

**Human Rights Watch
Final Report and Renewal Proposal Submitted to TOBAM
Defending Human Rights in Ukraine**

March 2016

I. INTRODUCTION

Over the past year, the generous support from TOBAM enabled Human Rights Watch to conduct research and advocacy on a wide range of human rights violations in Ukraine. We spotlighted indiscriminate and deliberate attacks on education in eastern Ukraine with an extensive report and media campaign, documented attacks on health workers, exposed infringements on freedom of expression and association, and advocated for access to rebel-held areas for humanitarian groups. We documented grave human rights violations by all sides of the conflict, including the use of cluster munitions and explosive weapons in populated areas, arbitrary detentions, torture, degrading treatment, and forced labor. Our work produced significant impact. For example:

- Our [report](#) and [advocacy](#) on attacks on education brought international attention to the military use of schools during armed conflict in eastern Ukraine and prompted government officials to follow up on our recommendations.
- Following years of our [advocacy](#) for lesbian, gay, bisexual, and transgender (LGBT) rights, the Ukrainian parliament passed an amendment to the labor code in November 2015, banning discrimination at work on grounds of sexual orientation and gender identity.
- Our direct engagement with rebel authorities on a particular case of arbitrary detention, resulted in the release of two detainees in February 2016.

None of these advances would have been possible without your support. We are pleased to share with you further details of our activities and successes in the past year and our strategic work plan for the year ahead. We are immensely grateful for your commitment to our cause and hope you will consider renewing your support of our Ukraine work. Your partnership will enable us to strengthen our local presence and expand our work and impact in the region. Thank you for standing with us.

II. RECENT RESEARCH AND ADVOCACY IN UKRAINE

A. Conflict in Eastern Ukraine

The crisis in Ukraine has taken many forms since November 2013, when a protest movement denouncing government corruption swept the capital Kyiv. Civil unrest and

violence quickly spread to other cities and led to the ousting of Ukraine's president in early 2014. Russia's subsequent occupation of Crimea emboldened pro-Russia rebels to seize power in towns and cities across eastern Ukraine. Today eastern Ukraine is the epicenter of an international armed conflict between Russia and Ukraine that has killed more than 9,000 people, wounded over 20,000, and displaced over two million.

The conflict may have left the world's headlines, but as the violence continued it was one of Human Rights Watch's top priorities to monitor the situation closely, draw attention to abuses against civilians in eastern Ukraine, and call on leaders in Ukraine and Russia to end them. We documented violations on all sides of the conflict, including by pro-Russia rebels, Russian forces, and Ukrainian forces, who continue to inflict casualties and harm on civilians. We also undertook longer-term projects to protect those most impacted by the conflict and demand accountability, including the following:

Promoting Access to Education in Conflict

Hostilities in eastern Ukraine have damaged or destroyed hundreds of schools, many of which were used by parties to the conflict for military purposes, severely harming the safety and access to education of children in Ukraine. We undertook three weeks of field research, visiting 41 schools on both sides of the line of contact, and released our findings in a [report](#) in February 2016. We documented how both Ukrainian government forces and Russia-backed militants have carried out indiscriminate or deliberate attacks on schools. Both sides have used schools for military purposes, deploying forces in and near schools, which has turned schools into legitimate military targets. The resulting destruction has forced many children out of school and hundreds of schools to stop operating or to operate under overcrowded and difficult conditions.

Our [report](#), [photo essay](#), and [news articles](#) on the issue garnered significant media attention in Ukraine and beyond, including coverage by [Kyiv Post](#), [Radio Liberty](#), [Joop.nl](#), and [MSNBC](#). Our work also reached the Foreign Minister Pavlo Klimkin and raised interest among the government, in particular our recommendation to get Ukraine to endorse the Safe Schools Declaration and implement the [Guidelines](#) to protect schools from being used as battlegrounds, an initiative spearheaded by Human Rights Watch. We met with government officials of the Ministry of Foreign Affairs who had never heard of the Declaration or the Guidelines, yet expressed great interest in learning more about them.

Improving Access to Health Care

In November 2014 the Ukrainian government stopped providing government services in rebel-held areas, and in January 2015 it introduced travel restrictions to and from these areas, seriously impeding access to health care. The impact on the most vulnerable civilians has been devastating. Many do not have access to financial and other resources, have disabilities, or are simply too elderly or frail to obtain passes to go to government-held areas for basic services, including medical services, or to receive their pensions. Travel restrictions also resulted in shortages of medicines and led to interruption of life-saving treatment for certain patients. For instance, in the rebel-controlled regions over 800 patients who were receiving opioid-substitution therapy (OST) to address drug dependency have had their treatment interrupted. These medicines are readily available on government territory but cannot be delivered due to absence of a government-approved delivery procedure.

We released a [short report](#), [video](#), and [op-ed](#), and contributed to a [joint report](#) with the Safeguarding Health in Conflict Coalition documenting attacks on health workers, hospitals, and ambulances during the conflict in eastern Ukraine, and exposing the impact of travel restrictions on civilians in need of medical care. We provided information to the Coalition on interference and obstruction of health care in eastern Ukraine by the rebel groups, which the Coalition used in their reporting. Our reporting on the issue was referenced in the thematic reports by the Organization for Security and Co-operation in Europe's (OSCE) Special Monitoring Mission to Ukraine.

Banning the Use of Cluster Munitions

In 2014 we found evidence of the use of [cluster munitions](#) by pro-government forces and Russia-backed rebels during the armed conflict in eastern Ukraine. Cluster munitions are inherently indiscriminate weapons that tend to cause significant harm to civilians, particularly when used in populated areas. Both sides also set up military positions in civilian areas, including deploying military bases, checkpoints, and heavy military equipment in residential areas, thereby making them potential military targets, drawing enemy fire, and risking the lives of hundreds of thousands of civilians.

During a 10-day follow-up investigation in eastern Ukraine, we documented attacks using cluster munition rockets in at least seven villages, towns, and cities between January 23 and February 12. Over the course of 2015, we published a short [report](#) with accompanying [video](#), a [technical briefing note](#), and numerous [letters](#), [press releases](#), and [articles](#) shining a much needed spotlight on these and other indiscriminate attacks in Ukraine.

We urged Ukrainian authorities to immediately stop using cluster munitions, and Russia to under no circumstances provide cluster munitions to rebel forces and use its influence over the forces in Ukraine to end the use of cluster munitions. Both should investigate and hold accountable any personnel responsible for firing cluster munitions into populated areas. We also called on Ukraine and Russia to join the 2008 Convention on Cluster Munitions prohibiting the use of cluster munitions in any circumstance.

Following the OSCE Special Monitoring Mission to Ukraine in February, its reporting became more specific and detailed and included the use of cluster munitions. The OSCE also began to issue occasional, thematic reports. We had recommended these changes.

Documenting the Intensified Harassment in Rebel-held Areas

Last October, rebel authorities in Ukraine had banned most humanitarian aid organizations, including Médecins Sans Frontières and People in Need, that operated in rebel-controlled areas, impeding thousands of civilians' access to humanitarian assistance and medical care. As of fall 2015, according to estimates by aid groups, over five million people in eastern Ukraine needed humanitarian assistance, with over three million most vulnerable.

We continued to monitor the practice of rebel groups that ban, or otherwise interfere with, the work of humanitarian groups in the Donetsk and Luhansk regions. Most international groups which have been expelled insist on no publicity on this issue because they are hoping to regain access to rebel-controlled areas eventually, so most of the work we have done on

this has been behind-the-scenes advocacy, focused on bringing attention to this problem during our meetings with foreign diplomats, policymakers and international organizations.

Curbing the Ill-treatment of Civilians

Both rebel forces and government forces have committed indiscriminate attacks that killed and injured civilians. Russian-backed insurgent forces in eastern Ukraine arbitrarily detain civilians and subject them to torture, degrading treatment, and forced labor. They also detain civilians for use as hostages. The abuses are rarely investigated. Ukrainian forces also have ill-treated people they detain on suspicion of involvement with rebel forces.

Over the past year, we followed up on our 2014 [report](#) on these abuses and continued to urge self-proclaimed authorities in eastern Ukraine to immediately free anyone held arbitrarily, put an end to arbitrary detentions, extrajudicial killings, hostage-taking, and torture of detainees, and treat anyone in custody—civilians and military alike—humanely and with dignity. We continued to call on Russia to use its influence with insurgent forces in eastern Ukraine to stop these blatant violations and ensure that those responsible are brought to justice. In February, we engaged with the rebel authorities directly on a particular case of arbitrary detention, which resulted in the eventual release of two detainees.

B. Crimea

Since Russia began its occupation of Crimea, Russian and local authorities have persecuted people who are critical of Russia's actions in Crimea. They have harassed, intimidated, and driven into exile journalists, activists, and representatives of nongovernmental organizations (NGOs). A major target has been groups and media outlets that represent [Crimean Tatars](#), the ethnic minority that is native to Crimea. Authorities have also compelled Crimea residents who were Ukrainian citizens either to become Russian citizens or, if they reject Russian citizenship, to be deemed foreigners in Crimea.

Our [comprehensive report](#) on the human rights situation in Crimea continues to be a touchstone for policymakers' analysis of the situation in Crimea and has been widely referenced by foreign governments and intergovernmental organizations. The report provides a unique legal analysis of the unlawful imposition of Russian citizenship on Ukrainian nationals, and details enforced disappearances and other grave abuses. No other NGO has done this kind of analysis on Crimea.

Over the past year, we continued to document the crackdown on pro-Ukrainian media and other voices critical of Russia's occupation of Crimea and exposed harassment, intimidation, violence against ethnic minorities, [politically motivated arrests](#), and the [shrinking space for free speech](#). We used our findings to advocate with Russia and other key actors for the protection of basic rights in Crimea.

C. Infringements on Fundamental Freedoms

Defending Freedom of Expression and Association

In September 2015 Ukrainian President Petro Poroshenko signed a decree expanding a list of people and organizations banned in Ukraine, to include several dozen journalists. We

condemned this in a [press release](#) and published a [dispatch](#) on Ukraine banning 38 books from import to Ukraine. We also called on the government to repeal the so-called “anti-communist law”, a legislative package adopted in April 2015, which bans communism symbols, communist propaganda, and the communist party in Ukraine. The law is deeply divisive, would have very negative implications for the freedom of expression and association in Ukraine, and may lead to increased tensions between far-right and far-left groups in Ukraine. We also urged the United States government, the Council of Europe, and other actors to likewise persuade the government to retract the law.

Protecting Lesbian, Gay, Bisexual, and Transgender Rights

Despite protections enshrined in the Ukrainian Constitution, LGBT people remain a discriminated and stigmatized group in Ukrainian society. Russia’s state-sanctioned intolerance of the LGBT community crept into Ukraine. There were attempts to pass Ukrainian legislation mimicking Russia’s so-called “anti-gay propaganda bill,” which aims to outlaw “pro-homosexual propaganda,” any “positive depiction” of gay people, gay pride marches, or the screening of films with an LGBT theme.

Human Rights Watch has long [advocated](#) for the need to respect the freedom and dignity of people of all sexual orientations and gender identities in Ukraine and saw some positive developments in November 2015, when the parliament passed an amendment to the labor code that banned discrimination at work based on sexual orientation and gender identity.

We have also seen a positive ruling by a Kyiv court, representing a major victory in the struggle for the rights of [transgender people](#), an issue we advocated on in Ukraine. The existing gender change process in Ukraine is lengthy and humiliating and violates rights of transgender people. The Kyiv court overturned the government’s rejection of a transgender man’s application to have his gender fully recognized, ruling that the applicant did not have to prove he had been sterilized to receive documents in his preferred gender.

D. Kyiv Office

The de facto state of war between Russia and Ukraine has made it untenable for us to continue basing staff working on Ukraine out of our Moscow office. We are in the process of opening a formal office in Kyiv, where we will be better situated to respond to fast-moving events, identify priorities, and influence policy.

With a sustained presence on the ground, we will be able to more effectively collaborate with civil society organizations in Ukraine, strengthen our relationships with the Ukrainian government, and leverage the significant and growing international community that supports reform in Ukraine and often have a presence in Kyiv. We will be able to deepen our work, more consistently conduct the research, and provide the documentation that makes our advocacy effective and authoritative.

Over the past year, we formally registered our Kyiv office, hired a consultant to find office space, and started the process of setting up bank accounts paving the way for work permits and other legal requirements for operating there.

III. STRATEGIC WORKPLAN FOR 2016 / 2017

Throughout the year, international and domestic actors struggled to end the armed conflict in eastern Ukraine, but the situation remains unstable. Parts of Donetsk and Luhansk regions remain under de facto control of Russia-backed fighters. All sides in the conflict continue to violate international humanitarian law. Travel restrictions introduced by the government in January 2015 continue to contribute to severe delays in delivery of humanitarian assistance, including medicine, to conflict-affected areas, resulting in a dire situation for civilians.

Over the coming year, we will build on our past achievements and continue to monitor ongoing abuses in the east, as well as allowing time for deeper research. We will continue to hold advocacy meetings in Brussels, Geneva, Strasbourg, Berlin, Washington, and Stockholm to persuade policymakers to press our priority concerns with the Ukrainian government. We will also continue to raise our concerns and recommendations with the UN Human Rights Council and the OSCE Human Dimension Implementation Meeting and expect our move to Kyiv in May to cause a surge in advocacy opportunities. We have outlined our planned work for the year ahead below.

A. Conflict in Eastern Ukraine

We will continue to document evidence of abuses by both sides of the conflict in eastern Ukraine that could lead to practical steps by all parties to end them, and strive to re-focus international attention on this region.

Promoting Access to Education

We will continue to focus our efforts on improving access to education in eastern Ukraine, where hundreds of schools on both sides of the contact line have been damaged or destroyed by intensive fighting and shelling. We will conduct follow-up advocacy on our [report](#) with international leaders to urge the Ukrainian government to ensure that commanding officers have clear orders prohibiting the use of school buildings or school property for camps, barracks, deployment, or weapons, ammunition, and supply depots where it would unnecessarily place civilians at risk or deprive children of their right to education. In the coming months, we plan to work with UNICEF and the Safe Schools Coalition to develop a roundtable discussion about the problem of military use of schools and attacks on schools and will urge Ukrainian government officials to endorse the Safe Schools Declaration.

Documenting the Impact of the Conflict on the Rights of the Elderly

The armed conflict has taken a serious toll on the civilian population. One of the more vulnerable groups affected are the elderly. Too often, humanitarian organizations overlook the special needs of the elderly when conducting needs assessments in armed conflict situations. We will research, document, and publish findings on how the elderly have been left out or underserved by state agencies and local and international humanitarian groups that have been providing assistance to civilians in the Ukraine conflict. The aim will be to change the way these agencies conduct their needs assessments, and ultimately to end age-based discrimination in the provision of humanitarian assistance in Ukraine.

Exposing Ill-treatment and Harassment by Ukrainian Forces and Rebel Forces

In our on-the-ground research and advocacy, we will continue to focus on ill-treatment and harassment by both sides of the conflict. With regard to abuses by Ukrainian forces, this research will be especially important in persuading the Ukrainian government to hold abusers accountable, and especially in persuading the US government to ensure that Ukrainian authorities hold accountable abusive forces as a condition for receiving military assistance.

Improving Access to Health Care

As of April 2015, OST medications have run out in Donetsk and Luhansk regions and about 800 patients have been cut off from their medication. OST interruption is life-threatening, yet easily resolvable as the medications are readily available in government-controlled territory. Ukrainian authorities have repeated justified inaction by saying they want nothing to do with “terrorists.” Meanwhile, extremely vulnerable people are bearing the brunt.

In the coming year, we will continue to monitor access to medical services and shine an international spotlight on these violations. We will research restrictions on freedom of movement for civilians in conflict areas and press the Ukrainian government to respect the right to health and access to humanitarian relief and take the very practical, humanitarian step of signing a decree that would allow delivery of certain types of medicines, including OST medicines, from government-controlled territory to rebel-held areas.

Banning the Use of Landmines and Other Indiscriminate Weapons

Since the ceasefire negotiated in September 2015, the fighting has subsided, although many ceasefire violations have been reported. There have been consistent reports of continuing use of landmines, banned by most countries around the world for causing unacceptable harm to civilians, by pro-government forces and Russia-backed rebels. Hundreds of people—most of them civilians—have been reported killed and injured as a result of landmines. Building on the contacts we have made among Ukrainian officials in our work on cluster munitions, we plan to, together with Human Rights Watch’s Arms and Emergencies experts, investigate the use of landmines by both sides to the conflict, publish our findings, and press Ukrainian forces, rebel forces, and Russian authorities that support them, to cease the use of landmines.

B. Crimea

Harassment, intimidation, and violence against Crimean Tatars is likely to intensify in the coming year. The authorities have not conducted meaningful investigations into the 2014 enforced disappearances of Crimean Tatar and pro-Ukrainian activists and continue to silence critical voices and pressure Crimean Tatars for their open criticism of Russia’s actions in Crimea. The authorities have banned two Crimean Tatar leaders from entering Crimea and initiated court proceedings aiming to shut down mejlis, the main representative body of Crimean Tatars. Several mejlis members are held on politically motivated charges of ‘rioting’ for their participation in largely peaceful protests on May 2 and February 26, 2014. Authorities regularly conduct intrusive personal searches of Crimean Tatars who travel to mainland Ukraine and regularly organize intrusive searches of homes of Crimean Tatars under the pretext of looking for ‘extremist literature.’

Human rights monitoring in Crimea has been incredibly difficult due to lack of access for international groups and intergovernmental organizations, and all domestic groups have

either shut down or relocated to mainland Ukraine. Similarly, most independent pro-Ukraine or Crimean Tatar media outlets have either shut down or moved to mainland Ukraine, as none of the media outlets or independent journalists that worked in Crimea before the occupation were able to re-register under Russian law. We will track these developments in news releases and other publications, press for Russia to end these violations, and ensure that this issue stays on the agenda of policymakers.

C. .Infringements on Fundamental Freedoms

Defending Freedom of Expression and Association

We will continue to urge Ukraine's leadership to initiate repeal of the so-called 'anti-communist legislation' that entered into force in April 2015. The legislative package bans communist symbols and denial of the "criminal nature of the communist totalitarian regime," punishable by up to five years in prison. Communist propaganda is punishable by up to 10 years in jail. Another law recognizes as "fighters for independence" nationalist groups that fought Germany during World War II but also collaborated with the Nazis and criminalizes questioning the legitimacy of their actions.

We will continue our advocacy with global leaders who should flag that this kind of legislation could have very negative implications for freedom of expression and association in Ukraine and may lead to increased political tensions in Ukraine.

Promoting Lesbian, Gay, Bisexual, and Transgender Rights

Despite a positive movement toward respecting LGBT rights in Ukraine by the passing of an amendment to the labor code that banned discrimination based on sexual orientation and gender identity, anti-LGBT sentiment remains strong and public in Ukraine, including among high-level government officials.

Over the coming year, working closely with Human Rights Watch's LGBT program, we will continue to expose discrimination against LGBT people in Ukraine and monitor developments around the deeply problematic legislation modeled on Russia's "anti-gay propaganda bill," that would seriously threaten fundamental rights to privacy, equality, and freedom from discrimination.

We will also investigate concerns voiced by local LGBT activists about a newer version of the amended labor code that does not include an anti-discrimination provision and continue to urge Ukraine's leadership to respect the freedom and dignity of people of all sexual orientations and gender identities.

IV. CONCLUSION

Your support has been instrumental in the success of our work in Ukraine over the past year. We were able to respond to events as they unfolded, document abuses on all sides of the conflict, and remain attuned to the concerns of local activists and victims of abuse. We are deeply grateful for your investment in our work and hope you will continue to partner with us in the year ahead.