.
3. Don't trust stories that cite another news outlet as the source of the information.
4. There's almost never a second shooter.
5. Pay attention to the language the media uses. <ul style="list-style-type: none"> · <i>"We are getting reports"... could mean anything.</i> · <i>"We are seeking confirmation"... mean they don't have it.</i> · <i>"[News outlet] has learned"... means it has scoop or is going out on limb.</i>
6. Look for news outlets close to the incident.
7. Compare multiple sources.
8. Big news brings out the fakers. And photoshopers.
9. Beware reflexive retweeting. Some of this is on you.

¹⁵⁵ / "On The Media' Presents: A Consumer's Guide To Breaking News." NPR, September 20, 2013. <https://www.npr.org/sections/thetwo-way/2013/09/20/224498227/on-the-media-presents-a-consumers-guide-to-breaking-news>



EXERCISE 2

DETECTING BIAS IN NEWS

News headlines are usually written to attract readers. Headlines that are sensational and evoke strong emotions such as anger or fear can be very effective in catching a reader's attention. The words that are used in headlines can convey very different meanings, even when dealing with the exact same news item. Since the beginning of the war with Russia, there have been many fake news stories on developments in Crimea and Donbas mostly delivered by the Russian media. Usually, they are published to mislead the citizens and the international community about the situation in Ukraine and discredit Ukrainian citizens and authorities.

Consider the headlines below. All of them have been written about the same events within a two-day period. Read each headline and answer the questions below.

- A. "Peacemakers in Donbass: It's Fake – Khomakha" (Radio Freedom, September 21, 2017)
- B. "Bringing Peacemakers to Donbass is not Averse to Providing Ukraine with Defensive Weapon – Yeliseyev" (Censor.Net, September 21, 2017)
- C. "Lavrov: Peacemakers in Donbass are Needed Only to Safeguard the OSCE" (Ukrayinska Pravda, September 20, 2017)

1. Which words in each headline appear to reflect a bias?
2. Does each headline reflect a clear position on the issue?
3. What is the possible motive behind each headline?
4. How else might you be able to determine if there is likely to be a bias in the news story for each headline?
5. What steps should you take next to educate yourself about these events?

5.4

FACTORS THAT INFLUENCE DEMOCRATIC CITIZENSHIP PARTICIPATION

CIVIC CULTURE

The exact nature of civic engagement among individuals in democratic societies can differ for several reasons. One important factor is the civic culture that exists in a society.

Civic culture can be understood as the general attitudes that members of society have towards the political system and structures of government, and how they view their relationship to these systems. A civic culture that is characterized by trust in the system and a sense of being a part of the process is as an integral part of a healthy democracy.

In their research on civic culture,¹⁵⁶ Gabriel Almond and Sidney Verba identified three general types of civic culture:

1. *parochial*, where citizens tend to be unaware or only dimly aware of the political system and specific government roles, while no clear expectations exist among actors;
2. *subject*, in which citizens understand institutional and political processes, but stand in largely passive relations to government; and

156 / Gabriel Almond and Sidney Verba. "The Civic Culture: Political Attitudes and Democracy in Five Nations." Sage Publications, Inc. 1963.

3. *participant*, in which citizens are aware of and informed about the political system in both its governmental and political aspects and in which the relationships between specialized institutions and citizen opinion and activity is interactive.

Almond and Verba explain that

*"a democratic political system is one in which the ordinary citizen participates in political decisions...a democratic political culture should consist of a set of beliefs, attitudes, norms, perceptions and the like, that support participation."*¹⁵⁷

Thus, the attitudes citizens have towards government and their relationship to government, have an impact on their willingness to participate in the democratic process.

The framework presented by Almond and Verba is useful in thinking about civic engagement as a continuum with "parochial" at one end of the spectrum and "participant" at the other. It is possible that an individual will see their position on this continuum shift over time. It is also possible for the civic culture of a society to experience changes over time. Where do you think most Ukrainian citizens stand (parochial, subject, or participant)? Where do you stand? Whatever your answer may be, it is important to acknowledge that possessing a strong civic culture is not inherent for any one nation or people, but rather is shaped by a myriad of historic and political factors, and by citizens like you. While decades under Soviet rule stifled civic culture across the region, in recent years, nations such as Ukraine and Georgia have witnessed the reemergence of vibrant civil societies and examples of citizen engagement which reflect and contribute to the respective nations' evolving civic cultures.

CITIZEN ORIENTED GOVERNANCE

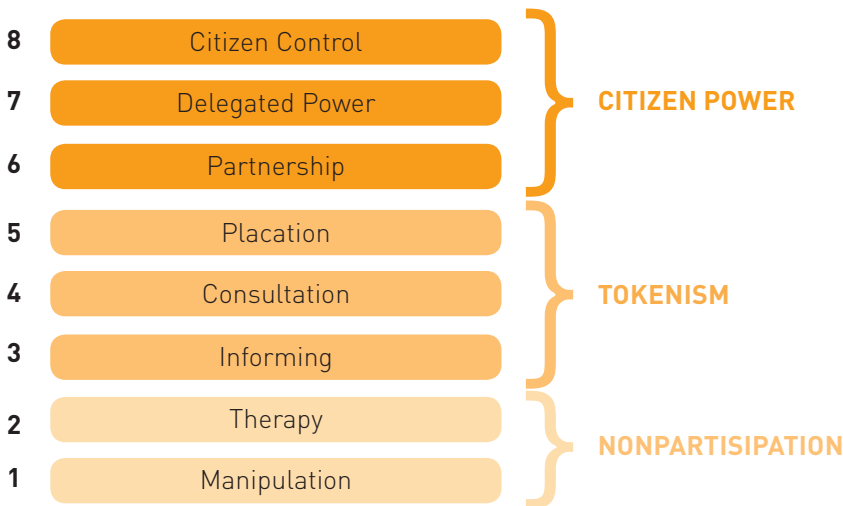
An important influence on civic culture is the actions of government, government may institute mechanisms and practices that allow for and encourage citizen engagement, or conversely, discourage engagement. Cooperation between citizens and government should exist in a democracy. When people feel alienated from

¹⁵⁷ / Ibid, p. 178.

government they are less willing to be engaged politically. In some respect, the degree to which citizens participate is the result of government actions. Sherry Arnstein, a policy analyst who worked in the U.S. federal government, developed a “Ladder of Citizen Participation”¹⁵⁸ which has been used to assess how government encourages citizen participation through a variety of actions. According to Arnstein, there are eight levels of citizen participation that fall under one of the following three categories: nonparticipation, tokenism and citizen power. The levels are represented in the figure below.¹⁵⁹

Figure 12:

Ladder of Citizen Participation



The first two levels, manipulation and therapy, are not actually designed to foster citizen participation. Rather, the aim is to enable power-holders to “educate” or “pacify” participants. In this way there is an appearance of citizen input, but the power is still held by government. This might come in the form of a government survey, where it appears that citizen input is sought, but in reality, the data has no impact on practices.

158 / Sherry R. Arnstein. “A Ladder of Citizen Participation,” JAIP, Vol. 35, No. 4, July 1969.

159 / Ibid.

After the first two levels comes a stage of governance that Arnstein calls “tokenism.” This stage includes levels of minimal involvement where citizens have more voice, but are not heard adequately. For example, at the level of informing citizens are made aware about plans of those in power and is therefore an important first step toward legitimate citizen participation, however often the emphasis is placed on a one-way flow of information and no channel is provided for feedback. The most frequent tools used for informing are the news media, pamphlets, etc.

The next steps are consultation and placation. At these levels government seeks citizens’ opinions and while views and ideas from community members and groups are welcome, citizens lack the power to ensure their input will be included in the decision-making. There is still value though for citizens to express their views since government officials might be influenced.

The next three levels on Arnstein’s ladder are about citizen empowerment. At the stage of partnership, citizens can negotiate with the government and participate in the process of implementation – for instance, through coalitions and collaboration with CSOs. Finally, at the stages of delegated power and citizen control, citizens have the resources to make decisions and the ability to monitor their implementation.

Although Arnstein’s model is a simplified overview of citizen participation, it illustrates the differences between various levels of participation and the degree to which citizens are actually able to partner with government and have a voice in policy-making and implementation. It is also important to keep in mind that in one setting means of citizen engagement, such as sharing one’s views at a public hearing, might be a representative of partnership, as public officials rely on public input to inform their decisions. However, in another instance a public hearing may be an example of therapy, and merely exists to give the impression that the public is consulted, but decisions are routinely made without regard for the input received. It is also possible that an individual regularly expresses their views to public officials through a variety of channels, but feels that their views are not considered in decision-making and the cause is that the individual’s positions are not represented by the majority view. This is a reality of democracy and might not be the result of an unresponsive government.



EXERCISE 3

CASE STUDIES OF CITIZEN ORIENTED GOVERNMENT METHODS

The methods below have been adopted by many of the worlds democracies. As you read each method, consider:

1. What features help to facilitate more interaction between government and the public
2. Where would you place each on Arstein's ladder?
3. What value do you think each example would have for Ukraine?
4. What are potential drawbacks of each example?

Participatory Budgeting. Local planning and implementation of the public budget is an important process that can be made more democratic with citizen participation. Letting citizens participate in deciding how to allocate local budgets is known as participatory budgeting. The process was initiated in 1989 in Brazil and now is implemented in countries around the world, including Ukraine;¹⁶⁰ it requires several steps. First, government representatives determine a portion of the budget that members of the community will decide how to allocate. Typically, this is done through a lengthy process, it can be as much as year, with public meetings to ensure that people have the time and resources to make informed decisions. Community members discuss local needs and develop proposals to meet these needs. Through a public vote, residents then decide which proposals to fund.

Citizen Report Cards. Reports cards are participatory surveys to provide quantitative and qualitative feedback on citizen perceptions of the quality, adequacy and efficiency of public services available at local and national levels. They are used to improve

160 / "Civic Project Platform." <https://gb.kyivcity.gov.ua/>

public service delivery and serve as effective instruments for comparative analysis, to ensure that existing resources are available to all members of society. The feedback received from users can be used to inform public service agencies and CSOs to prepare action plans to increase transparency and accountability of governance.

CIVIC VIRTUE

While actions by government are important in the development of a civic culture of citizen engagement, individuals also play an important role. How one sees their role as a citizen is an important aspect of citizenship. Civic virtue is one attribute that defines how one views their role.

⋮ **Civic virtue** is explained as attitudes held by people regarding their role in public life and the willingness to put aside purely self-interested motives.

Philosophers as far back as Plato and Aristotle recognized the importance of civic virtue in democratic governance. David Hume viewed civic virtue as necessary to temper self-interest and support self-governance. His writings made clear that

“civic virtue as the restraint of selfish dispositions, requiring the exercise of the first among virtues-prudence.”¹⁶¹

Alexis de Tocqueville wrote about his observations of American democracy in “Democracy in America” and he noted that civic virtue was a fundamental aspect of successful self-governance, particularly at the local level. Tocqueville wrote,

“The doctrine of self-interest well understood does not produce great devotion; but it suggests little sacrifices each day;...it forms a multitude of citizens who are regulated, temperate, moderate, far sighted, masters of themselves... insensibly through habits.”¹⁶²

161 / William Young. “Civic Virtue and Western Civilization.” National Association of Scholars, December 1, 2011. https://www.nas.org/articles/civic_virtue_and_western_civilization

162 / Tocqueville cited in, Civic Virtue and Western Civilization, National Association of Scholars, December 1, 2011 https://www.nas.org/articles/civic_virtue_and_western_civilization

A question all citizens living in a democratic state must ask themselves is, what am I willing to give up to ensure the stability of democracy in my community and country? Citizen participation can come at a cost for the individual. Sometimes the cost is minimal, other times it might mean standing up for the rights of others, even when few others are willing or able to do so. The next section reviews different levels and commitment to civic virtue that citizens may possess. Each is important, but with different potential outcomes for society. In this section you will have an opportunity to think more deeply about what aspects of citizenship are important to you and to the development of democracy in Ukraine.

WHAT KIND OF CITIZEN?

Canadian social scientist Joel Westheimer and American social scientist Joseph Kahne, in their work "What Kind of Citizen, the Politics of Educating for Democracy," describe three conceptions of citizenship:¹⁶³ personally responsible citizen, participatory citizen and justice-oriented citizen. Individuals who fit each category display different types of behaviors. For example, the personally responsible citizen obeys the law, improves public spaces (by picking up litter, for example), and volunteers to help others. The participatory citizen actively engages in civic affairs at the local, state, and national levels and justice-oriented citizens are concerned with the structural social, economic, and political forces that create oppression and inequality. Figure 12 below provides characteristics and examples of behaviors associated with each type of citizen. Some of the questions that their work raises are:

- Should all citizens strive to be justice-oriented, or is remaining personally responsible enough?
- Do the different conceptions require different sacrifices of individuals?
- Does each type benefit society equally?

163 / Westheimer & Kahne "What Kind of Citizen," the Politics of Educating for Democracy American Educational Research Journal. Summer 2004; 41, 2, p. 237-269.

Figure 13:

Westheimer & Kahne's Classification of Citizen Types¹⁶⁴

KINDS OF CITIZENS		
PERSONALLY RESPONSIBLE CITIZEN	PARTICIPATORY CITIZEN	JUSTICE-ORIENTED CITIZEN
DISCRIPTION		
<p>Acts responsibly in his/her community</p> <p>Works and pays taxes</p> <p>Obeys laws</p> <p>Recycles, gives blood</p> <p>Volunteers to lend a hand in times of crisis</p>	<p>Active members of community organizations and/or improvement efforts</p> <p>Organises community efforts to care for those in need, promote economic development, or clean up environment</p> <p>Knows how government agencies work</p> <p>Knows strategies for accomplishing collective tasks</p>	<p>Critically assesses social, political, and economic structures to see beyond surface causes</p> <p>Seeks out and addresses areas of injustice</p> <p>Knows about democratic social movements and how to effects systemic change</p>
SAMPLE ACTION		
<p>Contributes food to a food drive</p>	<p>Helps to organize a food drive</p>	<p>Explores why people are hungry and acts to solve root causes</p>
CORE ASSUMPLIONS		
<p>To slove social problems and improve society, citizens must have good character; they must be honest, responsible, and law abiding members of the community</p>	<p>To slove problems and improve society, citizens must actively participate and take leadership positions within established systems and community structures.</p>	<p>To slove social problems and improve society, citizens must question, debate, and change established systems and structures that reproduce patterns of injustice</p>

164 / Ibid, p. 237-269.

Throughout history there have been individuals willing to take brave actions to protect their rights and the rights of others. Courageous individuals like Martin Luther King, Jr. in the United States and Nelson Mandela in South Africa, spoke out against abuses of individual rights based on race. Both men helped lead movements that led to major social change and the advancement of human rights in their respective countries.

Another defender of human rights, named Malala Yousafzai, was born in Pakistan in July of 1997. While Malala was growing up, the Taliban (an extremist Islamic fundamentalist group that has ruled through terror and oppression in Afghanistan and parts of Pakistan) took control of the region where she lived and began to impose their views, which included denying education to females. Taliban officials intimidated and threatened families who sent their daughters to school and even attacked schools. As just a young girl of eleven, Malala gave a speech in Peshawar, Pakistan called, "How dare the Taliban take away my basic right to education?" The following year she began blogging for the BBC about living under the Taliban's threats to deny her and other girls an education.¹⁶⁵ There were great risks associated with her actions and in 2012 she was shot by Taliban gunman as she traveled home from school on a bus. Malala was lucky to survive her attack, but it didn't diminish her commitment. Today, she has become known globally for her activism in advancing gender equality in education.

Most individuals will never receive global recognition for defending human rights, but all can play a part. What are you willing to do to ensure justice for all members of society?

165 / "Malala Yousafzai Biography - Children's Activist, Women's Rights Activist." <http://www.biography.com/people/malala-yousafzai-21362253>

5.5

CIVIC ENGAGEMENT IN UKRAINE

A BRIEF HISTORY

You have already learned a great deal about citizen engagement with civil society before, during and since the period of the Soviet Union. Joining with CSOs is one way that citizens can have a voice in their society and work for changes. However, during the communist period, the majority of the population in Ukraine were not engaged in civil society, as the communist regime did not tolerate it. The situation improved with the Perestroika in 1985 when citizens received more freedoms and former dissidents and active youth started openly to conduct their activities. National democratic organizations were established such as the People's Movement of Ukraine (the "Rukh"), the Ukrainian Helsinki Union, the Ukrainian Student Union and the Student Brotherhood. Civic engagement in this period was focused on changing power, rather reforming the country. The structure of Soviet rule inclined citizens to rely on the authorities to reform the country and economy, rather than taking the initiative themselves. Some experts note that this perspective continues to impact civic engagement in Ukraine, referencing that many people still believe that change must come from the government, rather than from people initiating change. Still, despite "*historically weak civic traditions and the continuing absence of civic-oriented social capital*,"¹⁶⁶ there are excellent examples of individuals taking action and exercising their civil rights to bring about changes in their communities and the nation. As you read the examples of citizen engagement presented in this section, consider these guiding questions:

166 / John O'Loughlin and James E. Bell. "The Political Geography of Civic Engagement in Ukraine, 1994-1998." Institute of Behavioral Science, University of Colorado.

1. What conditions are necessary in society for successful citizen engagement to occur?
2. What factors contributed to the outcomes for the examples?
3. What has the impact been on Ukraine, in both the short and long term?
4. Would you be willing to take similar actions?

In the previous section on civil society you read about The Student Revolution on Granite that took place in 1990, and had a long-term impact on Ukrainian society. Many participants of the revolution on granite became prominent civil society activists and politicians. The success of the revolution gave an impetus to the civil society development and development of civic activism.

During the presidency of Leonid Kuchma (1994-2005), there was widespread citizen dissatisfaction of the situation in the country which resulted in another big protest – Ukraine Without Kuchma. The protest began largely in response to the kidnapping and murder of journalist Georgiy Gongadze, who spoke out against the government. The Kuchma government was implicated in the kidnapping and murder of Gongadze when tape recordings of Kuchma apparently ordering the kidnapping were shared with the public (during what came to be known as “The Cassette Scandal”). In December 2000, student protesters under the Pora Youth Group gathered in Kyiv’s Independence Square to demand accountability from their government and calling on Kuchma to step down. By February 2001, opposition parties joined the protesters, who camped in Independence Square in tents, wore armbands, carried signs and created slogans to protest the corruption and oppression of their government. Sympathetic musicians supported the movement by providing concerts to rally the protesters.¹⁶⁹ The protests continued through 2003, but because of continued interruptions, government control of the media, and substantial arrests (over 300 people were imprisoned during the protest, 19 sentenced for 4 – 5 years), the demands of the protestors were never met. Although relatively unsuccessful, this protest gave a boost to the Orange Revolution 2004. In 2004, the nation faced a crisis when fraudulent results were announced in the presidential election. Many citizens courageously stood up to the government and challenged those results. For example, Nataliia Dmytruk,

169 / “Ukrainians Protest for Regime Change (Ukraine Without Kuchma), 2000-2003.” <https://nvdatabase.swarthmore.edu/content/ukrainians-protest-regime-change-ukraine-without-kuchma-2000-2003>

who translated television broadcasts into sign language, decided to send a very different message.

*"When the presenter started to read the news," Dmytruk explained, "I said, 'I address all deaf viewers. Yushchenko is our President. Do not believe the Election Commission. They are lying.'"*¹⁷⁰

Author and activist Philip Yancy credits Dmytruk's act with motivating the deaf community to take actions by messaging friends and spreading the work and inspiring other journalists to tell the truth as well.¹⁷¹

In regions throughout Ukraine, thousands of citizens joined the peaceful protests, with Kyiv as the center.¹⁷² The scale of the protests and the attention of the outside world forced the government to honor the actual election results, which led to a victory for Viktor Yushchenko.

Later, in November of 2013, many Ukrainians experienced another crisis of confidence that their government wasn't serving them. It had been widely anticipated that the government would sign the Association Agreement, solidifying collaboration between Ukraine and the EU, which most Ukrainians supported.¹⁷³ When it became clear that Viktor Yanukovich did not plan to sign EU-Ukraine Association Agreement and instead favored an agreement with Russia, the people were faced with a choice: would they accept the decision of the government, or take action to protest? Their response was immediate: many took to social media to voice protest, while others gathered on the Independence Square in Kyiv. In addition to Kyiv, protests were staged in Ivano-Frankivsk, Donetsk, Khmelnytskyi, Lviv, Uzhgorod, Lutsk, and other Ukrainian cities. Social networks and the media dubbed the protests "Euromaidan" with the same hashtag. Although some politicians representing the opposition joined the protesters, a defining difference between the Euromaidan protests and the Orange Revolution was that

170 / Paul Quinn-Judge and Yuri Zarakhovich. "The Orange Revolution: Why the U.S. and Russia Care So Much about Ukraine's Disputed Election." *Time*. December 2, 2004.

171 / Philip Yancy. "One small voice can start a revolution." <https://storiesforpreaching.com/one-small-voice-can-start-a-revolution/>

172 / Andrew Wilson. "Ukraine's 'Orange Revolution' of 2004: The Paradoxes of Negotiation." *Civil Resistance and Power Politics: The Experience of Non-violent Action from Gandhi to the Present*. Oxford University Press, 2009, p. 295-316

173 / "Euromaidan's Anniversary: The Revolution of Dignity in Flashback." <https://www.unian.info/politics/2254401-euromaidans-anniversary-the-revolution-of-dignity-in-flashback-photo-video.html>

it wasn't organized by opposition politicians or CSOs.¹⁷⁴ This time, the protests came from the people: an estimated 70% of protesters were not affiliated with any political parties or CSOs.¹⁷⁵ Thousands of individual actions led to a mass movement.

When the protests began, the Kyiv's District Administrative Court banned public events in downtown Kyiv until January 7, 2014. Such court rulings, especially regarding political actions planned by the opposition, were regular under Yanukovich's rule. Despite the court's ban, the number of people in Kyiv began to grow the following day, and several thousand had gathered by the evening of November 22. The protest started peacefully, but this was short-lived. Conflict between protesters and the police began with the violent dispersal of protesters on November 30, 2013. From that point, the protests became a fight against government corruption, abuse of power, and the violation of human rights in Ukraine. The violence reached its peak in the mid-February 2014 after many attempts to disperse the protest and the killing of over 100 protesters ("Heavenly Hundred"). Finally, Yanukovich signed an agreement settling the political crisis and fled the country. He was formally removed from office by the Verkhovna Rada on 22 February 2014.

The protest succeeded in part due to the support of volunteers. Large numbers of people across many backgrounds helped to clean and cook, donated money, and brought food, clothes, and other things protesters living at Maidan might need.¹⁷⁶ This spirit of activism has continued beyond Euromaidan. Russian aggression, which started from the occupation of Crimea and the war in Donbas, strengthened civil society activism and citizen engagement, particularly among volunteers and volunteer organizations. Many Ukrainians continued to donate to the army and voluntary initiatives that provide support to the army, to volunteer battalions, and to the civilian population affected by the war. According to the data of the largest Ukrainian bank, PryvatBank, which launched a special support program for the army, Ukrainians donated over 3.4 million Ukrainian hryvnia to the army between June and September 2014, with the average age of donors being 38-40.¹⁷⁷

174 / Sylvie Kauffmann. "Ukraine's Activists are Taking No Chances." *The New York Times*, 25 April 2014.

175 / "Democratic Initiatives Foundation, Maidan-December and Maidan-February: What has Changed." <http://www.dif.org.ua/en/publications/press-relizy/vidmchi-sho-zminilos.htm>.

176 / Sylvie Kauffmann. "Ukraine's Activists are Taking No Chances." *The New York Times*, 25 April 2014.

177 / "Who Helps the Ukrainian Army: PriyatBank Infographics." <http://privatbank.ua/news/kto-pomogajet-armii-infografika-privatbanka/?&nomob=1>

CITIZEN ACTION AT THE LOCAL LEVEL

As you read in this chapter, citizens of Ukraine have been active in protesting government actions and using their collective voice to bring about changes to government. However, the potential of an active citizenry goes well beyond major, national reforms to government and can be a powerful tool for making change at the local level. This is particularly important in that this is the realm where most individual's daily existence is impacted. As you read the examples below, consider the following questions:

- What tools did citizens use to bring about changes at the local level?
- How effective were these actions?
- Would you have acted in the same manner?
- Are there other tools that could have been used as well?

Notwithstanding Soviet rule prior to Ukraine's transition to democracy, citizen engagement in Ukraine's civic and political life is vibrant. For example, in the city of Kyiv, the city council unlawfully, by excluding public hearings, sold a highly-valued green zone land plot to a private institution for the construction of a hotel complex featuring underground and above-ground parking. Prior to the beginning of construction, a dumping ground appeared in the place with an iron fence around it. As part of the Maidan protest activists dismantled the iron fence in the area and erected barricades. Volunteers then cleaned up the territory, laid out the square and set up a playground.

As of March 2016, the area where the square is located was still under private ownership, even though the city's mayor, Volodymyr Klytchko, stated that the square was "*returned back to city's community.*" This situation incited citizens to present a petition to the Kyiv City Council officials with a demand "to return Heavenly Hundred Square to Kyivans;" it received the required number of votes within three days. On December 1, 2016, the Kyiv Commercial Court denied private owners the right to own the Heavenly Hundred Square land plot in favor of the city. The lawsuit continued, but ultimately the Court dismissed the complaint of the project developer's representative.

Many initiatives have been implemented at the local level in order to encourage citizen participation throughout Ukraine. One example is a project in the city of Trostyanets that led to the establishment of over 200 street and house committees. The proposals of these committees were included in the socio-economic development program and the budget of Trostyanets. The city also launched the "Open City" electronic platform for public participation in solving local problems. By adopting this new tool, the authorities were able to complete 53% of 305 requests concerning the problems in the city. Another initiative requires the head of a house or street committee to approve the quality of municipal services before they are paid for.¹⁷⁸

There are other examples of programs to increase public engagement at the local level. For instance, in the Transcarpathian region local government authorities changed their websites to improve access to public information; in Kherson a new method of conducting public hearings in a theatrical format has improved cooperation between governmental, public, academic, and theatrical spheres; in Ukrainka, community monitoring of government activity led to changes in community services, including the introduction of the electronic module of an open registration to kindergartens; and in Slavutych, the active role of the public in the housing and utilities sector led to the creation of a system of transparency and accessibility for up-to-date information on the city budget for the maintenance of buildings and other objects.¹⁷⁹

CHALLENGES

Despite the availability of a considerable number of tools for civic participation in decision-making and for influencing processes at the national and local levels, citizens in Ukraine remain quite passive. In a 2016 study of civic engagement and attitudes, a total of 65% of respondents in Ukraine said they do not consider themselves to be active citizens.¹⁸⁰ The study also looked at indicators of civic engagement such as willingness to volunteer and/or engage in civic activism. 23% of Ukrainians respondents stated that they had volunteer experience. The most popular volunteer activities were, spring clean-up activities and initiatives to solve community problems, such as clearing storm drains, repairing lighting, reconstructing public transportation and painting benches.

178 / "Democratic Governance, Human Rights and Civil Society Development." <http://dhrp.org.ua/en/news/547-20141103-en>

179 / Ibid.

180 / "Democratic Governance, Human Rights and Civil Society Development." <http://dhrp.org.ua/en/news/547-20141103-en>

Respondents were asked questions regarding their willingness to take action and/or organize to engage in civic activism. This data was analyzed and grouped into four “types” of population clusters of: potentially active, passive, active and activists of a new generation.

Potentially Active. 40% of the respondents were grouped in this population cluster, making it the largest group. Features of this group are: 84% stated they would oppose toxic industrial construction in their community through participation in collective action, monetary or in-kind donations, and 100% would readily join land improvement activities. However, this cluster shows no interest in organizing events.

Passive. This group comprises 33% of respondents. The “passive” respondents have low motivation to take part in civic activities, let alone organize them. Only 16% in this cluster stated they would oppose toxic industrial construction in their community through participation in collective action.

Active. 18% of respondents and can be called “active citizens.” Of this group, 58% stated they would oppose toxic industrial construction in their community through participation in collective action and 73% declared readiness to organize opposition to toxic industrial construction in their community.

Activists of a New Generation. This is the smallest cluster with only 8% of respondents. 71% of the respondents in this group stated they would oppose toxic industrial construction in their community through participation in collective action and 35% declared readiness to organize opposition to toxic industrial construction in their community. Other interesting features of this group is a high rate of activism on the Internet, with 94% stating they discuss local news on the web, 87% react to activities and events learned on the Internet, and 56% posted about local news and events on their own. There is also a high rate of participation in rallies, protests and petitions (47%), as well as in international/global actions (43%).

The study also looked at people’s sense that they could influence life in their community or country and methods that were perceived to have the most or least potential to be tools of influence. The results from these questions are distressing: only

17% of respondents believe they can influence decisions in their community, and only 8% believe they have influence over national decisions. Respondents saw local elections and parliamentary elections to be the most influential tools they could use, while other methods such as peaceful protests, public hearings or petitions to authorities were only seen as viable means of influence by less than 20% of respondents.



EXERCISE 4

DATA ANALYSIS

Review the data presented above from on the status of political engagement and civic activism in Ukraine and answer the questions below.

1. What does an analysis of this data indicate about the current state of civic activism in Ukraine?
2. What actions do you think are needed to increase engagement among citizens in Ukraine?

Another study on civic participation in Ukraine conducted in 2015 offers insights on the level of activity and reasons for why people aren't more engaged. The study included a sample population of 2000 adults from 20 Ukrainian cities (cities were chosen to provide variation in terms of geographic location, population size, and administrative status). These respondents interviewed for the study were asked whether they had participated in various political activities in the past year and the most common form of activity was voting in elections. Other common methods were meetings with representatives of the city council, attending general public meetings, and public meetings with the mayor. Figure 13¹⁸¹ shows levels of participation on many different types of actions available to individuals. Of the activities listed, more than 60% of the individuals reported not having participated in any of the activities, and less than 10% said they had participated in four or more types of activity.

181 / Aadne Aasland and Oleksii Lyska. "Local Democracy in Ukrainian Cities: Civic Participation and Responsiveness of Local Authorities." *Post-Soviet Affairs*, 32:2, 2016. p. 152-175. <https://www.tandfonline.com/doi/full/10.1080/1060586X.2015.1037072>

Respondents offered many reasons for why they were not more civically engaged: primary among them was a lack of trust in institutions and governments. Additionally, two-thirds of the respondents felt that they did not have any influence at all on the processes that underlie decisions made at the local level. Only 20% believe that they have some minimal influence, 6% say that they have some influence, and only 1% claim to have considerable influence. When people were asked what they saw as the biggest obstacles to having influence in government processes, the following factors were most commonly mentioned:

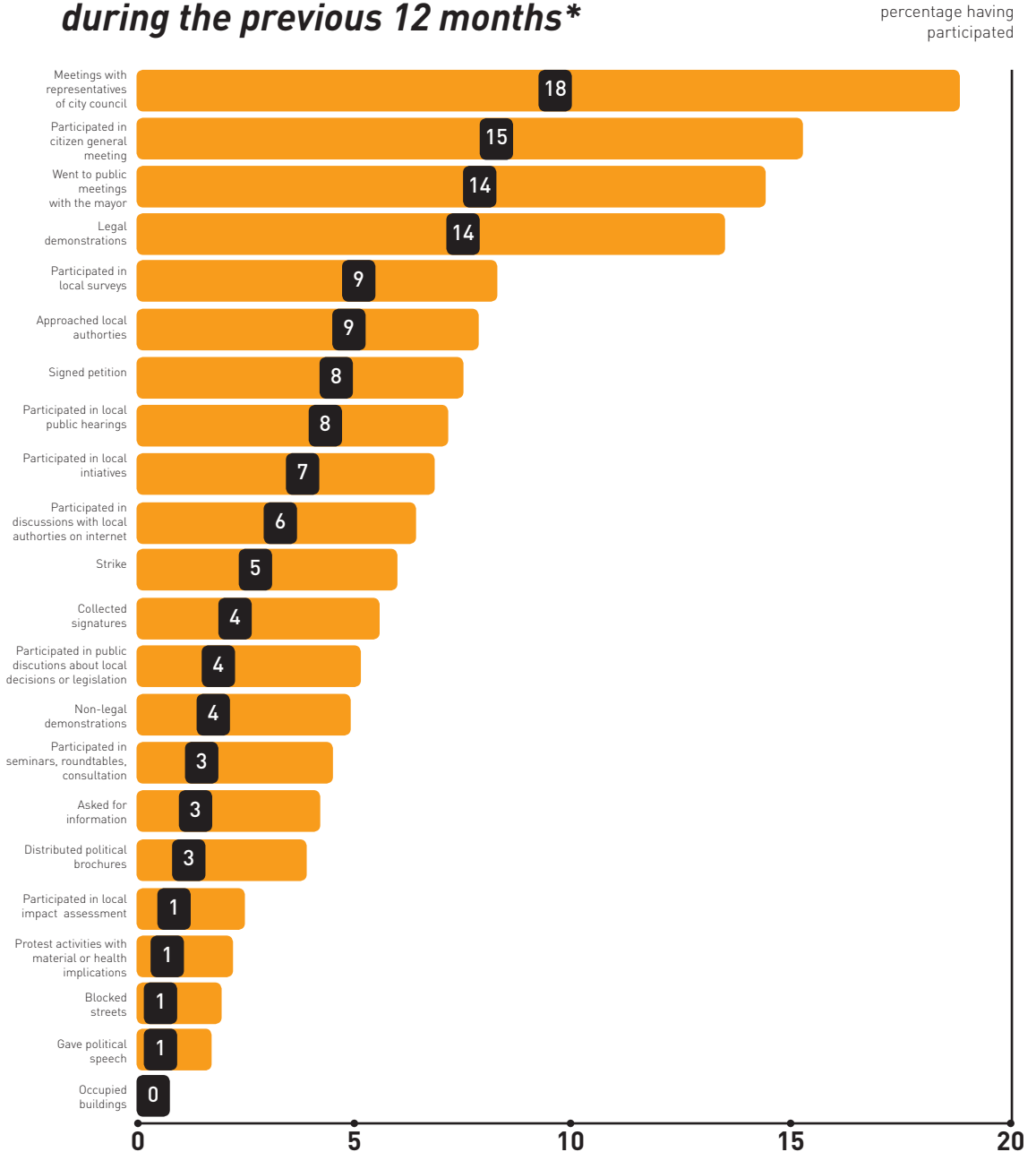
- My efforts would be useless (36%)
- Lack of time (16%)
- Poor legislative base (15%)
- Lack of knowledge of legislation (12%)
- Not interested in this (11%)
- Threats or resistance from the authorities (7%)
- Lack of like-minded persons (5%)

Another issue is that many governmental institutions fail to make use of mechanisms to more fully involve the citizenry in solving local problems. As a result, problems persist in the development of democracy with low levels of openness, transparency, and responsiveness in government, a lack of public access to administrative processes, the absence of effective dialogue between the authorities and the people, and a system of centralized power.¹⁸² A lack of civic education and sense of responsibility for one's own city, village, or community are also contributing factors. The low level of civic engagement among citizens of Ukraine negatively affects the resolution of civic issues and problems of local and national significance, and therefore delays the development of true democracy in Ukraine.

182 / Ibid.

Figure 14:

Percentage of respondents having participated in a variety of political activities during the previous 12 months*



* The survey was conducted in July 2014; n = 1970; responses for "do not know" and "refuse to answer" [varies for the different items] have been removed.

To increase engagement and the influence citizens have on their government and their communities, it is necessary to raise citizens' awareness of their rights and responsibilities as democratic citizens and for them to become knowledgeable about the tools of **citizen participation in governance**.

Courses such as the one this textbook is designed for can play an important role in this process. Citizens must be willing and able to advocate for their interests and the rights of others. They should be willing to educate their friends, family and others about important issues that the community and nation face. It is also crucial for individuals in Ukraine to fight against corruption. Part of this fight is to monitor the behavior of officials and hold them accountable to the law and the interests and wishes of the electorate. Reducing corruption requires, in part, for citizens to refrain from participating in certain practices, such as paying bribes, even if they appear to be the norm. Standing up for what is right, or in defense of the rule of law is not always easy, but without a citizenry that is willing to take on this responsibility, it is unlikely that true and lasting change will occur in a society. How you apply the knowledge and experiences you have acquired in this course will be important in what kind of citizen you will be and the role you play in developing democracy in Ukraine. Westheimer and Kahne described three types of citizens: the personally responsible citizen, the participatory citizen and the justice-oriented citizen. Which type do you consider yourself to currently be? What kind of citizen do you want to be?



EXERCISE 5

WHAT ACTIONS WILL I TAKE?

As a final task in this chapter, reflect back on all that you have read and ask yourself how you can apply this knowledge. Consider the following questions:

1. Is there an issue in my community that I think needs to be changed?
2. What tools do I know are available to me to use to address the issue with others and with government?
3. What information do I still need to obtain to effectively address this issue?
4. What am I willing to do to bring about change regarding this issue?

“ If liberty and equality, as is thought by some are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost. ”

Aristotle,
Politics

CONCLUSION

The information presented in this text aims to highlight the principles of democratic governance, specifically, the rights that all individuals possess, the obligations of the state to the people, and the role of civil society and citizens in safeguarding and advancing democracy while contributing to the betterment of their communities. Of course, knowledge alone is not enough. Scholars of democracy agree that for a society to truly develop and maintain a democratic form of government, citizens must be equipped with certain skills and that a “culture of democracy” must prevail. A successful democracy requires active participation by an informed citizenry. Individuals must take actions to protect their rights and interests, but they also must be willing to work towards a common good while safeguarding human rights for all.

It is crucial to understand that the formation of a democratic system of governance is not a guarantee that democracy will flourish. History has shown that during times of social, economic or political crisis, countries that do not have a strong “culture of democracy” are more at risk for democratic institutions to break down. However, democratic nations are more likely to survive crisis when there is a commitment to democratic ideals, such as the rule of law, protection of human rights, equality among the citizenry and government officials and a commitment to government transparency.

The recent history of Ukraine has illustrated that the path to democracy can be difficult; but, those events have also produced a citizenry willing to stand up and hold officials accountable and demand democratic reforms. The goal of this text and course is to provide you, the future of Ukraine, with the knowledge and experiences needed to effectively participate as a democratic citizen. Your role will never be passive. Rather you will need to engage this process with your mind and heart, believing in the crucial role all citizens play in the maintenance and quality of democracy in Ukraine.

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