



BELARUS

# Shattering Hopes

Post-Election Crackdown in Belarus

HUMAN  
RIGHTS  
WATCH



# **Shattering Hopes**

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## Summary

During Aliaksandr Lukashenka's 16 years as president of Belarus, the government has continuously tightened control over civil society, alienating its European neighbors and other foreign actors in the process. The recent brief thaw in Belarus's foreign relations had led some activists inside Belarus, as well as policy makers outside the country, to hope this grip would slacken. But such expectations were dashed on December 19, 2010—the night of Belarus's presidential election.

As many as 30,000 people took to the streets of the capital Minsk that evening to peacefully protest what they feared would be yet another stolen election. When Lukashenka's landslide victory was declared, a few dozen masked people started breaking windows in the main government building, which overlooks Independence Square. Police and security forces moved in and beat everyone within reach—most of them peaceful protesters—kicking those who fell, and chasing and grabbing people, including bystanders, in adjacent streets.

After more than a decade of stifled civic freedoms, Belarusian civil society activists and independent media face new government harassment and threats in the wake of the post-election protest. This report, based on research conducted in Minsk in February 2011, documents the human rights violations that have occurred since the election—including abuse of detainees, trials behind closed doors, and raids on human rights organizations—which have led to a serious deterioration in the already poor state of human rights in Belarus.

On December 19 and in the days that followed, police arrested hundreds of people and physically abused most of those they arrested by punching, pushing, kicking, and hitting them with batons. During the next two weeks, administrative courts sentenced at least 725 people to between 10 and 15 days “administrative detention”—or misdemeanor detention—for participating in an unsanctioned gathering.

Trials took place behind closed doors, with journalists and relatives excluded, and hearings typically lasting between 10 and 15 minutes. In most cases, the accused had no defense counsel and was not allowed to call witnesses. Detainees served their sentences in overcrowded cells, where they were forced to sleep on the floor, share beds, or take turns sleeping. Many say their cells were freezing and lacked toilets, that there was no easy access to medical treatment, and that there were no hygiene items for women.

As of March 7, 2011, 38 people were charged for organizing and/or participating in riots, including opposition members and 5 former presidential candidates. More than 30 people remained in pretrial custody at the end of February. While detainees have occasionally had a lawyer present during interrogations, none has been able to meet discretely or privately with their legal representation. Lawyers for several detainees say they were warned unofficially by the Ministry of Justice and other officials not to speak publicly about their clients' conditions; some have been disbarred.

In late December 2010, authorities raided the offices of at least three prominent human rights groups and seized computer equipment and documents. Since it is a criminal offense in Belarus to participate in the activities of a non-registered association, those who work for civil society groups have faced the threat of criminal prosecution for years: today they are acutely vulnerable.

Police and security forces also searched the premises of four independent media outlets and the homes of 12 journalists and confiscated their equipment. Authorities revoked the license of at least one radio station. The websites of online news and nongovernmental organizations (NGOs) are the only sources of independent information due to the government's tight control of print and broadcast media. Now their future is at risk due to new internet regulations that give the government more powers to clamp down on online sources.

Human Rights Watch urges the Belarusian government to conduct a thorough and impartial investigation into the use of force on December 19, 2010, and the treatment of all those arrested in connection with the protests. Detainees who were not engaged in acts of violence on December 19 should be released immediately. Belarusian authorities should ensure that all detainees have unimpeded and confidential access to counsel, prompt medical assistance, and can correspond and communicate with relatives. The government should stop pressuring defence lawyers so that they can conduct their work effectively, without harassment or reprisal. Trials relating to events of December 19 should be open to the public.

Belarus should end all forms of harassment of human rights defenders and ensure that the rights to assembly and expression are observed. In order to allow civil society groups to operate free from repression, Belarus should initiate legislation to repeal article 193.1 of the Criminal Code, which makes participation in an unregistered organization a criminal offense.

The United Nations Human Rights Council (UNHRC) should adopt a resolution to condemn the abuses in Belarus and call on the Belarusian authorities to immediately address them. Concerned governments, including those of European Union (EU) member states and that of

the United States, should exert concerted and sustained pressure via the sanctions they have adopted against Belarus to prod authorities to address human rights abuses following the December 19 elections. These sanctions should not be lifted until all detainees who were not involved in violence have been released and the Belarusian government concretely demonstrates its commitment to fostering an open civil society.



## **Methodology**

This report is based on research that Human Rights Watch conducted in Minsk between February 3 to 9, 2011, and follow-up research conducted from Moscow.

Three Human Rights Watch researchers interviewed 36 individuals in Minsk. Interviewees included people who witnessed and attended the Independence Square protest in Minsk; those who had been released after serving time in administrative detention; released suspects held on criminal riot charges and their relatives; and lawyers, NGO leaders, and international human rights monitors who followed the situation in Belarus before and after the December election.

Interviews took place in Russian, mostly individually, and in private. The majority of interviewees asked us not to reveal their identity, and we have respected their wishes. The notation used in this report uses a letter and a number for each interview; the letter indicates the person who conducted the interview and the number refers to the person being interviewed. To further protect the security of interviewees we do not note the location of interviews. All interviews are on file with Human Rights Watch.

## I. Background

### Civil Society in Belarus before December 2010

Aliaksandr Lukashenka's 16 years as president of Belarus have been defined by consolidation of authority in the executive and tightening control over civil society. Although Belarus has been a party to several key international human rights treaties—including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)—for more than a decade, its human rights record has been extremely poor as the government has sought to stamp out dissent.<sup>1</sup>

The state maintains strict control over media by wielding control over all four national television stations, harassing and detaining journalists, launching lawsuits against independent or opposition newspapers, and monitoring internet use.<sup>2</sup>

The government has a long history of harassing and threatening independent NGOs, especially those working on human rights or related issues. The national government has allowed only one of the country's leading human rights groups to retain registration and has denied the rest such approval for arbitrary reasons.<sup>3</sup> Since working for unregistered organizations is unlawful under Belarus law, many NGO activists are vulnerable to criminal prosecution.<sup>4</sup>

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<sup>1</sup> Belarus has been a party to the International Covenant on Civil and Political Rights (ICCPR, adopted December 16, 1966, G.A. res. 2200A (XXI), entered into force March 23, 1976) since November 12, 1973. On September 30, 1992, it acceded to the optional protocol, which recognizes the jurisdiction of the Human Rights Committee to receive individual complaints alleging violations of the ICCPR but it has not submitted a periodic report since 1997. Belarus is also a party to the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of Discrimination Against Women, the International Convention on the Elimination of Racial Discrimination, the Convention Against Torture, and the Convention on the Rights of the Child. Belarus is neither a member of the Council of Europe nor a party to the European Convention on Human Rights, but is a member of the OSCE and as such is subject to its human rights mechanisms.

<sup>2</sup> See Belarusian Association of Journalists, "Mass Media in Belarus, 2009," Published 2010, <http://baj.by/index.php?module=p&tid=6&filter=typemon^sub^14&cv=14> (accessed February 25, 2011); International Fact-Finding Mission to the Republic of Belarus, "For Free and Fair Media In Belarus," Mission Report, September 2009, <http://baj.by/index.php?module=p&tid=6&filter=typemon^sub^14&cv=14> (accessed February 25, 2011); OSCE International Election Observation in the Republic of Belarus, "Statement of Preliminary Findings and Conclusions," December 19, 2010, [www.osce.org/odihr/74638](http://www.osce.org/odihr/74638) (accessed February 24, 2011), p. 8.

<sup>3</sup> Alternative Report of Belarusian NGOs to UN Human Rights about Implementation of International Covenant on Civil and Political Rights, "Belarusian Helsinki Committee and Viasna Human Rights Center, December 2009, [http://spring96.org/files/book/doklad\\_en.pdf](http://spring96.org/files/book/doklad_en.pdf) (accessed February 25, 2011), pp.23-24.

Belarus has lost multiple cases for denial of registration. The UN Human Rights Committee, which adjudicates complaints of violations of the ICCPR, has on three occasions found that Belarus has violated its obligations under the covenant by arbitrarily refusing to register organizations: Communication No. 1383/2005, Uladzimir Katsora, Leanid Sudalenka and Igar Nemkovich v Belarus, Decision of October 25, 2010, CCPR/C/100/D/1383/2005; Communication No. 1274/2004, Viktor Karneenka et al. v Belarus, Decision of October 31, 2006, CCPR/C/88/D/1274/2004; Communication No. 1039/2001, Barys Zvozkau et al. v Belarus, Decision of October 17, 2006, CCPR/C/88/D/1039/2001.

<sup>4</sup> Article 193-1 of the Criminal Code of the Republic of Belarus, № 275-3, as amended.

Civil society activists are frequently arrested, fined, and detained for participating in peaceful but unsanctioned assemblies.<sup>5</sup> The government interferes with the independence of lawyers who handle politically-sensitive cases.<sup>6</sup> Since Lukashenka came to power in 1994 Belarus has had several national elections that fall far short of international and regional standards. It is also the only country in Europe that retains capital punishment.

The persistent deterioration in Belarus's human rights situation prompted the United Nations Human Rights Commission to appoint a special rapporteur on the country in 2004.<sup>7</sup> That year, in response to a series of enforced disappearances of politicians and opposition figures, the EU and the US government imposed visa bans on select Belarusian officials. In connection with the country's deeply flawed 2006 presidential election and the related political crackdown, the UN General Assembly adopted a resolution sharply criticizing abuses and the government's failure to cooperate with the Human Rights Council.<sup>8</sup> The crackdown also impelled both the EU and the US government to broaden the visa ban to include more Belarusian officials and adopt other restrictive measures against the government.<sup>9</sup>

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<sup>5</sup> According to the US State Department annual human rights report, "Only registered political parties, trade unions, or NGOs may request permission to hold a demonstration of more than 1,000 persons, and denials were common. Security forces frequently forcibly dispersed participants, often causing injuries. The law criminalizes participation in the activities of unregistered NGOs, training of persons to demonstrate, financing of public demonstrations, or solicitation of foreign assistance "to the detriment" of the country. Violations are punishable by up to three years in prison. Organizers must apply at least 15 days in advance for permission to conduct a public demonstration, rally, or meeting. Government officials are required to respond no later than five days prior to the scheduled event. However, authorities generally refused permits to opposition groups or granted permits for demonstrations away from city centers. See US State Department, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices – 2009: Belarus," <http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136021.htm> (accessed February 25, 2011).

<sup>6</sup> The UN Working Group on Arbitrary Detention expressed concern about excessive powers enjoyed by the prosecutor's office and investigators during pretrial detention. The government of Belarus did not respond to the Working Group's concerns. See Working Group on Arbitrary Detention, Civil and Political Rights including the Question of Torture and Detention, E/CN.4/2005/6/Add.3, November 25, 2004, [http://ap.ohchr.org/documents/alldocs.aspx?doc\\_id=10180](http://ap.ohchr.org/documents/alldocs.aspx?doc_id=10180) (accessed February 21, 2011). See also, UN Human Rights Commission "Civil and Political Rights, including questions of: Independence of the Judiciary, Administration of Justice, Impunity," Report of the Special Rapporteur on the independence of judges and lawyers, Dato' Param Cumaraswamy, E/CN.4/2001/65/Add.1, February 8 2001, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G01/110/54/PDF/G0111054.pdf?OpenElement>, (accessed March 1, 2011).

<sup>7</sup> The special rapporteur on Belarus's mandate ended in 2007. The special rapporteur's annual reports to the Human Rights Commission outlined serious and constant violations of economic, civil and political rights of Belarusian people, including lack of free elections, absence of developed human rights protection mechanisms, restriction of freedoms of religion and expression, and use of the death penalty. See the Report of the special rapporteur on Belarus, January 15, 2007, A/HRC/4/16 [http://ap.ohchr.org/documents/alldocs.aspx?doc\\_id=10180](http://ap.ohchr.org/documents/alldocs.aspx?doc_id=10180) (accessed February 21, 2011).

<sup>8</sup> See the UN General Assembly resolution № 61/175 "Situation of Human Rights in Belarus», March 8, 2007, <http://www.unhcr.org/refworld/pdfid/4624b8932.pdf> (accessed February 21, 2011).

<sup>9</sup> See Council of the European Union conclusions, 2723rd External Relations meeting, April 10-11, 2006, [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/en/gena/89219.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/gena/89219.pdf) (accessed February 21, 2011).

In 2008, Belarusian authorities released a handful of political prisoners, which prompted a thaw in relations with the EU and other international actors.<sup>10</sup> In October that year, EU foreign ministers suspended the travel ban imposed on President Lukashenko and most of his inner circle.<sup>11</sup> In March 2009, the EU accepted Belarus into its Eastern Partnership Initiative and initiated a human rights dialogue with Belarus.<sup>12</sup> Additionally, the Parliamentary Assembly of the Council of Europe expressed readiness to restore the country's special guest status pending reform, but withdrew the recommendation a year later.<sup>13</sup>

However further crackdowns drew criticism from the EU, which in November 2009 extended travel sanctions against Belarus's leadership, but at the same time froze their implementation as an incentive for reform.<sup>14</sup>

In May 2010, the Belarus government accepted a number of recommendations made by the United Nations Human Rights Council (UNHRC) during its Universal Periodic Review of Belarus, including those on the death penalty, the absolute prohibition of torture, and freedom of speech, association and assembly.<sup>15</sup> However, the government declined to accept a number of important recommendations, including one calling for decriminalizing participation in an unregistered organization. Many domestic and international NGOs also noted a lack of concrete commitments on behalf of the delegation to implement those recommendations it did accept.<sup>16</sup>

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<sup>10</sup> See Michael Schwartz, "US Cuts off Visas in Minsk in a Dispute with Belarus," *New York Times*, March 21, 2008, <http://www.nytimes.com/2008/03/21/world/europe/21belarus.html> (accessed February 25, 2011). Human Rights Watch, *World Report 2009* (New York: Human Rights Watch, 2009), Belarus chapter, pp.345-346.

<sup>11</sup> Council of the European Union conclusions, 2897th External Relations meeting, October 13, 2008, [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/en/gena/103299.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/gena/103299.pdf) (accessed February 21, 2011).

<sup>12</sup> On the establishment of the Eastern Partnership, see Joint Declaration of the Prague Eastern Partnership Summit, Prague, 7 May 2009, Council of the European Union, [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/er/107589.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/er/107589.pdf) (accessed February 24, 2011). On Implementation of the Eastern Partnership, including with regard to Belarus, see Report to the meeting of Foreign Affairs Ministers, December 13, 2010, Council of the European Union, Eastern Europe and Central Asia [http://eeas.europa.eu/eastern/docs/eap\\_meeting\\_foreign\\_affairs\\_131210\\_en.pdf](http://eeas.europa.eu/eastern/docs/eap_meeting_foreign_affairs_131210_en.pdf) (accessed February 24, 2011).

<sup>13</sup> PACE Resolution 1727 (2010) of 29 April, 2010, "Situation in Belarus: Recent Developments," <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta10/ERES1727.htm> (accessed February 10, 2011).

<sup>14</sup> Council conclusions on Belarus, 2974th External Relations Council meeting, Brussels, 17 November 2009, Council of the European Union, [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/en/gena/111243.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/gena/111243.pdf) (accessed February 24, 2011).

<sup>15</sup> See the report of the Working Group on the Universal Periodic Review of Belarus A/HRC/15/16 from June 21, 2010, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BYSession8.aspx> (accessed February 19, 2011).

<sup>16</sup> See the joint statement of the International Federation for Human Rights (FIDH), Viasna Human Rights Center, and the Belarusian Helsinki Committee, May 20, 2010, <http://www.fidh.org/Universal-Periodic-Review-of-Belarus-Positive> (accessed February 18, 2011).

## **II. The December 19 Presidential Election and Its Immediate Aftermath**

### **The Presidential Election**

During the 2010 presidential campaign candidates were able to campaign more openly than in elections in previous years, and state media even took the unprecedented step of airing televised debate between the candidates.

However, the preliminary election observation report issued by the Organization for Security Co-operation in Europe (OSCE) was critical of the election. The OSCE concluded the major television stations gave the majority of their programming space to Lukashenka and cast the opposition in a mostly negative light.<sup>17</sup> While the OSCE praised the voting process itself, it found the election rife with procedural violations and the vote counting “bad to very bad” in 46 percent of the polling stations it observed. In many precincts OSCE observers were obstructed from assessing the tabulation and witnessed ballot stuffing in 14 other stations.<sup>18</sup>

Anticipating an unfair vote, several opposition candidates in December urged their supporters to gather in Minsk’s October Square on election night. Several state bodies warned the candidates that campaigning was prohibited in the square.<sup>19</sup> Nonetheless, as polling stations closed on December 19, as many as 30,000 demonstrators gathered in the square and then marched peacefully to Independence Square, where several presidential candidates joined them to protest what they saw as an unfair campaign.<sup>20</sup>

When the Central Election Commission announced that Lukashenka had received 79.67 percent of the vote some protesters in Independence Square advanced on the main government building, shattered windows, and tried to break down the main doors. The vast majority of protesters were peaceful.

Riot police and other law enforcement personnel broke up the demonstration using force, beating hundreds of people and injuring several, including presidential candidates Andrey

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<sup>17</sup> “Statement of Preliminary Findings and Conclusions: Minsk, 20 December 2010,” OSCE International Elections Observation, pp. 6, 7, and 8.

<sup>18</sup> *Ibid.*, p. 10.

<sup>19</sup> *Ibid.*, p. 7.

<sup>20</sup> Amnesty International, “Security, Peace and Order? Violations in the Wake of Elections in Belarus,” AI Index: EUR 49/003/2011, February 2, 2011, p. 4, <http://www.amnesty.org/en/library/info/EUR49/003/2011/en> (accessed February 10, 2011).

Sannikau and Uladzimir Nyaklyaeu, who was on his way to the demonstration.<sup>21</sup> Video and witness testimony that Belarusian human rights groups gathered shows law enforcement using batons to beat everyone within reach, kicking those who fell to the ground, and striking people as they tried to escape.<sup>22</sup>

Hundreds of people, including a number of journalists and passersby who were not involved in the protests, were summarily arrested that night and in the days that followed. As detailed below, at least 725 people were arrested, tried, and sentenced to between 10 and 15 days in administrative detention. Seven opposition candidates were also arrested, including some, such as Anatol Liabedko and Uladzimir Nyaklyaeu, who were not present at the protests.<sup>23</sup>

On December 20, Lukashenka's re-election to the presidency was officially announced.<sup>24</sup>

Belarusian authorities have sought to portray the demonstration as an attempt by the opposition to overthrow the government. In January 2011, Lukashenka told a special session of parliament, "[E]veryone could see that the opposition was preparing a coup. 'Coups' is the exact word for it. Everything was planned under the tight supervision of some foreign special forces."<sup>25</sup> A senior Ministry of Internal Affairs official claimed the crowd was ready to use an "entire arsenal" of pins, sticks, Molotov cocktails, and other weapons allegedly being stored in the parliament building on the square, and police said they found sticks and other weapons on detainees.<sup>26</sup> The deputy head of the Republican Hospital of the Ministry of Internal Affairs said 85 of the 91 persons brought to the hospital for treatment due to December 19 violence were ministry personnel, most of whom had head and chest injuries.<sup>27</sup>

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<sup>21</sup> Ibid., pgs. 8, 10.

<sup>22</sup> See "Tyrant Lukashenka declared war on his people," Charter '97, December 20, 2010, <http://www.charter97.org/en/news/2010/12/20/34834/> (accessed February 20, 2011).

<sup>23</sup> See "Review-Chronicle of Human Rights Violations in Belarus in December 2010," Viasna Human Rights Center, January 13, 2011 (accessed February 22, 2011).

<sup>24</sup> See official statement of the Belarusian Central Election Commission, <http://www.rec.gov.by/pdf/prb2010/soob9.pdf> (accessed February 21, 2011).

<sup>25</sup> "Lukashenko: Government acted lawfully to prevent coup on 19 December," *BELTA, Belarusian Telegraph Agency*, January 27, 2011, <http://news.belta.by/en/news/president?id=608940>, (accessed March 1, 2011).

<sup>26</sup> "MVD confiscates "entire arsenal" left behind by the opposition in front of the government building" (МВД: изъятый у оппозиции «целый арсенал» остается в Доме правительства), *Telegraf*, December 21, 2010, <http://telegraf.by/2010/12/mvd-iz-jatij-u-oppozicii-celij-arsenal-ostaetsja-v-dome-pravitel-stva.html>, (accessed March 1, 2011). See also, "Belarusian law enforcement officials seize entire arsenal from participants in the unsanctioned protests" (Целый арсенал изъяли у участников несанкционированной акции правоохранные органы Беларуси) *BELTA, Belarusian Telegraph Agency*, December 21, 2010, [http://www.belta.by/ru/all\\_news/society/Tselyj-arsenal-izjali-u-uchastnikov-nesanktsionirovannoj-aktsii-pravooxranitelnye-organy-Belarusi\\_i\\_536676.html](http://www.belta.by/ru/all_news/society/Tselyj-arsenal-izjali-u-uchastnikov-nesanktsionirovannoj-aktsii-pravooxranitelnye-organy-Belarusi_i_536676.html), (accessed February 24, 2011).

<sup>27</sup> "The condition of six law enforcement officials injured on December 19 is considered satisfactory," (Состояние пострадавших 19 декабря шести сотрудников правоохранных органов оценивается как удовлетворительное),

As noted below, 148 of 205 people surveyed by a coalition of Belarusian and international human rights groups reported that police punched, hit, or kicked them during arrest or in detention. Since more than 700 people were detained, the number of those beaten is likely to be much higher. Human Rights Watch is not aware of a definitive count of those who sustained injuries.

Following the OSCE's critical assessment of the election, the Belarus government refused to extend the organization's mandate, effectively closing the organization's presence in the country.<sup>28</sup>

On January 31, 2011, in response to the flawed election and the post-election crackdown, the EU Foreign Affairs Council imposed travel restrictions and an asset freeze on "persons responsible for the fraudulent Presidential elections and the violent crackdown" and reinstated travel restrictions originally imposed in 2004 and 2006.<sup>29</sup> The same day, the US government announced that it had extended its list of Belarusian government officials who were subject to a visa ban, and said it was "working to impose financial sanctions against additional Belarusian individuals and/or entities" pursuant to sanctions imposed in 2006.<sup>30</sup>

## Administrative Arrests and Trials

On the night of December 19, police and security forces arrested hundreds of people on both administrative and criminal charges (see below). Waves of arrests continued for days following the unrest, when state security forces turned up at people's offices and homes, summarily arresting anyone suspected of participating in the protest.<sup>31</sup>

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*BELTA, Belarusian Telegraph Agency*, December 20, 2010, [http://www.belta.by/ru/all\\_news/society/Sostojanie-postradavshix-19-dekabrja-shesti-sotrudnikov-pravooxranitelnyx-organov-otsenivaetsja-kak-udovletvoritelnoe\\_i\\_536622.html](http://www.belta.by/ru/all_news/society/Sostojanie-postradavshix-19-dekabrja-shesti-sotrudnikov-pravooxranitelnyx-organov-otsenivaetsja-kak-udovletvoritelnoe_i_536622.html), (accessed February 24, 2011).

<sup>28</sup> See, Ministry of Foreign Affairs of Belarus, "Comments by the head of the Ministry of Foreign Affairs Information Department and press secretary Andrey Savinykh on the decision by the Belarusian side not to extend the mandate of the OSCE office in Minsk" (December 31, 2010), [http://www.mfa.gov.by/press/news\\_mfa/eod1ef96f90c4a4f.html](http://www.mfa.gov.by/press/news_mfa/eod1ef96f90c4a4f.html) (accessed February 25, 2011).

<sup>29</sup> The Council noted the deterioration of the electoral process during the vote count and deplored the violence by the authorities, including arbitrary arrests of opposition, journalists and civil society members during the election night. The Council demanded immediate release of those arrested on political grounds. See Council of the European Union, "Council Conclusions on Belarus," January 31, 2011, <http://register.consilium.europa.eu/pdf/en/11/sto5/sto5956.en11.pdf> (accessed February 20, 2011).

<sup>30</sup> See US Department of State, "Belarus Sanctions [Press Statement]," PRN: 2011/128, January 31, 2011, <http://www.state.gov/r/pa/prs/ps/2011/01/155640.htm> (accessed February 20, 2011).

<sup>31</sup> The authorities used video footage and mobile phone number locators to identify protesters. Human Rights Watch spoke with several people in Minsk who told us they were arrested on administrative charges in their homes in the days following the events. Human Rights Watch interviews AS/AN/YG-1, AS/AN/YG-9.

## *Beatings*

A coalition of independent Belarusian and international NGOs established to monitor the post-election situation in Belarus surveyed detainees who served between 10 and 15 days in administrative detention.<sup>32</sup> Survey results from 205 completed questionnaires revealed that security forces had punched, pushed, kicked, and used batons to hit most of those arrested. Of the respondents, 148 reported that security forces beat them during their arrest and pre-trial detention; 57 said they had been beaten with batons. In some cases, security forces held up to 70 detainees for several hours in minibuses intended for no more than 30 people before transporting them to detention centers. Human Rights Watch's research confirmed the trends identified in the survey.<sup>33</sup>

An 18-year-old student recounted her treatment by security forces when she was arrested on the night of December 19 and held in a temporary detention facility:

They were grabbing people by arms and legs, loading us up in police vans. It was so packed we couldn't move. Then they brought us to [the detention facility on] Akrestina [Street] and we had to stand in the corridor for five hours, facing the wall. Many of us were very thirsty but the guards just yelled and verbally abused us when we asked for water. Every now and then, someone would get tired and try to sit down and they would yell at them to get up or hit them with batons.<sup>34</sup>

Witnesses interviewed by Human Rights Watch, as well 58 survey respondents, said that police had forced them to sign arrest reports that contained false information about the time, place, and circumstances of their detention.<sup>35</sup> A woman said that she was beaten after requesting a lawyer:

When I asked for a lawyer, I was dragged into the hallway and three guards in uniforms started kicking me and hitting me with batons. People who saw that

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<sup>32</sup> Joint Survey of the International Observation Mission of the Committee for International Control on the Human Rights Situation in Belarus and the Legal Transformation Centre, <http://hrwatch-by.org/analiticheskaya-spravka-4-1>, (accessed February 14, 2011).

<sup>33</sup> Both the ICCPR (art. 7) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Adopted December 10, 1984, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987) prohibit the treatment to which detainees were subjected. Belarus is a party to both.

<sup>34</sup> Human Rights Watch interview AN/YG-22, February 7, 2011.

<sup>35</sup> Joint survey of the International Observation Mission of the Committee for International Control and the Legal Transformation Centre on the Human Rights Situation in Belarus and the Legal Transformation Centre, <http://hrwatch-by.org/analiticheskaya-spravka-4-1> (accessed February 14, 2011).



screamed at them to stop. Then the guards took me to a room on another floor and put together my arrest report. They didn't even bother giving me a copy; they told me "You are not going to sign it anyway."<sup>36</sup>

An 18-year old woman said that she refused to give police her name until they explained the reason for her arrest, prompting policemen to slap her, hit her head against a wall, and threaten to rape her if she continued to resist. Police also forced her to sign a paper saying she had no complaints about the treatment she received.<sup>37</sup>

Forty-five survey respondents said they were not allowed to make phone calls to inform their families or access legal assistance after their arrest.<sup>38</sup> In some cases, families did not have information about the fate and whereabouts of their detained relatives for several days.

### *Due Process Violations*

Trials held before administrative courts started within days of December 19. During the following two weeks at least 725 people were sentenced to between 10 and 15 days administrative detention for participating in an unsanctioned gathering.<sup>39</sup>

Most of those detained who were surveyed had similar recollections of the administrative court proceedings.<sup>40</sup> Trials were held behind closed doors, with no journalists or relatives allowed. Hearings typically lasted between 10 and 15 minutes. In most cases, the accused did not have any defense counsel present and was not allowed to call witnesses. In the rare instances when witnesses were permitted, the judge gave no indication that he took their testimony into consideration.

A law student sentenced to 10 days administrative detention recalled the details of her trial:

I was arrested on Friday and tried on Monday. My trial lasted 10 minutes at most. I had a lawyer, hired by an NGO, but she was not allowed to see me, so

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<sup>36</sup> Human Rights Watch interview AS/AN-20, February 7, 2011.

<sup>37</sup> Human Rights Watch interview YG/AN-22, February 7, 2011.

<sup>38</sup> Survey of the International Observation Mission of the Committee for International Control on the Human Rights Situation in Belarus, <http://hrwatch-by.org/analiticheskaya-spravka-4-1> (accessed February 14, 2011).

<sup>39</sup> Code of Administrative Offences of the Republic of Belarus No. 194-3, 2003, as amended, article 23.34, "violating the rules for organizing or holding a large-scale event or demonstration."

<sup>40</sup> Survey of the International Observation Mission of the Committee for International Control on the Human Rights Situation in Belarus and the Legal Transformation Centre, <http://hrwatch-by.org/analiticheskaya-spravka-4-1> (accessed February 14, 2011).

had no chance to help. During the trial, the judge didn't even look at me. I had a feeling that the verdict was decided before the trial even began. This is the first time I was arrested. They sentenced me to 10 days in jail.<sup>41</sup>

Most rulings that tribunals handed down contained identical language that accused the defendants of participating in illegal demonstrations and chanting anti-government slogans. The courts, which issued almost no acquittals, sentenced the defendants to terms of 10 to 15 days in administrative detention. With no access to legal assistance, those sentenced to detention were unable to appeal their sentence.

The mother of a 26-year-old musician told Human Rights Watch:

My son called me on the night of December 19 to tell me that he was in a police detention center and that his head was injured. Then his phone was taken away from him. I rushed to Akrestina ... and stayed there until 4 a.m., but could get no information. On the next day I found out that he was tried and got 10 days of administrative detention. He told me that there were two witnesses at the trial, both from police.<sup>42</sup>

According to the survey report, in at least 100 cases the courts did not explain to defendants the procedure for appealing the decision and, with the exception of Minsk's District Court, did not provide them with a copy of the decision rendered against them. Most detainees were unable to appeal their sentences since Belarusian law states that an administrative sentence must be appealed within five days, when they were still in custody without access to counsel.<sup>43</sup>

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<sup>41</sup> Human Rights Watch interview AS/AN/YS-1, February 3, 2011.

<sup>42</sup> Human Rights Watch interview AS-25, February 8, 2011.

<sup>43</sup> Procedure Code for Administrative Offenses of the Republic of Belarus № 194-3, 2006 as amended. Article 12.4 provides for a five-day period for appealing decisions to impose an administrative penalty in the form of arrest or deportation. Article 14 of the ICCPR guarantees that everyone charged with a criminal offense has a right to, among other things: adequate time and facilities to prepare his or her defense and to communicate with counsel of his own choosing; a public trial, and the conviction reviewed by a higher tribunal. Although the majority of protestors were charged with an administrative offense under Belarus law, the fact that it carries a significant penalty involving deprivation of liberty for up to 15 days renders it a criminal offense for the purposes of the ICCPR.

### *Mistreatment in Administrative Detention*

Most detainees, including those interviewed by Human Rights Watch and respondents to the survey, described administrative detention conditions as extremely poor.<sup>44</sup> Detainees were held in crowded prison cells, where they were forced to sleep on the floor, share beds, or take turns sleeping. Cells were cold, and lacked toilets and hygiene items for women. Detainees had difficulty accessing medical treatment.

A young university student spoke about his experience in administrative detention:

After I was arrested, I ended up at a detention center on Akrestina Street and then sentenced to 10 days. I have a pregnant wife at home but that didn't help my case at all. In my cell, it was very cold and some of us had to sleep on the floor. There was no toilet in our cell, it was awful. As far as I know, many people I was in jail with wrote complaints about conditions of detention. I am not sure what happened to those complaints. I also wrote but never received a response.<sup>45</sup>

A woman who spent 10 days in administrative detention went on a hunger strike to protest the poor conditions:

There were 13 women in our cell, and only 9 beds and 10 blankets. I had to sleep on the floor. For 10 days, they never gave us any items for hygiene. There was no proper medical assistance available—a doctor on duty gave everybody aspirin, regardless of the complaint. I went on a hunger strike to protest the sentence, the conditions in detentions, and the fact that they refused to give me pen and paper, a ring I use for prayer, and to allow me to call my relatives. Two other young women in our cell went on a hunger strike as well. The authorities at the detention facility simply ignored the strike and our demands.<sup>46</sup>

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<sup>44</sup> Survey of the International Observation Mission of the Committee for International Control on the Human Rights Situation in Belarus and the Legal Transformation Centre, <http://hrwatch-by.org/analiticheskaya-spravka-4-1> (accessed February 14, 2011).

<sup>45</sup> Human Rights Watch interview AS, AN, YG-2, February 3, 2011.

<sup>46</sup> Human Rights Watch interview AS, AN-20, February 7, 2011.

### III. Criminal Defendants

By the beginning of March 2011, at least 38 individuals were charged with organizing or participating in riots related to the December 19 protest, including 5 former presidential candidates.<sup>47</sup> At least 30 people, including political opposition leaders, activists, campaign workers, and two former presidential candidates were in detention. Most were being held at the KGB detention facility nicknamed “Amerikanka.”

As of March 3, 2011, four people had been convicted.<sup>48</sup> On February 17, the Frunze District Court convicted Vasil Parfyankou, an activist with Uladzimir Nyaklyaeu’s campaign, and sentenced him to four years imprisonment in a high-security jail. In addition, a civil suit was brought against Parfyankou seeking damages caused to the main government building on December 19, which the court estimated to be equivalent to approximately \$4,700.<sup>49</sup> On March 2, 2011, the same court convicted Aliaksandr Atroshchankau, a journalist and an activist with Andrey’s Sannikau’s campaign and two other protesters. The court sentenced them to four, three, and three-and-a-half years imprisonment respectively.<sup>50</sup> A group of human rights defenders that monitored the trial found that the evidence presented was insufficient to conclude that the December 19 events amounted to riots and said that the verdict was politically motivated.<sup>51</sup>

Human Rights Watch interviewed a number of people charged with the criminal offense of organizing and participating in riots who were released from detention on their own recognizance. We also spoke to a number of lawyers representing these individuals, and relatives of those still in detention or under house arrest. There were consistent and serious allegations about denial of the right to legal counsel and inhumane conditions in detention.

The wife of a former presidential candidate spoke of her frustration at being unable to locate her husband after he did not return home on the night of December 19:

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<sup>47</sup> Criminal Code of Belarus № 275-3, 1999 as amended, Article 293, parts 1 and 2.

<sup>48</sup> See “The Criminal Case on Mass Disturbances: 38 Charged, 12 under Suspicion, 4 Convicted,” Viasna Human Rights Center, March 3, 2011, <http://spring96.org/ru/news/41573> (accessed March 6, 2011).

<sup>49</sup> See news update from Charter 97, Belarusian independent online media source, <http://charter97.org/ru/news/2011/2/17/36130/>.

<sup>50</sup> See “The Criminal Case on Mass Disturbances: 38 Charged, 12 under Suspicion, 4 Convicted,” Viasna Human Rights Center, March 3, 2011, <http://spring96.org/ru/news/41573> (accessed March 6, 2011).

<sup>51</sup> “Analysis of the Trial of Aliaksandr Atroshchenkau, Aliaksandr Malchanau, and Dzimitry Novik,” Viasna Human Rights Center, March 3, 2011, <http://spring96.org/ru/news/41580>.

The most dreadful thing was not knowing where he was. We spent three days searching for him, calling again and again all possible numbers, asking for him. We called the head of the investigation group, but he gave us no information. At some point, out of despair, I even called the US Embassy... Finally, we received a call from the investigation group and were informed that my husband was taken to the KGB detention facility...<sup>52</sup>

## Access to Counsel

I've just spent another half a day at the SIZO [*sledstvennyi izolyator*, or remand prison] waiting room. There were four other lawyers that work on that case. None of us was able to get in. There are no explanations or excuses provided. They demonstratively wouldn't let anyone of us in. Our clients are completely isolated.

—Lawyer representing a detainee being held at the KGB detention facility, Minsk, February 8, 2011<sup>53</sup>

Although individuals held on riot charges have occasionally had a lawyer present during their interrogation, none has been allowed to have direct and private meetings with his or her lawyers at any stage of their detention.<sup>54</sup>

A former detainee, currently released on his own recognizance, told Human Rights Watch that he did not see his lawyer in private once during the 41 days he spent in detention.<sup>55</sup> Another former detainee, a journalist, also complained that although she saw her lawyer four times during interrogations in custody, they never had an opportunity to meet in private. Whenever she tried to exchange words with her lawyer, the interrogator would interrupt, which prevented her from giving instructions to contest the legality of her detention.<sup>56</sup>

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<sup>52</sup> Human Rights Watch interview AS-5, February 4, 2011.

<sup>53</sup> Human Rights Watch interview AS-24, February 8, 2011.

<sup>54</sup> This violates Belarus's obligation under Belarusian and international law to allow criminal detainees access to counsel. See article 14 of the ICCPR. The Human Rights Committee has held that when a detainee is not permitted to consult with his lawyer in private, this constitutes a violation of article 14, paragraph 3 (b) of the covenant (See e.g. Gridin v Russian Federation, No. 770/1997, para. 8.5). Article 43 part 6 of the Criminal Procedure Code of Belarus and chapter 16, par. 142 of the Internal Operational Guidelines for Investigative Detention Facilities of the State Security Services of the Republic of Belarus guarantee detainees' right to communicate with their defense lawyer in a private and confidential setting without limitations in time and frequency of meetings.

<sup>55</sup> Human Rights Watch interview AN/AS/YG-8, February 8, 2011.

<sup>56</sup> Human Rights Watch interview AN/YG-13, February 13, 2011.

At least four defense lawyers told us they submitted written requests to hold private meetings with their clients.<sup>57</sup> Some waited for hours in line and had to leave without seeing their clients. The authorities commonly told lawyers there were not enough rooms for them to hold confidential meetings with clients.

The following account attests to the seemingly deliberate efforts of detention facility authorities to prevent lawyers from adequately representing their clients:

My client was arrested on December 20. I have not had a single private meeting with him since he was arrested. Since their standard response is “there is no room for meetings” I wrote that I was prepared to see my client during irregular hours or on weekends. I know that some of my colleagues did the same. I spent a couple of days just sitting there [at the detention facility], hoping to see my client, and then realized what a waste of time that was. I wrote official requests to be allowed to see my client in private and received an absurd reply from the prosecutor’s office stating that my client actually didn’t want to see me.<sup>58</sup>

The same lawyer also said authorities would arrange interrogations with his client on nights and weekends, which gave him little or no notice. Indeed, in some cases it was clear that authorities deliberately conducted interrogations at irregular hours so that a lawyer was less likely to be there, even though the law stipulates that one should be present at all interrogations.<sup>59</sup>

A lawyer representing an opposition member said:

I saw my client once since he was arrested on December 22, and was not allowed to meet with him again in private since that time. I was present during three official interrogations, but I know that they also take my client for private ‘talks’ that I am not allowed to be present at. Never in my years of practicing law have I come across situations like this.... Simply put, these people are left without legal advice.<sup>60</sup>

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<sup>57</sup> Human Rights Watch interviews AN/YG-11, AS-12, 23, 24, February 5-8, 2011.

<sup>58</sup> Human Rights Watch interview YG/AN-11, February 5, 2011.

<sup>59</sup> According to Article 48 part 4 of the Criminal Procedure Code of the Republic of Belarus, a lawyer has the right to be present during the interrogation of a client or any other investigative activities being conducted with participation of the client. Article 45.1 paragraph 1 stipulates that participation of a lawyer during criminal proceedings is required if a person charged with a criminal offense officially requested lawyer’s participation.

<sup>60</sup> Human Rights Watch interview AS-12, February 5, 2011.

## Mistreatment at the KGB Detention Facility

Human Rights Watch received numerous and consistent reports about detention conditions in the KGB detention facility in Minsk.<sup>61</sup>

The facility holds people charged with criminal offenses during investigative and pre-trial stages, and has held the majority of those arrested on riot charges in connection with the December 19 events in Minsk.

Former detainees and relatives complained most frequently about the overcrowding, insufficient heating in cells, unhygienic facilities, lack of access to natural light, poor nutrition, difficulty accessing medical care, and isolation at the facility.

Many detainees have to sleep on make-shift beds made from wooden boards, or on the same bed. Sometime they must take turns sleeping. An opposition member who was recently released on his own recognizance described conditions in his cell:

My cell was very cold and wet. I slept on a bed made from wooden boards, which was placed on a cold concrete floor. I was given old dirty sheets. We had access to two newspapers, mainstream ones that were not particularly informative. The TV was switched off and my cellmates joked that their life was a lot better before us ‘political’ detainees came along.<sup>62</sup>

Most cells are reportedly not equipped with toilets, and detainees can only use toilets twice a day. A former detainee told Human Rights Watch that he was held with five other persons in a cell meant for two. He also said that there was no toilet in his cell:

We were taken to a toilet twice a day, which was not enough. We had a bucket in our cell but tried to use it as little as possible. It was completely unsanitary.<sup>63</sup>

A young female detainee developed health problems because she could not use the toilet:

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<sup>61</sup> Article 10 of the International Covenant on Civil and Political Rights (ICCPR) provides that anyone detained of their liberty shall be treated with humanity and dignity.

<sup>62</sup> Human Rights Watch interview YG-21, February 7, 2011.

<sup>63</sup> Human Rights Watch interview AS/AN/YG-8, February 4, 2011.

After I was moved for the last time, I was in a cell with no toilet. They took us to use a toilet twice a day which really wasn't enough for me. I stopped drinking fluids because I could not wait between the toilet breaks. I started having serious health problems as a result. The detention facility doctor examined me and requested that I be allowed to use a toilet more often. The doctor's request was granted.<sup>64</sup>

All the former detainees, as well as lawyers and relatives, spoke about the isolation they experienced during detention, which was exacerbated by limited correspondence with loved ones. It appears that in many cases, detention facility staff did not pass on detainees' correspondence. On the few occasions when family members did receive letters, they arrived weeks after they were written. Most detainees do not have access to newspapers, radio, or television and are almost completely cut off from the outside world.

Asked about the most traumatic aspect of her more than three weeks in detention, one detainee, like many others, spoke of the isolation and her inability to send and receive correspondence:

We were held in complete isolation. At one point, I started feeling that there were no people outside, that we were completely alone on some sort of an island. Throughout the entire time, I received one letter from my mother. Later I learned that there were literally bags of mail for me, from friends, relatives and supporters, which I never received. I also wrote regularly, but my mother had only received two letters. No doubt, that was the intention of the authorities, as a way of putting additional pressure on us.<sup>65</sup>

The wife of a former presidential candidate said that her husband received only one of the numerous letters she wrote to him:

He received one of my 10 letters and I received four letters from him. In general, the tone and the style of the letters were not his at all, as if it was written by someone else. Only his last letter sounded like him. I was happy recently

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<sup>64</sup> Human Rights Watch interview AN/YG-13, February 13, 2011.

<sup>65</sup> Ibid.



because someone who was in detention told someone else that they heard his voice. We have to hold on to little pieces of information like that to support us.<sup>66</sup>

Principle 19 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment states that detainees should have the right to be visited by, and to correspond with, family members and should be given adequate opportunity to communicate with the outside world subject to reasonable restrictions.<sup>67</sup>

Article 78 of the Internal Operational Guidelines for Investigative Detention Facilities of the Republic of Belarus establishes detainees' right to send and receive letters without any limitations in quantity. Article 86 requires that staff of detention facilities pass on the correspondence no later than three days after it was handed to them.

### **Pressure on Relatives**

Authorities also harassed family members of persons held on criminal charges. Some were summoned for 'informal questioning' by the security services, while others were banned from traveling abroad. Milana Mikhalevich, the wife of opposition leader Ales Mikhalevich who was released on February 19 on his own recognizance, told Human Rights Watch that she was stopped some 100 kilometers from Minsk and not allowed to leave the country because, officials told her, of the criminal investigation against her husband.<sup>68</sup> Being related to a suspect in a criminal investigation is not grounds for denying an individual the right to leave the country, nor was Milana Mikhalevich even declared a witness in an investigation.<sup>69</sup>

In another instance, the mother of an opposition leader was arbitrarily detained for a day and her passport confiscated by authorities. She said:

On January 12, I had to go to Poland. In the morning, when I left my house, I was stopped by three men who took me to the KGB detention facility. I asked on what grounds they brought me there and they said they needed to ask me some questions. I refused to answer and they held me there until evening and then let me go but kept my passport. So the trip didn't happen of course.

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<sup>66</sup> Human Rights Watch interview AN/YG-15, February 6, 2011.

<sup>67</sup> Doc. A/RES/43/173, adopted on December 9, 1988.

<sup>68</sup> Human Rights Watch Interview AS-5, February 4, 2011.

<sup>69</sup> According to article 117 of the Criminal Procedure Code of the Republic of Belarus, restrictive measures such as an obligation not to leave the jurisdiction can be applied only to persons suspected of, or charged, with a criminal offense. There are no provisions in Belarus law allowing for relatives of individuals on criminal charges to be restricted in their right to leave the country.

They returned me my passport the next day, when I wrote a complaint which ended up with the prosecutor general's office.<sup>70</sup>

The wife of a man facing criminal charges who worked closely with an opposition leader recounted how she has been invited “for a talk” with security service officers. The officials implied they would allow her to visit her husband in detention if she agreed to “influence” him to cooperate with the investigation.<sup>71</sup> She refused. Her husband remains in prison.

## **Pressure on Lawyers**

Nongovernmental groups and defense lawyers described how the government pressured lawyers representing individuals charged in connection with the December events. This, together with the difficulties that lawyers face accessing clients, means that more lawyers are refusing to take on ‘political’ cases.<sup>72</sup>

The Ministry of Justice targeted lawyers who spoke about abuses against their clients. On December 29, 2010, the ministry publicly accused a number of lawyers of breaching professional ethics by “presenting information about the investigation, their clients’ opportunities to avail of legal assistance, their clients’ health status and prison conditions, and the work of law enforcement bodies of the country in a biased manner.”<sup>73</sup>

On January 4, 2011, the Ministry of Justice asked the Minsk City Bar Association to investigate lawyer Pavel Sapelka—who was representing presidential candidate Andrey Sannikau and opposition party leader Pavel Sevyarynets—for breaches of ethics, and suggested that his license be revoked.<sup>74</sup>

The ministry also recommended the Bar Association investigate and take disciplinary measures against lawyers Tamara Sidarenka, Maryana Syameshka, Pavel Sapelka, and Uladzimir Tolstik after they publicly stated that they were being prevented from effectively representing their clients, and voiced concern about their clients’ health, well-being, and poor detention conditions.<sup>75</sup>

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<sup>70</sup> Human Rights Watch interview AN-16, February 7, 2011.

<sup>71</sup> Human Rights Watch interview YG-18, February 7, 2011.

<sup>72</sup> Human Rights Watch interview AN/YG-11, February 5, 2011.

<sup>73</sup> See Ministry of Justice website, [http://www.minjust.by/ru/site\\_menu/news?id=734](http://www.minjust.by/ru/site_menu/news?id=734) (accessed February 21, 2011).

<sup>74</sup> See the Ministry of Justice website, [http://www.minjust.by/ru/site\\_menu/news?id=737](http://www.minjust.by/ru/site_menu/news?id=737) (accessed March 9, 2011).

<sup>75</sup> Ibid.

The Bar Association refused to comply with all of the ministry's recommendations, but requested that the lawyers publicly revoke the statements that prompted the ministry's requests.<sup>76</sup> As Human Rights Watch researchers were told in some interviews, the authorities invoke vague language in the criminal procedure code that regulates obligations not to disclose certain confidential information in order to prevent the public from learning about poor detention conditions and other abuses endured by those in custody.<sup>77</sup>

On February 14, 2011, the Ministry of Justice revoked the licences of lawyers Aleh Aheeu and Tamara Haraeva, Tatsyana Aheeva, and Uladzimir Tolstsiik. The ministry alleged that Aheeu and Aheeva had, among other things, given incorrect information to its auditors and that Tolstsiik and Haraeva had "violat[ed] ... licensing legislation by refusing to provide legal assistance to Iryna Khalip," a reporter for the Russian newspaper *Novaya Gazeta* and wife of Andrey Sannikau.<sup>78</sup> On March 3, 2011, the Minsk City Bar Association disbarred Sapelka on the recommendation of the Ministry of Justice.<sup>79</sup> The ministry's website said that Sapelka's expulsion was due to his alleged failure "to appear for investigative activities" and his failure "to provide defense counsel" to his clients.<sup>80</sup> The action leaves Sapelka unable to practice law in Belarus.<sup>81</sup>

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<sup>76</sup> Human Rights Watch interview AN/YG-11, February 5, 2011.

<sup>77</sup> Human Rights Watch interviews AS-12, 23, February 5-8, 2011. Article 198 of the Criminal Procedure Code of Belarus prohibits disclosure of information which relates to preliminary investigation. Article 198, part 2 allows for investigation officials to request individuals involved in criminal proceedings, including the lawyer, witnesses and other people present during investigative activities to sign non-disclosure agreements. Although signing a non-disclosure agreement is not required, violation of a non-disclosure agreement will lead to criminal liability. Part 3 of the same article states that all individuals involved in criminal proceedings are warned by investigative officials about criminal liability for disclosing information deemed "state secret" or "other secret information protected by the law." It is not clear what can be considered secret information and why it can be considered such.

<sup>78</sup> See [http://www.minjust.by/ru/site\\_menu/news?id=775](http://www.minjust.by/ru/site_menu/news?id=775). Four days earlier, KGB officers had come to Aheeu's office asking to his original license, as well as other documents related to his right to practice law.

<sup>79</sup> See Ministry of Justice website, [http://minjust.by/ru/site\\_menu/news?id=812](http://minjust.by/ru/site_menu/news?id=812) (accessed March 4, 2011).

<sup>80</sup> Ibid.

<sup>81</sup> According to Belarus law only members of a bar association can practice law. See the Law on the Practice of Law of Belarus" No. 2406-XII, article 13, 1993 as amended [http://www.tamby.narod.ru/belarus-zakon/zakon\\_2406-1993.htm](http://www.tamby.narod.ru/belarus-zakon/zakon_2406-1993.htm) (accessed March 6, 2011).

## IV. Crackdown on Civil Society

### Harassment of Civil Society Groups

Waves of government harassment and threats in the wake of the post-election protest have embattled Belarusian civil society activists and independent media.

In the weeks after the elections, authorities raided the offices of several human rights groups—including the Belarusian Helsinki Committee, Viasna Human Rights Center, and the Center for Human Rights—and seized computers, computer equipment, and documents.<sup>82</sup> Andrey Yurov, head of the International Observation Mission—which has monitored the post election crackdown and is one of the groups that conducted the previously mentioned survey of former detainees—estimated that law enforcement agencies likely had “hundreds” of computers in their possession after the raids.<sup>83</sup>

At 4 a.m. on December 20, law enforcement units raided the offices of Viasna Human Rights Center and Charter 97,<sup>84</sup> detaining 10 of Viasna’s staff and confiscating computer and communications equipment. The same night police detained the editor of Charter’97 along with a number of key opposition activists at other locations.<sup>85</sup> Viasna’s five regional offices were also searched and its staff interrogated in late December and January.<sup>86</sup> On January 17, police again searched Viasna’s office and the home of its president, Ales Byalyatski.

On January 5, authorities searched the Belarusian Helsinki Committee offices and confiscated several computers, and KGB officers searched the home of its chairman, Aleh

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<sup>82</sup> See “Belarus: Widespread searches and judicial harassment of human rights defenders following Presidential Elections,” Frontline, January 1, 2011, <http://www.frontlinedefenders.org/node/14236> (accessed February 10, 2011). See also: “Belarusian NGOs struggle for air as country comes to grips with another five years of Lukashenka’s rule,” Bellona Foundation, January 7, 2011, [http://www.bellona.org/articles/articles\\_2011/belarusian-ngo-struggle](http://www.bellona.org/articles/articles_2011/belarusian-ngo-struggle) (accessed February 10, 2011).

<sup>83</sup> Human Rights Watch interview AS/AN/YS-o, February 3, 2011.

<sup>84</sup> Charter 97, a human rights organization, runs a popular website that covers current events in Belarus. The title Charter 97 derives from a declaration calling for a democratic Belarus and deliberately echoes the Czechoslovak human rights declaration Charter 77.

<sup>85</sup> See “Review-Chronicle of Human Rights Violations in Belarus in December 2010,” Viasna Human Rights Center, January 13, 2011 (accessed February 22, 2011).

<sup>86</sup> Human Rights Watch interview AS-4, February 4, 2011.

Hulak.<sup>87</sup> In February, Charter'97 reported that police were contacting or visiting the families of activists who had fled the country following the protests and detentions.<sup>88</sup>

The Belarusian Helsinki Committee is Belarus's oldest human rights group and the only national group that is officially registered with the government and also works on controversial human rights issues. However its registration could be in jeopardy. On January 12, 2011, the Ministry of Justice sent the organization an official written warning for "spreading false information that discredits law enforcement bodies and judicial institutions of the Republic." The warning came in response to a communication by the Belarusian Helsinki Committee to the UN special rapporteur on the independence of judges and lawyers that detailed instances of pressure on lawyers.<sup>89</sup> Article 28 of the Belarus's Law on Public Associations states that an organization that receives an official warning must redress a violation or face having its work suspended for up to six months.<sup>90</sup>

As noted above, because participation in the activities of a non-registered association constitutes a criminal offense in Belarus, staff members of most civil society groups face constant threat of criminal prosecution, and in recent years have periodically received warnings.<sup>91</sup> Most recently, on February 14, 2011, Viasna Human Rights Center President Ales Byalyatski was summoned "for a talk" to the prosecutor's office. He received a written warning the same day stating that because his organization was not registered, its activities were in breach of Belarusian law and criminal proceedings could be launched.<sup>92</sup>

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<sup>87</sup> Amnesty International, "Security, Peace and Order? Violations in the Wake of Elections in Belarus," <http://www.amnesty.org/en/library/info/EUR49/003/2011/en> (accessed February 10, 2011), p. 13. Hulak was also detained and released on December 20.

<sup>88</sup> "Police visiting relatives of activists who left Belarus," Charter'97, February 8, 2011, <http://charter97.org/en/news/2011/2/8/35852/> (accessed February 10, 2011).

<sup>89</sup> "Belarusian Helsinki Committee to appeal Justice Ministry's warning," *Russia Today*, January 13, 2011, <http://rt.com/politics/belarus-helsinki-committee-appeal/> (accessed February 25, 2011).

<sup>90</sup> The Law on Public Associations of the Republic of Belarus № 36-3, 2005 as amended. Under article 28, only a court can issue a ruling suspending an NGO, based on an appeal from the Ministry of Justice. The organization can be officially close if any violations are found within a year of the warning. If the organization is registered with local authorities, a local court can suspend it based on an appeal from the local department of justice.

<sup>91</sup> Article 193-1 of the Criminal Code of Belarus reads: "Organizing or participating in the activities of a political party, other public association, religious organization, or foundation in respect of which a decision of the public authority on its liquidation or suspension of its activities has entered into legal force, as well as the organization of and participation in the activities of political parties, other public associations, religious organizations or foundations which has not obtained state registration is punishable by fine or arrest for up to 6 months, or imprisonment for a term not exceeding 2 years. For more information about article 193 see the campaign website for Stop-193, dedicated to the repeal of article 193, <http://193.belngo.info/view.pl> (accessed February 19, 2011).

<sup>92</sup> See "Warning against Mr Ales Beliatzki, President of the HRC "Viasna"—BLR/003/0211/Obso21," FIDH, <http://www.fidh.org/Warning-against-Mr-Ales-Bialatski-President-of>, February 14, 2011, (accessed February 21, 2011).

Viasna Human Rights Center has been continuously denied registration, with the most recent ruling handed down on August 12, 2009, by the Belarusian Supreme Court.<sup>93</sup> This ruling contravened a July 2007 United Nations Human Rights Committee decision concluding that dissolution of Viasna violated article 22.1 of the International Covenant on Civil and Political Rights (ICCPR), and that the co-authors of the complaint were “entitled to an appropriate remedy, including the re-registration of Viasna.”<sup>94</sup>

Youth and student groups have faced similar threats and harassment. Activists from Molodoi Front (Youth Front), an NGO registered in the Czech Republic, began to be detained on December 17 and 18, 2010. According to Youth Front activists, its leader, Dzmitry Dashkevich, did not leave his apartment for three days due to the police presence outside. When he finally left on December 18, 2010, plainclothes police arrested him for disorderly conduct. He was subsequently charged with rioting for allegedly organizing the December 19 protest.

Dashkevich’s deputy, Anastasiya Palazhanka, was also arrested on riot charges relating to the December 19 events (she was released on her own recognizance on February 18). On February 11, 2011, student activists were nearly arrested for staging an “unsanctioned gathering” when they brought hot food for homeless in one of Minsk’s parks.<sup>95</sup>

Five Youth Front activists, including then-17-year-old Palazhanka, had been convicted in 2007 for participating in an unregistered organization. In 2010 the Belarusian authorities refused six times to register Youth Front.

## Intimidation of Media

After December 19, police and security forces also searched the premises of small independent media outlets and confiscated their equipment. For example, they confiscated 13 items, including a mixer console, from Euroradio, the only radio station in Belarus registered to broadcast online.<sup>96</sup> When staff of the television station Belsat arrived at the office on the morning of December 26, 2010, they found the door had been forced open and that the KGB had sealed off the premises. Offices of *Nasha Niva* and *Borisovskie Novosti*

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<sup>93</sup> Urgent appeal by the Observatory for the Protection of Human Rights Defenders, <http://www.fidh.org/Belarus-Refusal-to-re-register-BLR-001-0309-OBS> (accessed February 28, 2011). Viasna Human Rights Center was arbitrarily stripped of its registration in 2003.

<sup>94</sup> Communication No. 1296/2004, Aliaksandr Belyatsky et al. v Belarus, Decision July 24, 2007, CCPR/C/90/D/1296/2004, para.9.

<sup>95</sup> “Belarusian Police against Charity Work” (Белорусская милиция против благотворительности), *BBC*, February 12, 2011, [http://www.bbc.co.uk/russian/international/2011/02/110212\\_belorus\\_charity\\_militia.shtml](http://www.bbc.co.uk/russian/international/2011/02/110212_belorus_charity_militia.shtml)

<sup>96</sup> Human Rights Watch interview with the Belarusian Association of Journalists, February 4, 2011. The information in this paragraph derives from this interview.

newspapers and the homes of 12 journalists working for various independent and opposition outlets were also raided. On January 11, 2011, the Ministry of Communications revoked Avtoradio radio station's license, citing incitement to extremism.

The authorities have for years denied accreditation to a number of independent outlets or issued them warnings for various violations of media law. This made the journalists who worked for them especially vulnerable to detention on December 19. As noted above, among those arrested that night were 26 Belarusian and foreign journalists who were covering the protest.<sup>97</sup> Many were arrested and sentenced to 10 to 15 days in administrative detention because they were not able to produce documents proving their media status, or because the judges disregarded their international press cards. One journalist said:

When I was arrested I tried explaining that I was there as a journalist, just doing my job. Initially, they gave me some laughable explanation of why I was being arrested. They claimed that I “stepped on a road meant for traffic instead of walking on the pedestrian side of the road.”<sup>98</sup>

## Restrictions on Internet Use and Blogging

On the day of the presidential vote and during the following few days, many independent media websites experienced sporadic online access problems. In particular, internet users were not able to access websites for Charter97, Viasna Human Rights Center, Human Rights Defenders for Free Elections, a website created by a coalition of NGOs, as well as *Gmail*, *Hotmail*, *euradio.by*, *gazetaby.com*, and *zaprdu.info*. Additionally, internet users within Belarus were not able to access the popular social network website LiveJournal, and instead received a message that there was an ‘unknown malfunction.’ Charter97, an independent online news website, reported that some internet users also had trouble accessing Google and other mainstream search engines.<sup>99</sup>

The temporary service interruptions experienced around the elections are part of a broader pattern of Belarusian authorities increasing pressure on independent media sources, whether online newspapers or NGO websites. Of particular concern are new government

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<sup>97</sup> Ibid.

<sup>98</sup> Human Rights Watch interview YG/AN-13, February 5, 2011.

<sup>99</sup> See Charter'97 news update, posted on December 19, 2010, <http://charter97.org/en/news/2010/12/19/34818/> (accessed February 18, 2011). See also Belarusian Association of Journalists news update, <http://baj.by/m-p-viewpub-tid-1-pid-9500.html> from December 19, 2010 (accessed February 18, 2011).

regulations on the internet, which until recently remained relatively free of the kind of strict control the government exercises over print and broadcast media.

On July 1, 2010, a presidential decree issued by Lukashenka entered into force which imposed new regulations on internet use, and which was followed by adoption of five resolutions by the Belarus Council of Ministers.<sup>100</sup> The new regulations require compulsory state registration of all “internet networks, systems, and resources” and collection of personal data of internet cafe users.<sup>101</sup> The decree expanded the authority of the Operative-Analytical Centre, a body that reports directly to the president’s office and is designed to control flow of information deemed to be state secrets.<sup>102</sup>

Since the adoption of these regulations the state-owned service provider has shut down at least one unregistered independent news website, and Human Rights Watch is concerned that the new regulations will be used more broadly to silence opposition voices in Belarus.<sup>103</sup>

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<sup>100</sup> Decree of the President of the Republic of Belarus «On measures to improve the use of the national segment of the Internet» No. 60, adopted on February 1, 2010, <http://www.president.gov.by/press83055.html#doc> (accessed February 18, 2011).

<sup>101</sup> Ibid.

<sup>102</sup> For the full range of responsibilities of the Operative-Analytical Centre. See: <http://oac.gov.by/>

<sup>103</sup> Information taken from the Reporters Without Borders article “Authorities step up internet restrictions, harassment of online journalists,” posted July 2010, [http://en.rsf.org/belarus-authorities-step-up-internet-06-07-2010\\_37867.html](http://en.rsf.org/belarus-authorities-step-up-internet-06-07-2010_37867.html) (accessed February 19).



## Recommendations

### To the Government of Belarus:

#### *To the President:*

- Issue a standing invitation to the special procedures of the United Nations Human Rights Council for country visits, and urgently allow access to the country for the special rapporteurs on freedom of expression, on human rights defenders, and on torture, who have pending requests for invitation; respond swiftly and positively to any further requests for access.
- Ensure Belarus complies with all the provisions of the United Nations Declaration on Human Rights Defenders and end all forms of harassment of human rights defenders in Belarus, ensuring that civil society groups can operate unhindered and free from repression.
- Initiate legislation to repeal article 193.1 of the criminal code, which imposes criminal penalties for participating in unregistered organizations.
- Repeal the requirements for website operators to register with state authorities and for internet cafes to gather information on internet users.

#### *To the Prosecutor General:*

- Conduct a thorough and impartial investigation into the use of force on December 19, 2010.
- Investigate the treatment of all those arrested in connection with the protests, including violations of procedural rights during summary trials, and the legality of, and treatment in detention; ensure law enforcement officers responsible for violations are held accountable and victims receive adequate compensation.
- Ensure that all detainees have unimpeded and confidential access to counsel.

#### *To the Ministry of Interior and the Committee for State Security (KGB):*

- Ensure that all those detained are offered prompt medical assistance; are able to correspond with and receive visits from relatives; and that all other relevant international and domestic legal standards are observed.
- Release detainees arrested in connection with the events of December 19 if they are not accused of having directly engaged in violence.
- The Ministry of Interior should return computer and other equipment confiscated from the Belarus Helsinki Committee, Viasna Human Rights Center, and other civil

society groups and media outlets during 2010 and 2011, and end arbitrary raids on civil society organizations.

- Ensure an end to harassment of relatives of those detained, including restrictions on their right to travel and repeated searches of their homes and offices.

*To the Ministry of Justice:*

- Ensure that any trials of people charged with offenses connected to the December 19 events are open to the public, and comply scrupulously with international fair trial standards.
- Take steps to eliminate all pressure on defense lawyers so that they can conduct their work effectively, without harassment or reprisal.

**To the United Nations:**

- The Human Rights Council should adopt a resolution to condemn the abuses in Belarus and call on Belarusian authorities to take immediate steps to address them.
- Relevant special procedures of the Human Rights Council, in particular the Working Group on Arbitrary Detention and the special rapporteur on the independence of judges and lawyers, should request immediate access to Belarus to investigate credible allegations of abuse.

**To the OSCE:**

- Enforce the so-called “Moscow Mechanism”, which envisages human rights investigations in critical situations without the consent of the state in question, and initiate an independent international investigation into the human rights violations around the December 19 elections and its aftermath, ensuring the outcome is made public.

**To Concerned Governments, in particular those of European Union Member States and that of the United States:**

- Continue to forcefully condemn human rights abuses in Belarus in the wake of the December 19 elections and exert concerted and sustained pressure on Belarusian authorities to address the abuses.
- Ensure that international observers are present at ongoing trials of Belarusian activists.

- Use the sanctions adopted against Belarus as a tool to ensure positive change in Belarus. The sanctions should not be lifted until:
  - All those detained in connection with the events of December 19 who were not involved in violence have been released and are not at further risk of persecution.
  - The Belarusian government ends the crackdown on civil society and shows commitment to fostering an open civil society by, for example, registering NGOs and independent media outlets.
  - The OSCE mission in Minsk is restored.

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# Shattering Hopes

## Post-Election Crackdown in Belarus

On December 19, 2010, the presidential election in Belarus shattered hopes for democratic progress. That night, police beat and arrested hundreds of people protesting what they considered to be a rigged vote.

During the next two weeks, administrative courts sentenced at least 725 people to between 10 and 15 days detention for participating in an unsanctioned gathering. Trials typically lasted 10 to 15 minutes and took place behind closed doors. Most accused had no defense counsel and could not call witnesses. Detainees served their sentences in overcrowded, unhygienic cells. Thirty-eight individuals were charged with organizing or participating in riots related to the December 19 protest— including five former presidential candidates—and could serve up to 15 years in jail if convicted of rioting offenses. By the beginning of March 2011 at least 30 were still held on remand and had been unable to meet privately with their lawyers, some of whom said they were unofficially warned not to talk publicly about their clients' cases. Some lawyers have been stripped of their license for doing so.

This report, based on research conducted in Minsk in February 2011, documents the human rights violations that have occurred since the election. These have led to a serious deterioration in the already poor state of human rights in Belarus, where, after more than a decade of stifled civic freedoms, civil society faces a new wave of government harassment. This includes raids on NGOs and media outlets, and new internet regulations that make it easier for the government to clampdown on online news sources.

*Shattering Hopes: Post-Election Crackdown in Belarus* calls on Belarus's government to immediately release detainees who were not engaged in acts of violence on December 19, and end all forms of harassment of civil society.

*Police arrest an activist near Independence Square in Minsk on December 19, 2010.*

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