

**HUMAN RIGHTS IN RUSSIA:
AN OVERVIEW**

HEARING
BEFORE THE
TOM LANTOS HUMAN RIGHTS COMMISSION
HOUSE OF REPRESENTATIVES

ONE HUNDRED AND ELEVENTH CONGRESS
SECOND SESSION

MAY 6, 2010

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HUMAN RIGHTS IN RUSSIA: AN OVERVIEW

THURSDAY, MAY 6, 2010

HOUSE OF REPRESENTATIVES,
TOM LANTOS HUMAN RIGHTS COMMISSION,
Washington, D.C.

The Commission met, pursuant to call, at 10:06 a.m., in Room 2255, Rayburn House Office Building, Hon. James P. McGovern [cochairman of the Commission] presiding.

Cochairman McGOVERN. I think we ought to begin, because I have an opening statement. Hopefully by the time I finish, everybody is going to be here.

Good morning, ladies and gentlemen. I would like to welcome you to today's hearing on the human rights situation in Russia. I would like to thank our Commission fellows, Lars de Gier and Allison McGuire, for all their hard work to make today's hearing happen.

While the collapse of the Soviet Union in the late 1980s completely changed Russia's political landscape, human rights concerns remain eerily similar. Freedom of expression, attacks on a free media and political opposition, the rule of law, religious freedom, corruption, ethnic tensions and violent crackdowns are just as relevant now as they were two decades ago.

The Russian Federation remains a crucial world power of critical importance to the United States in many vital policy areas, including but not limited to nuclear proliferation issues, dealing with Iran and North Korea, disarmament agreements, global warming, the war on terror, and the international economic crisis. I therefore applaud our Secretary of State Hillary Clinton for working hard to strengthen and deepen our ties with Russia and the Russian people, which reflect the important role Russia continues to play today. The fruits of this hard labor became obvious on April 8th when the President signed a new strategic arms reduction treaty with Russia.

Despite these successes, however, much still needs to be done. When the Obama administration announced with regard to Russia that the United States was willing to hit a symbolic "reset button," I was and remain seriously concerned about how the Russian administration is reading the implications of this gesture. As I have repeatedly stated, hitting the reset button cannot suggest that we are simply walking away from the past, wiping the slate clean, and closing our eyes to history. In no area is such ignorance more delusional and dangerous than in the area of human rights, because it enshrines impunity, and impunity for human rights violations cannot be the quid pro quo for successful collaboration in other areas. Rather, human rights discourse must be an integral part of our relationship with Russia, as it should be with any other country.

If the despicable slayings of human rights heroes like Anna Politkovskaya in 2006 and that of Natalya Estemirova in 2009 are not met with justice for the

perpetrators, and if Anastasia Baburova and Stanislav Markelov can be killed in broad daylight on a busy Moscow street in 2009, there are far greater consequence also for the Russian Federation as a whole than simple murder statistics can ever suggest.

The chilling effect on human rights activists, journalists and the political opposition stifles any public criticism and dialogue between civil society and Russian leaders, whether that be on democratic reform, Russian policies in the North Caucasus or corruption, religious freedom, and the rule of law.

In Russia, the human rights situation is further exacerbated by extremely weak legal institutions and by corruption, frequently targeting critics of the President or the Prime Minister. Increasingly, tax laws and politically motivated charges under other technical laws have been used in Russian courts to single out power businessmen, such as Mikhail Khodorkovsky, Platon Lebedev or Sergei Magnitsky because they were critical of the Russian leadership or were seen as potential rivals. Other oligarchs, who are proregime, continue to operate freely and without any scrutiny.

Those who dare to publicly expose corruption or disagreement with official policies frequently risk nothing less than their lives. According to the 2009 U.S. State Department Country Report on Russia, the Glasnost Defense Foundation documented 59 journalists who were attacked, 8 of whom were killed in 2009. Reporters Without Borders reported for 2009, "Media freedom in Russia has not significantly improved over the past decade. Radio and TV news diversity is still lacking, independent media outlets are harassed by police and courts and those who kill journalists are not punished. Most recently, violence against journalists and human rights activists has increased significantly."

According to the Committee to Protect Journalists, a vaguely worded new press law currently under consideration further expands the reach of security agents to censor the press, ostensibly in order to combat extremism.

Activists who work in the volatile North Caucasus region, such as the NGO Memorial, face similar threats to their lives. The State Department report warned that the situation there remained an area of particular concern and indicated that the human rights record had actually worsened. Regarding this volatile region, the report suggests that "local government and insurgent forces reportedly engaged in killing, torture, abuse, violence, politically motivated abductions and other brutal or humiliating treatment, often with impunity."

The international community, including the United States, does not underestimate the terror threat that Russia faces. We all vividly remember the attacks on the school in Beslan in 2004 by Chechen terrorists, which ended in a bloodbath with at least 334 people dead, including 186 children, when Russian forces stormed the school. More recently, a whole spate of attacks in the first half of this year, including the March Moscow Metro bombing which killed 39 individuals, drove home again in the starkest way possible that Russia continues to face a lethal terrorism threat.

Now, all of these developments command our attention. Every killing committed by powerful political circles against journalists and government critics, or by neo-Nazi thugs against an African student, or by pro-Russia militias in Chechnya or in the neighboring republics demands justice and must be denounced, investigated

and prosecuted. Otherwise our Russia policy is not the proverbial reset button, but the trigger to more violence.

[The statement of Mr. McGovern follows:]

PREPARED STATEMENT OF THE HONORABLE JAMES P. MCGOVERN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS AND COCHAIRMAN OF THE TOM LANTOS HUMAN RIGHTS COMMISSION

Good morning, ladies and gentlemen:

I would like to welcome you to today's hearing on the human rights situation in Russia. I would like to thank our Commission fellows, Lars de Gier and Allison McGuire, for all their hard work to make today's hearing happen.

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If the despicable slayings of human rights heroes Anna Politkovskaya in 2006 and that of Natalya Estemirova in 2009 are not met with justice for the perpetrators, and if Anastasia Baburova and Stanislav Markelov can be killed in broad daylight on a busy Moscow street in 2009, there are far greater consequences for the Russian Federation as a whole than simple murder statistics can ever suggest. The chilling effect on human rights activists, journalists, and the political opposition stifles any public criticism and dialogue between civil society and Russian leaders, whether that be on democratic reform, Russian policies in the North Caucasus, corruption, religious freedom, and the rule of law.

In Russia, the human rights situation is further exacerbated by extremely weak legal institutions and by corruption, frequently targeting critics of President Dmitry Medvedev or Prime Minister Vladimir Putin. Increasingly, tax laws and politically-motivated charges under other technical laws have been used in Russian courts to single out powerful businessmen such as Mikhail Khodorkovsky, Platon Lebedev, or Sergei Magnitsky, because they were critical of the Russian leadership or were seen as potential rivals. Other oligarchs, who are pro-regime, continue to operate freely without scrutiny.

Those who dare to publicly expose corruption or disagreement with official policies frequently risk nothing less than their lives. According to the 2009 *U.S. State Department Country Report on Russia*, the Glasnost Defense Foundation documented 59 journalists who were attacked, 8 of whom were killed in 2009. Reporters without Borders reported for 2009, "Media freedom [in Russia] has not significantly improved over the past decade. Radio and TV news diversity is still lacking, independent media outlets are harassed by police and courts and those who kill journalists are not punished. Most recently, violence against journalists and human rights activists has increased in the northern Caucasus region." According to the Committee to Protect Journalists, a vaguely worded new press law – currently under consideration – further expands the reach of security agents to censor the press, ostensibly in order to combat extremism.

Activists who work in the volatile Northern Caucasus region, such as the NGO Memorial, face similar threats to their lives. The State Department Report warned that the situation in the North Caucasus "remained an area of particular concern," and indicated that the human rights record had actually worsened. Regarding this volatile region, the report states that "local government and insurgent forces reportedly engaged in killing, torture, abuse, violence, politically motivated abductions and other brutal or humiliating treatment, often with impunity."

The international community, including the United States, does not underestimate the terror threat that Russia faces. We all vividly remember the attacks on the school in Beslan (North Ossetia) in 2004 by Chechen terrorists, which ended in a bloodbath with at least 334 people dead -- including 186 children – when Russian forces stormed the school. More recently, a whole spate of attacks in the first half of this year, including the March Moscow Metro bombing, which killed 39 individuals, drove home again in the starkest way possible that Russia continues to face a lethal terrorism threat.

All of these developments command our attention. Every killing committed by powerful political circles against journalists and government critics, or by neo-Nazi thugs against an African student, or by pro-Russian militias in Chechnya or in the neighboring republics, demands justice – and must be denounced, investigated and prosecuted. Otherwise our Russia policy is not the proverbial "Reset button", but the trigger to more violence.

It is now my pleasure to introduce our witnesses:

Cochairman McGOVERN. Having said that, it is my pleasure to recognize our witnesses here today, and I appreciate you all being here today: Karinna Moskalenko, the founder and the Director of the International Protection Center; William Browder, the Chief Executive Director, Hermitage Capital Management Limited; Tanya Lokshina, the Deputy Director of Human Rights Watch in Moscow; Sam Patten, the Senior Program Officer at Freedom House; Paul Goble, the Director of Research and Publications in the Azerbaijan Diplomatic Academy; and Nina Ognianova, Program Coordinator for Europe and Central Asia, Committee to Protect Journalists.

We are thrilled you are all here.

I think we will begin with Karinna. Nice to see you again.

STATEMENT OF KARINNA MOSKALENKO, FOUNDER AND DIRECTOR OF THE INTERNATIONAL PROTECTION CENTER IN RUSSIA

Ms. MOSKALENKO. Thank you. I would like to thank Chairman McGovern and the members of the Thomas Lantos Human Rights Commission for holding this very important and timely hearing on human rights in Russia, as the situation has become critical for my country. Given the Commission's leadership in promoting human rights and democracy in Russia, I urge you to continue your efforts to make this the priority for the United States and Russia.

My name is Karinna Moskalenko, and I am the founder of the International Protection Center, an organization which represents Russian applicants in human rights cases before the Human Rights Court, the European Court of Human Rights. In my country, where the conviction rate is 99.7 percent, the ECHR is used as a last-resort court for Russian citizens whose rights have been violated.

I have been a practicing lawyer and human rights advocate for almost 30 years and can state the human rights situation in Russia is getting worse, not better. The most recent evidence is the murder of Eduard Chuvashov, a Moscow judge who was famous for his verdicts against political extremists.

The death in pretrial detention of Sergei Magnitsky, which I have mentioned, legal counsel of the Hermitage Capital, in November 2009, as a result of torture and inhumane treatment, is another important horrible example. Also I cannot forget about political killings and political prisoners.

The worsening human rights situation is most disturbing, given President Medvedev's promises to overcome legal nihilism, fight corruption, uphold the rule of law and ensure independence of the judiciary. Unfortunately, among the features of today's justice system are its lack of impartiality, using it as a political tool, and daily disregard of people's human and civil rights and rule of law in general.

I will focus now on high-profile cases and disturbing trends. Each of the cases I will outline today that the IPC, International Protection Center, brought before the European Court of Human Rights illustrates a bigger issue that is occurring in Russia today, including bias of the judicial system, mistreatment of prisoners, harassment of lawyers and threats against them, and violations of due process and the

rule of law.

The Anna Politkovskaya murder case. More than 3-1/2 years have passed since the murder of the prominent Russian journalistic and government critic Anna Politkovskaya. Nevertheless, the only result of the investigation have been acquittals. None have been punished, and consequently, no redress has been afforded for the victims. Even more troubling, during the last few years, a number of other individuals were assassinated because of their professional activity or the public stand they were taking on behalf of Anna Politkovskaya. And similarly, none of those murders have been solved.

The very fact that the assassination never gets solved shows that the domestic authorities have actually been unaware of their positive obligation to protect human rights -- the right to life. This is a clear example of impunity, obstruction of justice and failure to ensure diligent and effective investigation.

The Olga Kudeshkina case. The second case I will discuss is Olga Kudeshkina. She was a senior judge with over 20 years of experience who was dismissed from her duties in 2004 after speaking publicly about pressure placed upon her by the senior officials in the Moscow City Court and senior officials of General Procuratura.

In February 2009, the ECHR ruled that Mrs. Olga Kudeshkina, her dismissal violated Article 10 of the European Convention on Human Rights, which guarantees freedom of expression, giving her grounds for criticizing and functioning of the judicial system, and in particular the pressure exerted on Russia's courts.

If Russia is serious in following the implementation of judgments of the ECHR, it must not only pay the compensation, but also must restore the violated rights of the individuals. Since the decision, Mrs. Kudeshkina has applied to be reinstated as a judge in the Moscow City Court, but she has been denied reinstatement by all the domestic courts, contrary to the ECHR judgment.

Mikhail Khodorkovsky and the YUKOS case. The next case that I would like to discuss, that of Mikhail Khodorkovsky and his business partner Platon Lebedev, is perhaps the one that the Kremlin is the most concerned about, because this case shows the most blatant violation of due process and human rights, arbitrary confiscation of property and cynical manipulation of judiciary in the interest of certain Russian officials.

Courts, governments, international organizations and human rights NGOs around the world agree that the Mikhail Khodorkovsky case is really about 7 years of regular extreme abuse of state power that continues to this day for two reasons: first, to eliminate Khodorkovsky as an outspoken critic of government corruption and supporter of oppositional political forces; and, second, to seize the assets of YUKOS, which by 2003 had been transformed by Khodorkovsky into the most successful, modernized and transparent energy company in the contemporary Russia.

It is my strong belief that the new case against Khodorkovsky was launched with the only purpose to prevent him from ever being released. There are no legal bases for a new trial that started more than a year ago. In July 2009, President Obama criticized the current case against Khodorkovsky, characterizing it as "odd" and an apparent "repackaging of the old charges." We fully agree. It is indeed a double jeopardy and the state's clear abuse of power.

As stated by the late Congressman Tom Lantos, a passionate supporter of Khodorkovsky and one of the leading U.S. voices underlining the significance of this case, I quote, "Khodorkovsky was the first in Russia to make his company transparent and complying with international standards. But President Putin saw an opponent in him, and now Khodorkovsky is behind bars."

This is why I would like to thank Chairman McGovern for the introduction of House Resolution 588 in June 2009, declaring that persecution of Khodorkovsky constitutes "a politically motivated case of selective arrest and prosecution that serves as a test for the rule of law and independence of Russia's judicial system."

We intend to call witnesses to testify in Khodorkovsky and Lebedev's defense; however, our witnesses will never be heard in the courtroom because some of them, including several foreign nationals, fear for their life and freedom.

Finally on this case I wish to add a personal note. I am very grateful for the support by leading U.S. Congressmen, including members of this Commission, who sent a letter to President Putin in May 2007 to stop efforts to disbar me for defending Khodorkovsky as my client.

The last group of cases which I will shortly describe, IPC represents the relatives of Chechen civilians who have been tortured, murdered, who have disappeared in Russian counterterrorism operations in Chechnya. Last month, on April 8th, the ECHR ruled against Russia in seven cases brought by the relatives of several Chechen victims who were allegedly killed by the state representatives in Chechnya after detention and disappearance during security operations.

The Court found that in all 7 cases, as in the other 200, the domestic authorities violated the right to life, both positive obligations and negative obligations on the right to life, particularly because they have failed to carry out an investigation, an effective investigation. Other violations included inhuman and degrading treatment and unacknowledged detention. The facts in these cases show that mistreatment of Chechens is far beyond how any civilized nation should treat civilians in a conflict.

Although these cases are a victory in which all the families were awarded monetary compensation, there is still no sum of money large enough to compensate for their personal suffering. But the main obstacle is nonimplementation of the European Court judgments, which are binding. The critical problem with these cases is the authorities must not only pay the compensation to the victims, but also to ensure proper investigation in all these killings and disappearances in order to find those personally responsible, bring them to justice, and prevent similar violations in the future.

As this is not the case, people suffer from the impunity, and, moreover, this situation provokes numerous facts, I would say, of individual and collective acts of terrorism. In these cases we also represent victims, like hostages and their relatives in the Nord-Ost case and the Beslan case.

In conclusion, I would say that I am very grateful to the Commission for supporting human rights in Russia, organizing this hearing, and inviting me here. This is, for me, an important opportunity to raise awareness for those who are most vulnerable and suffer from the continued impunity of the authorities.

Today I am testifying here. I am bringing the issues for your attention from

my own legal perspective, using examples only from the cases which we have taken to the European Court. I am not in a position to tell you what has to be done. It is this committee which will decide what it wishes to do to convince the Russian authorities to take the appropriate measures to respect the rule of law and to eliminate the grave violations and infringements of human rights which we unfortunately continue to see in my country.

Thank you.

Cochairman McGOVERN. Thank you very much for your powerful testimony, as always. We appreciate you being here.

[The statement of Ms. Moskalenko follows:]

PREPARED STATEMENT OF KARINNA MOSKALENKO

Ms. Karinna Moskalenko
International Protection Center
Testimony for the Tom Lantos Human Rights Commission
Russia and Human Rights

May 6, 2010

Introduction

- I would like to thank Chairman McGovern and the Members of the Tom Lantos Human Rights Commission for holding this very important and timely hearing on human rights in Russia, as the situation has become critical for my country.
- Given the Commission's leadership in promoting human rights and democracy in Russia I urge you to continue your efforts to make this the priority for the United States and Russia.

International Protection Center

- My name is Karinna Moskalenko and I am the founder of the International Protection Center (IPC), an organization that represents Russian applicants in human rights cases before the European Court of Human Rights (ECHR).
- In my country, where the conviction rate is 99.7 percent, the ECHR is used as a "last resort" court for Russian citizens whose rights have been violated.

Dire Situation in Russia

- I have been a practicing lawyer and human rights advocate for over 30 years and can state, the human rights situation in Russia is getting worse, not better.
- The most recent evidence is the murder of Eduard Chuvashov, a Moscow judge who was famous for his verdicts against political extremists. The death in pretrial detention of Sergey Magnitsky - legal counsel of the Hermitage Capital in November 2009 as a result of torture and inhuman treatment is another horrible example. Also I cannot forget about political killings and political prisoners.
- The worsening human rights situation is most disturbing, given President Dmitry Medvedev's promises to overcome "legal nihilism," fight corruption, uphold the rule of law and ensure independence of the judiciary.
- Unfortunately, among the features of today's justice system are its lack of impartiality, using it as a political tool, and daily disregard of people's human and civil rights and rule of law in general.

High Profile Cases and Disturbing Trends

- Each of the cases I will outline today, that the IPC brought before the European Court of Human Rights, illustrates a bigger issue that is occurring in Russia today: including bias of the justice system, mistreatment of prisoners, harassment of lawyers and threats against them, and violations of due process and the rule of law.

Anna Politkovskaya

- More than three and a half years have passed since the murder of prominent journalist and government critic Anna Politkovskaya.

- Nevertheless, the only result of the investigation have been acquittals. NONE have been punished, and consequently, no redress has been afforded to the victims.
- Even more troubling, during the last few years, a number of other individuals were assassinated because of their professional activity or the public stand they had taken on behalf of Anna Politkovskaya, and similarly, none of those murders have been solved.
- The very fact that the assassinations never get solved shows that the domestic authorities have actually appeared unaware of their positive obligations to protect the right to life.
- This is a clear example of impunity, obstruction of justice and failure to ensure a diligent and effective investigation.

Olga Kudeshkina

- The second case I will discuss is Olga Kudeshkina. She was a senior judge with almost 20 years of experience who was dismissed from her duties in 2004 after speaking publicly about pressure placed upon her by Moscow City Court officials and senior officers of *General Procuratura*.
- In February 2009, the ECHR ruled that Ms. Kudeshkina's dismissal violated article 10 of the European Convention on Human Rights, which guarantees freedom of expression, giving her grounds for criticizing the functioning of the judicial system and, in particular, the pressure exerted on Russia's courts.
- If Russia is serious in following the implementation of judgments of the ECHR, it must not only pay the compensation awarded to the victim, but it also must restore the violated rights of the individual.
- Since the decision, Ms. Kudeshkina has applied to be reinstated as a judge in the Moscow City Court but she has been denied reinstatement by all domestic courts contrary to the ECHR judgment.

Mikhail B. Khodorkovsky and the YUKOS case

- The next case that I would like to discuss – that of Mikhail B. Khodorkovsky and his business partner Platon L. Lebedev – is perhaps the one that the Kremlin is the most concerned about, because this case shows the most blatant violation of due process and human rights, arbitrary confiscation of property, and cynical manipulation of judiciary in the interest of certain Russian officials.
- Courts, governments, international organizations and human rights NGOs around the world agree that the Khodorkovsky case is really about 7 years of regular extreme abuse of state power that continues to this day, for two main reasons:
 - first, to eliminate Khodorkovsky as an outspoken critic of government corruption and supporter of opposition political forces; and
 - second, to seize the assets of YUKOS, which by 2003 had been transformed by Khodorkovsky into the most successful, modernized and transparent energy company in contemporary Russia.
- It is my strong belief that the new case against Khodorkovsky was launched with the only purpose to prevent him from ever being released. There is no legal basis for the new trial that started more than a year ago.
- In July 2009, President Obama criticized the current case against Khodorkovsky, characterizing it as “odd”, and an apparent “repackaging of the old charges.” We fully agree: it is indeed a double jeopardy and the State's clear abuse of power.
- As stated by the late Congressman Tom Lantos, a passionate supporter of Khodorkovsky and one of the leading U.S. voices underlining the significance of this case, “Khodorkovsky was the first in Russia to make his company transparent and compliant with international standards. But President Putin saw an opponent in him, and now Khodorkovsky is behind bars.”
- This is why I would like to thank Chairman McGovern for the introduction of House Resolution 588 in June 2009, declaring that the persecution of Khodorkovsky constitutes “a politically-motivated case of selective arrest and prosecution that serves as a test of the rule of law and independence of Russia's judicial system.”
- We intend to call witnesses to testify in Khodorkovsky and Lebedev's defense. However, our witnesses will never be heard in the courtroom, because some of them, including several foreign nationals, fear for their life and freedom.
- Finally on this case, I wish to add a personal note:

I was very grateful for the support by leading U.S. Congressmen, including members of this Commission, who sent a letter to President Putin in May 2007 to stop efforts to disbar me for defending Khodorkovsky as my client.

Chechen Victims of Torture and Murder

- Lastly, IPC represents the relatives of Chechen civilians who have been tortured, murdered or who have disappeared in Russian "counterterrorism" operations in Chechnya. Last month, on April 8, the ECHR ruled against Russia in seven cases brought by the relatives of several Chechen victims who were allegedly killed by the State representatives in Chechnya after detention and disappearance during security operations.
- The Court found that in all seven cases, as in the other 200, the domestic authorities violated right to life (positive obligations as well as negative obligations), particularly because they had failed to carry out an effective investigation into the allegations. Other violations included inhuman and degrading treatment and unacknowledged detention. Facts in these cases show that mistreatment of Chechens is far beyond how any civilized nation should treat civilians in a conflict.
- Although these cases are a victory in which all the families were awarded monetary compensation, there is still no sum of money large enough to compensate for their personal suffering. But the main obstacle is non-implementation of the European Court's judgments, which are binding. The crucial problem with these cases is that the authorities must not only pay the compensation to the victims but also to ensure proper investigation of all these killings and disappearances in order to find those personally responsible, bring them to justice and prevent similar violations in future. As this is not the case, people suffer from the impunity and moreover, this situation provokes facts of individual and collective acts of terrorism. In these cases we also represent victims (hostages and their relatives in Nord-Ost and Beslan cases).

Conclusion

I am very grateful to the Commission for supporting human rights in Russia, organizing this hearing and for inviting me here to testify. This is an important opportunity to raise awareness for those who are most vulnerable and suffer from the continued impunity of the authorities.

Today I am testifying here, I am bringing the issues for your attention from my own legal perspective, using examples from the cases which we have taken to the European Court.

I am not in a position to tell you what has to be done. It is this Committee which will decide what it wishes to do to convince the Russian Federation authorities to take the appropriate measures to respect the rule of law and to eliminate the grave violations and infringements of human rights, which we unfortunately continue to see in my country.

Cochairman McGOVERN. Mr. Goble.

**STATEMENT OF PROFESSOR PAUL GOBLE, DIRECTOR OF RESEARCH
AND PUBLICATIONS AT THE AZERBAIJAN DIPLOMATIC ACADEMY**

Mr. GOBLE. Thank you very much.

Most evaluations of the human rights situation in the Russian Federation apply international standards to that country as a whole and focus on specific cases, an approach that is, of course, not wrong. There are universal standards of human rights. Evaluating any country as a whole has its uses, and individuals deserve our support, which is obviously the most powerful resource they have.

But for a country as ethnically and religiously diverse as the Russian Federation, and especially for one that continues to grapple with the specific legacies of the Soviet system, what Russians call "the survivals of the past," that approach is -- at best is incomplete, and at worst a distortion of reality.

Consequently, I would like to welcome your invitation to speak more generally about the problems of human rights and the structural features, because I have been working on those issues in the U.S. Government and elsewhere for the last 35 years. I would like to do three things in the time I have, and, rather than focus on high-profile cases, try to go to some of the generic structural features that characterize the situation in the Russian Federation.

First, I would like to discuss some of the specific ways in which ethnic and religious diversity have combined with the Soviet inheritance to produce the problems in human rights that we see.

Second, I want to consider this situation specifically with regard to the North Caucasus, not because it is the worst place, but rather because it is the one that is the most often discussed.

Third, I would like to make three suggestions about the ways in which we in the West and particularly in the United States can begin to change the situation. There are some good models out there, and I think we should follow them.

For a variety of reasons, good and bad, many people, especially here in the United States, have acted as if the events of 1991 put an end to the practice of the Soviet Union. If the leaders and people of the Russian Federation declared that everything had changed, we have been all too prepared to agree, even if it has been obvious that many things have been renamed rather than transformed, and even if it was clear that what has gone before was continuing to play a role in defining the present as people there experienced it.

There are many ways in which this is true, but none are more clear than in the area of human rights, the way in which ethnicity or nationality was structured by the state, the division of religious life into official and unofficial categories, and the divide between the locus of real power in that country and the public face of state institutions that we label as a government.

When Stalin created what was to become the Soviet Union, he manipulated ethnic identities in such a way to create tensions and therefore provide a justification for his authoritarian and ultimately totalitarian system. To that end, he and his system

politicized ethnicity, demanding that everyone identify along ethnic lines, and that that was not to be changed.

Second, he territorialized it, linking ethnicity to territory and control of land, ensuring that there were always local minorities, and creating a hierarchy that was invariably exploited by the center.

And, third, he treated some groups better than others, guaranteeing hostility among them, and ensuring that when the institution that had supported one hierarchy disappeared, namely the Communist Party of the Soviet Union, others would invert that hierarchy and punish those they felt had punished them.

Since the end of the Soviet Union, this system has not so much disappeared as been turned on its head. Ethnicity, especially in the Caucasus and Middle Volga, remains very much a politicized factor, territorial arrangements are being challenged, and what is most important, ethnic hierarchies are now upside down, with those on top in the past pushed down, and those on the bottom doing the pushing.

With regard to religion, the situation is also one of a survival of the past. The Soviet Government divided religious life in that country between "official" and "unofficial" categories. It limited official presence, which was totally penetrated by the security organs, and an unofficial category, which was more vital, but which was also treated as fundamentally illegal.

Instead of moving beyond that, as all of us had hoped in 1991, the Russian authorities since that time have simply reclassified what is official and unofficial, now calling it "traditional" or "untraditional" rather than "official" and "unofficial," but where the official is limited and controlled, and the unofficial is vital, is mistreated and persecuted, leading to the consequence that people who try to practice their faith are mistreated, and often, because they are already treated as illegal, becoming more illegal as a result. We tend to blame the victims in these circumstances, forgetting that their victimhood drove them in certain ways.

The third division that continues to affect the status of human rights in the Russian Federation is a continuing split between the locus of real power in the political system and the nominal institutions of the state.

Before 1991, everyone knew that real power in that country resided in the Communist Party, and that state institutions were decorative at best. Tragically, since 1991, that division has been maintained, no longer between the Communist Party and the Soviet state, but between oligarchic clan interests within the political establishment of the powers that be and nominal state institutions that we talk about because we have no other alternative.

If one looks at the situation of human rights in the North Caucasus, one sees that all of these continue to play a role. Official ethnicity in the Soviet sense survives with people trapped in definitions they do not accept, the Circassians being the classical example; in hierarchies they reject, be it Dagestan or Karachayevo-Cherkessia; or with borders that are historical and wrong, such as in Ingushetia and Chechnya. Politics, opened and closed, requires that people be allowed to define themselves. Any violation of them, as we see there, promotes violence and instability. In short, the people we often criticize for violence were driven there by the actions of the powers that be in Moscow.

The official and unofficial religious division also remains, with increasingly

the Russian Government or Russian powers that be insisting that any part of the religious activity that is not controlled by the state is, by definition, violent and wrong, driving increasing numbers of people who refuse to participate in official hierarchies into violence.

But it is the third element that is perhaps the most distressing and dangerous and the one we talk about least often, and that is the continuing split between real power in the North Caucasus and nominal power. The political institutions that we talk about, courts, legislatures, are not where real power resides there. Real power is behind the scenes. And until we are willing to grapple with that, we are not going to be able to promote real change in that society. But it is something that at present we do not talk about.

Obviously, we need to do many things, but there are three that I would urge. The first is we need to pay far more attention and put more people into the North Caucasus and other parts of the Russian Federation. Far too often we rely on observations from Moscow. It is worth noting that it is farther from Moscow to Vladivostok than it is from Paris to Durban, South Africa, and we have a tendency to think that it is okay in the North Caucasus. And in the South Caucasus, where I now live, people say that you could cover Jerusalem from Damascus, but it would be the wrong thing to do. Covering the North Caucasus and the Middle Volga from Moscow is equally inappropriate. We need to get people out far more and have people with linguistic and cultural expertise.

Second, we need to make sure that in our focus on the human tragedies of individual cases, we do not neglect the way in which they reflect system-particular problems.

One of things that happened in the 1960s and 1970s as more and more human rights information came out of the USSR is that we became aware of it being a systemic problem, being an individual problem. Tragically, in the last 15 years there has been a move back away from approaching this as a systemic problem and treating it as individual cases, which has the effect of allowing those who were most responsible, namely the Russian powers that be, to continue to violate fundamental rights.

Third, we need to follow the approach of the European Court of Human Rights. We always read in the American press about the cash awards that the European Court orders in compensation for Russian official violence against people. What we do not pay attention to is something else, and that is that the Court invariably requires specific changes in legal and political arrangements. Those need to be attended to, the Russian powers that be need to be held responsible for that, and the United States, it seems to me, needs to add its voice to the European Court in that regard and not simply in terms of paying compensation.

Thank you.

Cochairman McGOVERN. Thank you very much.

[The statement of Mr. Goble follows:]

PREPARED STATEMENT OF PROFESSOR PAUL GOBLE

**SURVIVALS OF THE SOVIET PAST:
ETHNIC, RELIGIOUS AND POLITICAL DIMENSIONS OF HUMAN RIGHTS
IN THE RUSSIAN FEDERATION**

Paul Goble

Publications Advisor,
Azerbaijan Diplomatic Academy
and
Former Special Assistant for Soviet Nationality Problems
at the U.S. Department of State

Most evaluations of the human rights situation in the Russian Federation apply international standards to that country as a whole, an approach that is not wrong. There are universal standards of human rights and evaluating any country as a whole has its uses. But for a country as ethnically and religiously diverse as the Russian Federation is and especially for one that continues to grapple with the specific legacies of the Soviet system – what Russians call “survivals of the past” -- that approach is at best incomplete and at worst a distortion of reality.

Consequently, I would like to congratulate this Committee for going beyond that approach and to thank the chairman, the members, and the staff for giving me this opportunity to discuss this issue. In my presentation, I would like to do three things:

- First, I would like to discuss some of the specific ways in which ethnic and religious diversity have combined with the Soviet inheritance to produce some of the problems in the human rights area there generally.
- Second, I want to consider the situation in this regard in the North Caucasus, the most ethnically diverse and politically unstable portion of the Russian Federation.
- And third, I would like to make three suggestions about the ways in which we in the West who are concerned about human rights can more productively track and provide guidance on resolving these problems.

The Unresolved Soviet Legacy

For a variety of reasons good and bad, many people especially in the United States have acted as if the events of 1991 put an end to the impact of Soviet practice. If the leaders and people of the Russian Federation declared that everything had changed, we were all too prepared to agree, even if it was obvious that things had been renamed rather than transformed and even if it was clear that what had gone before was continuing to play a role in defining the present as people inverted the past rather than overcame it.

There are many ways that this is true, but three are especially important for those concerned about human rights: the ways in which ethnicity or nationality were structured by the state, the division of religious life into official and unofficial categories, and the divide between the locus of real power and the public face of institutions labeled as government.

When Stalin created what became the Soviet system, he manipulated the ethnic identities of the population in order to create not only the tensions he could exploit to build a police state but also so that Moscow would always have a local minority dependent on protection from the central government to work against the local majority. To that end, first of all, he and his system politicized ethnicity, insisting that everyone declare his or her ethnic membership, something very few were ever allowed to change. Second, he territorialized it, linking ethnicity to territory and land and ensuring there were always local minorities against whom the local majority would vent its anger rather than against the center. And third, he arranged it in a hierarchy, giving some groups more institutions in their language than others, not only guaranteeing hostility among them but reducing anger at the center.

Since the end of the Soviet Union, this system has not so much disappeared as been inverted: Ethnicity remains a key factor, territorial arrangements have been challenged, and what is most important to human rights, ethnic hierarchies have been inverted, with those on top in the past pushed down but the principle of hierarchy not destroyed. Nowhere have these patterns been more significant and more dangerous to the rights of individuals than in the North Caucasus.

The Soviet division of religious life into official and unofficial categories also continues to play a serious and pernicious role in post-Soviet Russia. In Soviet times, Moscow pushed atheism but because of its need for support doing World War II, the regime allowed the survival of a small number of religious institutions. These were the “official” religious establishments, thoroughly penetrated by the KGB, whose leaders made the Faustian bargain of dealing with an atheistic state in order to keep the possibility of continuing to speak of their faiths alive. All other religious practice was “unofficial” and hence illegal.

That was supposed to end with the end of Soviet power. It has not. Instead, under the slightly different terminology of “traditional” and “untraditional” religious in some cases and even under the same terms, “official” and “unofficial,” some faiths or more precisely parts of faiths have been protected and others have been persecuted. This is true not only within Islam but also within Russian Orthodoxy. The consequence is that religious rights are not protected; instead, what is protected are only those religious activities the state approves of. Because the Russian powers that defend this in terms of the fight against terrorism rather than in terms of the need to promote “scientific atheism,” many in the West are reluctant to criticize it, but the change has been more semantic than real.

And the third division that continues to affect the status of human rights in the Russian Federation is the continuing split between the locus of real power in the political system and the nominal institutions of the state. In Soviet times, everyone there and elsewhere knew that real power resided with the Communist Party of the Soviet Union and that the Soviet state, including administrative, judicial, and legislative branches was more decorative than anything else. Now, despite some progress, in the Russian Federation, the division between real and decorative power continues, albeit in a modified way. That means that the institutions individuals should be able to appeal to lack real power, a situation that helps in the current context to promote corruption and mistreatment of individuals who are not able to gain access to the persons and organizations that possess real power. And that pattern most importantly of all has a corrosive effect on the way in which the citizens of the Russian Federation view the state itself, law, and their own constitution.

The Human Rights Disaster in the North Caucasus

In the North Caucasus, all three of these Soviet arrangements continue to have a serious impact on public and private life and hence on the state of human rights. Dozens of examples could be offered for each. Allow me to give just one for each of them, not because these are the most egregious but because rather because they can be expressed in the briefest compass.

Official ethnicity in the Soviet sense survives. People across the region find themselves trapped in definitions they do not accept – such as the Circassians who were subdivided by the Soviet state – in hierarchies they reject because they in Daghestan or Karachayevo-Cherkessia – or with borders they say are ahistorical and wrong such as Ingushetia and Chechnya. Politics open and closed requires people to define themselves in these ethnic categories, and any violation of them, the situation in Karachayevo-Cherkessia recently is clear, promotes violence and instability.

Moreover, official and unofficial religious divisions remain. In the North Caucasus, which is overwhelmingly Muslim, this split involves Islam more than any other faith, although the status of some independent Orthodox and all Protestant groups is affected in a negative way as well. Across the region, the powers that be insist on defining some trends as “traditional” or “official” and others as “alien” and “unofficial.” That varies by republic. In Daghestan, the government backs one trend, in Chechnya a second, and so on. But those declared “alien” or “unofficial” are by definition illegal, something that exposes them to the full power of the state, often leading to their radicalization and decision to support what Russians call “the illegal armed formations.”

But it is the third element that is perhaps the most distressing and dangerous, the split between real and nominal power. The clearest case of this is Chechnya, where real power is held by Ramzan Kadyrov and his thugs and by various military units nominally part of the Russian state and the status of the nominal institutions of the government such as legislatures and courts are entirely decorative or instrumental. That not only leads to continuing violations of human rights, almost all committed and both justified and excused as part of “the war on terror” but more corruption and the destruction of any possibility of progress toward a normal political system, at least in the short term.

Moving from Evaluation to Amelioration

Obviously, there are many things that need to be done. I would like to conclude my remarks by pointing to three. First, we need to pay more attention and put more people into the North Caucasus and other parts of the Russian Federation. Covering the events of the North Caucasus from Moscow is simply insufficient and more often distorts rather than reveals what is going on. As some in the region have observed, you could cover Jerusalem from Damascus but it would be the wrong thing to do. One way to do that is to support US international broadcasting efforts which often generate some of the best information we have about these often neglected areas.

Second, we need to continue to track specific violations of human rights in these areas – they are horrendous and deserve to be highlighted and denounced – but at the same time, we need to understand the system sources of these violations rather than assume that the formal arrangements the Russian powers that be point to are the reality. Perhaps the best way or at least the best start in that direction is to recognize how little has changed from Soviet times rather than assuming that everything has.

And third, we need to follow the approach of the European Court of Human Rights. As everyone here knows, that Court is the court of last resort for citizens of the Russian Federation. Not only do Russian appeals to it outnumber those from any other country, but the Court regularly finds for the appellants rather than for the Russian powers that be. That too gets reported as do the often large fines that the Court imposes.

But that Court also calls for changes in legal and political arrangements that have produced these violations rather than just asking for fines. That the Russian powers that be in almost every case ignore those calls is a tragic reality. If US evaluators of human rights would do the same thing, identifying not only the specific violations of human rights in the Russian Federation but also the sources of those violations in contemporary Russian practice, a practice that continues to be informed by survivals of the Soviet past, there would be a far greater chance that the people of that troubled country would have a better future, one that we could not only help promote but share in.

Cochairman McGOVERN. Mr. Browder.

**STATEMENT OF WILLIAM BROWDER, CHIEF EXECUTIVE DIRECTOR
OF HERMITAGE CAPITAL MANAGEMENT LTD.**

Mr. BROWDER. Thank you very much for inviting me today to tell you my story. My story is a very personal story and a very heart-breaking story about corruption, the lack of rule of law, and how that toxic mixture can ruin lives.

To give you a little background on who I am, I am the CEO of an investment management company called Hermitage. For many years I was the largest foreign investor in Russia. One of the main planks of my investments was to uncover corruption in the companies which we invested in. We invested in a lot of the big Russian state-owned companies like Gazprom, Transneft and Surgutneftegas, and we would do research into how the management of those companies would steal money, and then we would publicize that research through the international media.

In 2005, after 10 years of doing this, I had become the largest foreign investor in Russia, and I had been making Russia a better place. As I was flying back to the country, I was stopped at the border, I was locked up overnight, and then I was deported back to London, where I had originated. I thought this was an unpleasant situation. The Russians used a law that declared me a threat to national security as the reason for kicking me out.

Then about 18 months later, 25 officers from the Moscow Tax Police raided my office in Moscow. Another 25 officers raided the office of my law firm in Moscow. And they took away all the corporate documents that we used for our investment holding companies through which we invested.

At this point we didn't understand what they were up to, and we went out and hired a number of lawyers. We hired seven lawyers, including a young man named Sergei Magnitsky, a 36-year-old lawyer, a very bright and capable and honorable fellow, to investigate.

As Sergei started to investigate, he discovered that the police who had taken our documents had taken them for not a legitimate purpose, but for a very illegitimate purpose. They had taken the documents and they had passed them to a person who had been convicted of murder, and that person fraudulently reregistered our companies out of our name into his name.

The police also took documents that they used to fraudulently create about \$1 billion of backdated contracts, and then those backdated contracts were used to get \$1 billion worth of fraudulent court judgments against our companies. Then those court judgments were used by the people who stole our companies to apply for and get a \$230 million tax rebate of taxes that we had paid a couple years before, awarded to them in 1 day.

So, basically you have a criminal group composed of Interior Ministry officers, judges, tax officials, criminals, all working together to steal \$230 million not from us, but from the Russian Government.

Our lawyer, Sergei Magnitsky, figured this all out. It took 14 months of investigation for him to figure it out, and when he did, he helped us draft a criminal

complaint, which we filed with the Russian General Prosecutor and the Russian State Investigative Committee.

As soon as the complaint was filed, instead of them investigating, the Interior Ministry, the same people who had been involved in the raid on our offices, opened criminal cases against all seven lawyers. I asked all of the lawyers who worked for me to leave the country for their own safety. Six of them, after much convincing, agreed to do it, basically giving up their lives, their livelihoods, their communities to go into exile.

But the one person who didn't was Sergei Magnitsky. Sergei Magnitsky said, I have done nothing wrong. These people have stolen from my country. I am not going to let them force me out. Moreover, I am going to try to bring justice to this situation. Sergei then went to the Russian State Investigative Committee and testified that the officers in the Interior Ministry were involved in stealing \$230 million from their own government, and he provided documented evidence and sworn testimony.

One month after he testified, the officers who he testified against arrested him at his home at 8 a.m. in front of his wife and two children and put him into pretrial detention with the very specific purpose of getting him to withdraw his testimony against the police officers. Sergei absolutely wasn't going to withdraw his testimony. They also wanted him to plead guilty to a fabricated crime in order to justify the imprisonment. He refused to do both, so they started to put intense pressure on him.

They put him into a cell with eight inmates and only four beds, so they had to sleep in shifts. They put him into cells in the Moscow winter that had no windows, so he had to basically freeze in his cell and couldn't keep himself warm even with all his clothes on. They put him in cells with no toilet, just a hole in the floor where sewage would bubble up. Probably most damaging to him, they confiscated his water-boiling device so that he had to drink contaminated water in the prison.

They came to him after a couple months of this and said, okay, now are you ready to withdraw your testimony and to plead guilty these fabricated charges? And even after all this pressure, he said no. Things got worse. They started moving him from cell to cell and doing all sorts of other pressure tactics on him.

After about 6 months of this, his health started to seriously break down. He started vomiting after every meal. He lost 40 pounds. They finally sent him to the prison hospital, where they diagnosed him as having gallstones and pancreatitis, and they said, in 1 month's time we want to give you an operation. We are going to give you an ultrasound, and if we don't see any improvement, we are going to operate to solve this problem.

Gallstones and pancreatitis are a serious problem, but it is not a serious operation to fix. So 3 weeks came by, and they then came back to him and said, okay, Sergei, are you ready to withdraw your testimony? And he still said no. So instead of allowing him to have his operation, they then transferred him to Butyrka prison, which is a maximum security prison that is probably the toughest prison in Moscow, and, most importantly, there was no medical facilities there.

At this point his health started to catastrophically break down because of lack of medical attention. He was in such extreme pain he couldn't lay down. His cellmate had to bang on the door for hours to get attention. When a doctor finally came, they gave him aspirin and said, you can get treated when you get released, but

not before.

Things got worse and worse and worse, worse and worse and worse. He wrote 20 different requests for medical attention. He wrote to the head of the prison service, he wrote to the head of the prison, he wrote to the investigators, he wrote to the judges, he wrote to the General Prosecutor, 20 different requests for medical attention. Every single one of them was declined.

Things got worse and worse. On November 16th, he went into critical condition, and it was only then that they allowed him to get medical treatment. They transferred him to Matrosskaya Tishina prison, which has a hospital. But instead of giving him medical treatment, they put him into a straitjacket, put him in an isolation cell for 1 hour and 18 minutes, until he was dead.

He died at the age of 37, leaving a wife and two children and a mother that he supported, and he died an innocent man, having been arrested for testifying against corrupt officials.

He was an extraordinary man in that he wrote down everything that happened to him in prison. He was an extremely intelligent and articulate person, and he wrote 450 complaints about every single violation when he was in the prison during the 358 days in detention.

One of the most compelling of the documents he wrote was a 40-page complaint to the General Prosecutor, which I have highlighted with some of those examples I just gave you. We released that on the day of his death to the Russian media, and they wrote about it.

This particular story touched Russians like almost no other story, because Sergei was part of what was supposed to be part of the Russian dream. He wasn't an oligarch, he wasn't a religious activist, he wasn't a political activist or a politician. He was a tax lawyer who just happened to be in the wrong place at the wrong time and had principles, and when corruption stared him in the face, he wanted to do something about it.

So the Russian people responded very aggressively to this particular situation. There were many, many articles; I think there has been more than 2,000 articles about Sergei since he died. President Medvedev a week after he died then ordered an investigation into the criminal negligence of Sergei's treatment in prison.

After that, an NGO called the Moscow Prison Oversight Commission, which has authority to go into the prisons, went into the prisons where Sergei was and did an investigation and determined that Sergei had been tortured because he had testified against police officers, and he died because of his torture.

We have a mountain of documentary evidence, from Sergei's testimony to all the evidence about the corruption, and we have submitted that in a number of documents to every law enforcement agency in Russia. And we are now 6 months after the death of Sergei Magnitsky, and not a single person has been prosecuted, not a single bit of justice has come to Sergei Magnitsky in one of the most high-profile cases in Russia.

Well, it is pretty clear to me that justice is pretty hard to get in Russia, so we are looking for justice in places outside of Russia. One of the things which we have done is I testified a year ago in front of the Helsinki Commission, and Senator Cardin was touched by the story of Sergei while he was still alive, and he was truly moved

by the circumstances of Sergei's death.

Senator Cardin has written to the Secretary of State Clinton with the names of all 60 people who led in one way or another to Sergei's illegal detention and his death, and asked Secretary of State Clinton under the rule 7550, a Presidential declaration that doesn't allow corrupt officials and their families to enter the country, to ban all 60 individuals from coming to the United States and having visas.

Even if we can't get justice in Russia, the one thing we can do is not allow these people to come into our country, and I would urge the Human Rights Commission to support Senator Cardin in his request to the State Department in banning these individuals from coming into the country, because it sends a very strong message that we won't tolerate torturers, murderers and corrupt officials.

Secondly, and something which I think also is in this proclamation 7550, is that these individuals can have their assets and bank accounts frozen, and I would urge the Human Rights Commission to support Sergei Magnitsky and ask for the State Department to initiate that process as well.

Sergei Magnitsky is one individual case, but it is one case, one high-profile case, where there are thousands and thousands of other cases just like him. And the people who do these bad things will continue doing them unless there is some way of challenging them and shining a bright light on them and showing them there is no impunity.

I thank you very much for listening to my story, and I appreciate the opportunity to come here today.

Cochairman McGOVERN. Thank you very much. That is an awful story, a very tragic story, but I appreciate you coming before the Commission and providing us that. We will talk more during questions and answers about what we can do here. Thank you.

[The statement of Mr. Browder follows:]

PREPARED STATEMENT OF WILLIAM BROWDER

**An Assessment of the Russian Judicial and Law Enforcement Systems:
The Torture and Murder of Sergei Magnitsky**

**Testimony before the Tom Lantos Human Rights Commission
William Browder
Chief Executive Officer
Hermitage Capital Management
May 6, 2010**

Distinguished Members of the Commission, thank you for inviting me to appear before you today.

I have been asked to share my assessment of the Russian judicial and law enforcement systems, particularly as it relates to the observance of fundamental human rights, the rule of law and respect for basic human decency. My message to you this morning is that the justice system in Russia today has severe failings that present real dangers to U.S. national interests and to the lives of ordinary Russians. The best way to convey this is to share the tragic story of what happened to my Russian lawyer.

Six months ago, on the night of November 16, 2009, Sergei Magnitsky, a 37 year-old husband and father of two young children, was killed in an isolation ward of a Russian pre-trial detention center. He was killed for having the courage to testify against corrupt police and government officials who had stolen \$230 million from the Russian government.

Despite enduring agonizing pain in the final four months of his life as his keepers tortured him and deliberately withheld life-saving medical care, Sergei refused to withdraw his testimony and compromise his integrity. Whenever challenged, he would

repeat to his captors his firm determination to bring them to justice in an open trial. He paid the ultimate price for his beliefs. He was left to die, alone, away from the family that he had not been permitted to see for eleven months.

The story of what happened to Sergei Magnitsky is so medieval that it is hard to imagine that it could have taken place in today's world. But it did happen and will continue to happen so long as the United States and the rest of the civilized world – and indeed, Russia itself – allow corrupt Russian officials to act without consequences.

I. The Fraud against the Hermitage Fund: A Fraud Perpetrated by Government Officials and Discovered by Sergei Magnitsky

Sergei worked for the American-owned law firm in Moscow, Firestone Duncan, and was one of the external lawyers for the Hermitage Fund, which my firm advised. He wasn't involved in politics, he wasn't an oligarch and he wasn't a human rights activist. He was just a highly competent professional – the kind of person whom you could call up as the workday was finishing at 7pm with a legal question and he would cancel his dinner plans and stay in the office until midnight to figure out the answer. He was what many people would describe as the good face of modern Russia: an intelligent and honest man working hard to better himself and to make a good life for his family.

The tragedy of Sergei Magnitsky began on June 4, 2007. On that day, 50 police officers from the Moscow Interior Ministry raided Hermitage and Firestone Duncan's offices under the guise of a tax investigation into a Hermitage client company. There was no apparent reason for the police investigation as that company was regularly audited by the tax authorities, and they had always found the taxes to be paid correctly, in full and on time. During the raid, police officers took away the corporate seals, charters and articles of association of all of the Hermitage Fund's investment companies – none of which were listed in their search warrant. Several months after the raids the police were still refusing to return the seized items, and we were wondering about the true motivation for their raid and why the police were so desperate to get their hands on all the original statutory documents of the Hermitage Fund's Russian companies.

In mid-October 2007, the motivation for the raids became clear. We got a telephone call from a bailiff inquiring about a judgment of the St. Petersburg Arbitration Court against one of the Fund's Russian companies. That was strange, because the company had never been to court and neither the Fund's trustee, HSBC, nor we knew anything about any lawsuits or judgments in St. Petersburg.

The first thing we did was call Sergei. If there was something legally complicated going on in Russia, he was the person who knew how to get to the bottom of it. He calmed us down and said it was likely to be some type of mistake. He said he would make some inquiries and figure out what was going on.

After researching the situation, Sergei came back to us with shocking news. He checked with the St. Petersburg court and then went to the registered address of our companies and discovered that the Hermitage Fund's companies had indeed been sued by some shell companies they had never heard of or done business with. The lawsuits were based on forged and backdated contracts. He also discovered that the Fund's companies had been represented by lawyers that the Fund had never hired, and who proceeded to plead guilty in court. Despite all of these obvious inconsistencies, the St. Petersburg court awarded the plaintiff shell companies hundreds of millions of dollars in damages against the Hermitage Fund's Russian companies. Most shockingly, when Sergei analyzed the forgeries used in court, he was able to prove that they could have only been created with the documents seized from our offices by the Moscow Interior Ministry on June 4 while these documents were in their custody.

The news went from bad to worse. Sergei went to the Moscow company registration office, where he discovered that three Russian companies had been fraudulently re-registered from the name of the Hermitage Fund's trustee, HSBC, into the name of a company owned by a man convicted of manslaughter. Again, Sergei determined that the only way that the ownership could have been changed was with the original corporate materials seized by the police.

On the back of Sergei's discoveries, on December 3 and 10, 2007, HSBC and Hermitage filed six 255-page complaints outlining all the details of the frauds and the names of the police officers involved. The complaints were filed with the heads of the three main law enforcement agencies in Russia. However, instead of investigating the frauds against Hermitage, the law enforcement agencies passed the complaints right back to the specific police officers named as conspirators in the complaints. Those officers then retaliated by personally initiating spurious criminal cases on knowingly false grounds against employees at Hermitage.

At this point, Sergei was becoming visibly angry that the Interior Ministry officials could be so blatantly corrupt. Sergei wasn't a dispassionate lawyer like many we have encountered in the past. He was our advocate in the truest sense of the word. It was very comforting that a professional as talented as Sergei was putting in so much energy and passion into protecting us. Although we were still unsure what the corrupt officers had in store for us, we felt a sense of calm having Sergei by our side.

By the summer of 2008 it still wasn't clear why the police were so keen to steal three of the Fund's investment companies, create fake judgments and fabricate criminal cases against us. If the intention was to steal the Fund's assets in Russia, they had failed because, by the moment our companies were stolen, the assets had been safely moved by the Fund's trustee outside the country. To help us find the answer, Sergei methodically followed up all the loose ends hoping to make sense of the persecution against us. He sent out more than 50 letters to different tax authorities and registration offices requesting information on our stolen companies. Almost nobody replied, but on June 5, Sergei received a letter from the Khimki (a suburb of Moscow) tax authorities, that broke the case wide open. According to the letter, our stolen companies which were re-registered in Khimki, had opened bank accounts at two obscure Russian banks.

Once we learned about the banks, everything started to make sense. Sergei found the Russian central bank website where all aggregate bank deposit information is stored, and it showed an enormous spike in deposits at these two obscure banks right after the accounts for our stolen companies were opened. The spike in deposits was exactly equal to the taxes that the Hermitage Fund companies had paid in 2006. At that moment, we finally understood the reason why our companies had been stolen.

The people who stole our companies did so to embezzle \$230 million that the Hermitage Fund's Russian companies – one of the largest taxpayers in the country – had paid in taxes in 2006. Perpetrators claimed retroactively that the \$230 million taxes had been “overpaid” because of liabilities from the sham court judgments that had purportedly “wiped out” the historic profits. The perpetrators were brazen enough to apply to the Moscow Tax Inspectorates for the refund of the entire amount of funds paid by the Hermitage Fund's companies to the Russian government in profit tax. The approval of this refund – the largest in Russian history – was granted by the Moscow Tax Inspectorates in a single day, and over the next two days, the entire amount was wired to the new bank accounts opened by the perpetrators. The date of the wire transfer (December 26, 2007) showed that it was carried out after and in total disregard of the complaints to the Russian authorities from HSBC and Hermitage that had alerted them to the details of the ongoing frauds and abuse of office three weeks earlier. Had those complaints been acted upon by the Russian law enforcement authorities, the theft of \$230 million from the government simply could not have taken place.

II. Testimony Against the Interior Ministry

At this point Sergei was indignant. When corruption stared him in the face, he felt he had a duty to fight it. It wasn't just about his client, it was now also about his country. The police officers who were supposed to be fighting crime were intimately involved in one of the biggest crimes ever perpetrated against the Russian people. In July 2008, Sergei helped us prepare a detailed criminal complaint about the stolen tax money and the abuse of office, which was filed with seven different Russian government agencies. We also shared the information with the press, and Sergei briefed some Moscow-based press correspondents on the details of the tax rebate fraud and the complicity of Russian officials in it.

We had hoped that the details in our complaints would be shocking enough to force the Russian authorities to investigate the fraud and to punish the corrupt officials. Instead, the Interior Ministry officers who were involved in the fraud reacted by harassing, intimidating and prosecuting all of the lawyers who represented HSBC and the Hermitage Fund. These lawyers tried to resist by filing complaints with the Russian authorities and courts detailing the corruption and abuse of office by the Interior Ministry officers, but that had no effect. In response, the intimidation only worsened. Finally, six of our lawyers from four different law firms were forced to either leave the country or to go into hiding.

The one lawyer who didn't leave Russia was Sergei. Despite the clear power of corrupt police targeting all of our lawyers, he was sure that he was safe because he had never done anything wrong or illegal. He believed that the law of Russia would protect him because he was telling the truth. He also believed that he was safe in today's Russia. When Jamison Firestone, the head of the law firm Sergei worked for, encouraged him to leave Russia like the other lawyers, Sergei replied, “You watch too many movies, this isn't the 1930's.”

His belief in justice was so strong that he went on to do something many people would be too scared to do. On October 7, 2008, he went to the offices of the Russian State Investigative Committee (the Russian equivalent of the FBI) and testified against two officers of the Interior Ministry, Lt. Colonel Artem Kuznetsov and Major Pavel Karpov, for their involvement in the theft of the Hermitage Fund companies and the theft of \$230 million from the Russian budget. It was an enormously brave move, and we feared for him that day. Amazingly, Sergei was the only person who wasn't worried. It was a big relief when he emerged from the Investigative Committee at the end of the day unscathed.

III. Arrest and Detention of Sergei Magnitsky by the Officers He Accused

In retrospect, our relief was misguided. On November 24, 2008, just over a month after testifying against Interior Ministry officials Kuznetsov and Karpov, a team of officers who directly reported to Kuznetsov went to Sergei's apartment at 8am while he was preparing his children for school and arrested him. Sergei was thrown into detention on a sham charge: tax underpayment by two Hermitage Fund companies in 2001 as their alleged director. In reality, the companies had clean audits, the statute of limitations for taxes had expired four years earlier, in 2004, and Sergei was not their director so he couldn't have had any legal responsibility for their taxes anyway. However, the law didn't matter because the investigators had other plans. Sergei learned that the officers appointed to investigate his case were the same ones he had implicated: Kuznetsov and his subordinates. When we heard this, it wasn't difficult to imagine where this was going to lead. Sergei had become their hostage.

We were truly shocked by his arrest. Although there were signs that something like this could happen, Sergei's self-confidence gave us the sense that our fears were overblown. Up until this point, our problems with corruption in Russia had all been abstract – on bank statements, share registries and balance sheets. We had never experienced a real human impact before. No matter how many unpleasant situations one might encounter in one's business career, nothing prepares you for having someone you know being taken hostage.

The Interior Ministry justified Sergei's detention on the grounds that he was a “flight risk” and the Moscow court sanctioned it despite the fact that the Interior Ministry held Sergei's passport and IDs, making it impossible for him to travel anywhere. Insisting on Sergei's prolonged detention, the Interior Ministry brought a letter from the Russian Federal Security Service claiming that Sergei had applied with the UK Embassy in Moscow for a visa. This was false. When Sergei's lawyers presented a letter from the UK embassy stating that Sergei had not approached it with a visa request, the judges simply ignored it. One of the judges sanctioned the continued captivity of Sergei on the grounds that he “saw no reason to question the information from the Federal Security Service (FSB),” despite the fact that this “information” was not at all substantiated and was directly

contradicted by the information from the UK embassy. It became apparent that the judges and Interior Ministry officers keeping Sergei hostage had lost any respect for the truth.

Our immediate concern upon hearing of the arrest was how a highly-educated lawyer like Sergei would fare among hardened Russian inmates. It is not difficult to imagine the terrible things that go on behind prison walls. Fortunately, on this front the reports from his lawyers who visited him gave us some hope. Although his background made him quite conspicuous among other detainees, his character allowed for him to gain the respect of other inmates almost immediately. He was as passionate about the other miscarriages of justice he encountered, and he used his legal skills to help them prepare appeals, and for that he was appreciated. Although the conditions of detention were harsh, we learned that he was well treated by the other detainees.

IV. Breach of Human Rights in Detention

Among Sergei's many heroic qualities, perhaps the most useful for posterity was his instinct as a lawyer to make a meticulous account of his experiences in pre-trial detention and the abuses he endured. He also filed legal complaints highlighting the breach of his human rights and the violations of the law by Interior Ministry investigators, prosecutors and judges in his case. Over the course of his year in detention, Sergei filed over 450 complaints to senior members of the Russian government, detention center officials and the Russian courts. His hand-written notes and legal petitions read like a modern-day Gulag Archipelago, a heartbreaking account of a struggle that played out in the dark corners of Russian detention centers, in isolation cells, away from the comforts of the "rule of law" that so many of us take for granted in the 21st century.

Sergei was subjected by his captors to cruel and inhumane treatment. He was deprived of sleep, drink, food and medical treatment. He was isolated from his family. He didn't have access to an office, library or a computer. Yet despite these circumstances, he managed to leave a record of unemotional and factual legal evidence implicating his captors and torturers in great detail, and all without even a table to write on. Few people could have managed such a prodigious effort even when not being subjected to such physical and psychological torment.

1. Cruel and Inhuman Treatment and Conditions in Detention

The inhumane conditions Sergei endured in detention resembled a modern-day Gulag. Sergei summarized them in a chilling letter to his lawyer on August 8, 2009:

"Justice, under such conditions [deprivation of sleep, food, drink over a long period of time] turns into the process of grinding human meat for prisons and camps. A process, against which a man is not able to defend himself effectively. A process through which a man loses awareness of what is happening to him and can only think of when this all will be finished and when he can escape the physical and emotional torture and make it to the labor camp (nobody hopes for a not-guilty verdict as they say our courts issue no more than 2% of such verdicts). They say here that the level of human suffering when serving a prison sentence turns out to be much less than here [in pre-trial detention] where a man, who is still not recognized as guilty by the court, is put through the meat grinder."

Initially, Sergei was sent to Pre-Trial Detention Center No. 5 in Moscow, but over the next few months he was moved seven times between four more detention centers. Each move was concealed from his lawyers and family. Conditions were made progressively worse. In July he was transferred to Butyrka, a maximum security detention center known to be one of the toughest in Russia.

Because of the 450 complaints that Sergei filed, we have today a detailed and disturbing set of facts about the conditions the investigators subjected him to in order to get him to withdraw his testimony and plead guilty to the trumped up charges. There was never any emotion in his complaints, even after all the torture he endured. They were crisp and exact. Sergei described in detail the degrading, inhuman treatment he was going through in detention.

One of the tactics used by the investigators was to routinely rotate him among cells. Often he was moved at night so he could be deprived of sleep. Each time he would refuse to recant his testimony the cells would become worse. Some examples of the cells where he spent the last year of his life are listed below.

Butyrka, Cell 59 (88 square feet, four inmates). The toilet in the cell needed to be repaired, with an "intolerable odor" coming from it. The toilet was not partitioned, and the inmates would use bedsheets as a screen whenever anyone was using the toilet. The distance between the toilet and the bed was less than three feet. The only electrical outlets were located above the toilet, forcing the inmates to boil water for their hot drinks in the stench of sewage. On the evening of September 8, raw sewage began to flow up out of the hole in the floor.

Butyrka, Cell 35 (108 square feet, three inmates). The cell windows had no glass, and the walls of the cell were damp. On Sergei's second day in this cell, raw sewage under the toilet began to rise, and by evening sewage water covered half of the cell. Sergei and his inmates asked that the problem be fixed, but the plumber did not come until 10pm. The inmates asked to be moved to another cell, but they were forced to stay through the night. The inmates moved around the cell by climbing from bed to bed. The plumber only came in the evening, but he couldn't fix the problem. He expressed indignation over the conditions in which Sergei and his fellow inmates were kept.

Butyrka, Cell 61 (88 square feet, four inmates). Again, the cell windows lacked glass and frames. On September 11, Sergei made a complaint requesting that window panes and frames be installed, but got no response. Because of the cold, Sergei slept fully dressed and wearing his coat and whatever clothes he could find. Window panes and frames were never installed.

In all cells the rats ran freely at night. When Sergei and his fellow inmates attempted to block the toilet hole in the floor of one cell with a plastic bottle, they found the next morning that it had been chewed off with a bite mark “the size of an average apple.”

Sergei was permitted to shower once a week for 10 minutes. He could walk outside the cell once a week for 40 minutes in a courtyard space just 10 feet by 16 feet. In many cells there were more inmates than beds so they had to sleep in shifts. In others, the authorities would never turn off the light so even if he got a bed it was almost impossible to sleep.

Most of his complaints about the conditions of confinement led nowhere, and the majority of the complaints and requests addressed to the administration of Butyrka and the other detention centers, as well as the General Prosecutor’s Office and the Interior Ministry, were simply ignored. When he did receive a response, it would be to say that no violations had been found so there were no grounds for any action. After the filing of each complaint, his conditions worsened significantly.

2. “Opportunities for Defense” and Interaction with Lawyers

Sergei’s diaries describe in detail the challenges he faced in defending himself against the fabricated criminal proceeding brought against him. Even the simple act of writing complaints was problematic. There was no table in the cell and he would have to write his complaints on a bed. The detention center libraries did not contain any legal material, even the text of the Criminal Code or the Code of Criminal Procedure, and the administration rejected his request to receive these books from his relatives. At one point the administration even forbade Sergei’s wife from sending him the text of the Russian Constitution.

Sergei’s opportunities to meet with his lawyers were severely constrained. Butyrka and Matrosskaya Tishina detention centers both have continuous long lines of lawyers outside, waiting to see their inmate clients. Because of these lines, Sergei typically never saw his own lawyers before 4:30pm. By 5:30pm, the wardens would begin to demand that the lawyers leave because the meeting rooms needed to be vacated by 6:00pm. On many occasions, Sergei’s lawyers would arrive for a meeting, but the wardens would keep him in his cell. His lawyers would ultimately be forced to leave the grounds.

3. Contact with Family and the Outside World

Russian law provides detainees with the right to correspond with relatives and others and requires the administration of detention centers to collect correspondence from them on a daily basis and to dispatch it within three days of collection. Inmates of Butyrka were required to leave their correspondence in a special box, where the administration is expected to collect it on a regular basis. Sergei left a letter in this box on September 9, and it was still there six days later. Letters sent to him from his relatives in Moscow were received with 12-day or more delays. Letters from outside Moscow were received nearly a month after they were sent.

Worst of all the deprivations, the Interior Ministry officials denied him any visits from his family, which must have been truly heart-breaking for a man so committed to family. He was denied the possibility to speak to his two young children on the telephone for the 11 months he was in detention. Sergei was not allowed to see his mother or his children during the entire period of his detention. He saw his wife once, two weeks before he was killed, after filing numerous complaints.

Sergei was denied seeing his mother because the investigator and his superiors deemed it “inexpedient.” Sergei was denied seeing his wife, again because investigator and his superiors deemed it “inexpedient.” Sergei was denied seeing his aunt because investigator deemed it “even more inexpedient [than seeing his mother and wife]” and further the investigator questioned if she indeed was his aunt.

On August 25, 2009, Investigator Silchenko wrote to Sergei, who by then had been kept in pre-trial detention without seeing his family that “detention as a measure of restraint restrict the rights and freedoms of a person and citizen to the maximum extent” and that “at this stage of the investigation” seeing his relatives “may negatively impact the course and the results of the investigation given the state of the investigative situation.”

Sergei was denied by the investigator to speak to his young son on the grounds of his son’s “young age.” From the day he was arrested until the day he died in custody, Sergei never heard the voice of his young children again.

4. Court Appearances

Sergei’s pre-trial detention was reviewed six times by the Tverskoi District Court in Moscow. The judges always granted the requests of the lead Interior Ministry Investigator on Sergei’s case, Oleg Silchenko, who routinely claimed he needed more time due to the “complexity” or the “difficulty” of the case and that he believed that Sergei would interfere with his investigation if he was released prior to trial. Throughout the court proceedings on Sergei’s detention, none of the petitions or materials from Sergei’s lawyers were accepted. The judges would routinely rule on the basis of unsubstantiated suppositions from investigators, never checking the information or assertions the Interior Ministry would present to the court. The behavior of the courts throughout violated the basic principle that court rulings must be based on evidence verified by the court and that both parties have equal standing before the court.

Sergei’s appearances at the hearings relating to his complaints against the Interior Ministry created their own complications and resulted in what can only be described as a mockery of justice. He noted that “journey takes place in a harsh and humiliating manner similar to torture.” He was notified of his court appearances late at night, sometimes after midnight, the day before the hearing. He was never informed about the subject of the hearing or the issues to be considered. Under these circumstances, it was impossible for him to prepare his defense.

To transport Sergei and the other detainees to court, the detention center used special vans, which were equipped with compartments for holding of the inmates, having a size of approximately of 10 feet in length, 4 feet in width and 5 feet in height. Sergei noted that these compartments were designed to accommodate not more than 15 people, but typically 17 to 18 inmates were “squeezed” in, with the result that some of them have to remain bent over in uncomfortable positions for the entire journey. On one occasion Sergei spent 4.5 hours in this position because the van did not go directly to court but was collecting other persons from other courts.

The vans typically returned to the detention center by 7 or 7:30pm, however, the guards typically kept everybody in the vehicles until 8pm. The detainees would then be taken from the vans to holding cells, where they would be kept for another 3 hours while the wardens did “paperwork.” Sergei never managed to return to his regular cell earlier than 11pm on the days he would appear in court.

When Sergei and his fellow inmates were taken to court they were given instant lunches, but it was never possible to prepare them because they were never provided with the boiling water required to cook the instant soups or cereals which make up the lunch. Court guards would explain this by the fact that they had no kettle, but Sergei noted how he had routinely seen a kettle in their office.

While in court Sergei would be kept handcuffed and physically restrained, even in his meetings with his lawyers. He would be given no space to work, forced to draft his witness statements by hand in the corridor of the courthouse. Even here, in an added gesture of humiliation, the Interior Ministry would keep him handcuffed to a radiator, making it nearly impossible for him to write his own submissions effectively.

Sergei noted in his diaries that the entire process of transportation to and from court was profoundly debilitating and limited the ability of people to defend themselves. This played into the hands of the Interior Ministry investigators and prosecutors pushing their cases through the system:

“...the people being judged are hungry and tired and have been exhausted by confinement in holding cells and the journey in the vehicles. This is especially damaging to those that have to take part in court hearings that last for several days in a row. Of course, to defend yourself effectively in court under such conditions is impossible. I have heard from many detainees that they would rather agree to not take part in court hearings than suffer on the days when they are transported to court.”

His experience on September 10, 2009, highlights the additional hardship that prevailed throughout his detention. Around 11am Sergei was transferred from his Butyrka cell to a holding cell and was told that he would either be taken to court or to see Investigator Silchenko. Neither option ever materialized. He spent the entire day in the holding box without food or access to drinking water. At 7:30pm, the wardens removed him from the holding cell and returned him to his cell. He went without lunch and missed dinner and, as he noted in his diary, he missed the weekly shower that was scheduled for the occupants of his cell on this particular day. It is impossible to avoid the conclusion that this particular discomfort was deliberately arranged by Silchenko to further break Sergei’s will as the court hearing for another prolongation of his detention was coming up on September 14, 2009.

During the court hearings of his complaints, Sergei was kept in a cage like a wild animal. When he protested against this degrading and cruel treatment he was subjected to in court and cited both Russian law and the European Convention on Human Rights, the judge would simply dismiss it.

On November 12, 2009, Sergei spoke his last public words in the Tverskoi District Court in Moscow:

“In contrast to the prosecutor who represents the accusing party, I am placed in the courtroom in a cage that is similar to the cages used to keep wild animals. Placing me in this cage violates my right to be treated like a human being, and shows no respect for my honor and dignity, which is essential to any human being and which is guaranteed by Article 21 of the [Russian] Constitution. My right not to be subject to the inhuman and degrading treatment which undermines human dignity is stipulated by Article 3 of the Convention on Human Rights and Fundamental Freedoms. This right has been violated today.”

5. Legal Cynicism and the Denial of Legal Remedies

One of the most shocking human rights abuses Sergei encountered in detention was the absolute lack of any legal remedy against the Interior Ministry officers persecuting him. Each time Sergei encountered an action by an investigator that violated Russian law, he would file a complaint. These complaints were rejected or simply ignored each time. They were never reviewed within the timeline required by the law, and the responses were never given within a reasonable period. The reason for the denial of his complaints was never given, preventing him from challenging it.

What happened to Sergei reflects the prevailing attitude among judges and law enforcement officers in Russia today, which can best be described as “legal cynicism.” Investigators and prosecutors act in a legal vacuum subject to no judicial checks. The judges create an appearance of impartial oversight and mediation but in fact exercise no restraint on the power of the Interior Ministry to run the prosecution and harass and intimidate the defendant as it sees fit. An innocent person falsely accused by corrupt police officials is allowed to file complaints only to have them rejected. All petitions from the police are accepted however ludicrous or unsubstantiated they are. The presumption of innocence, a central tenet of judicial systems everywhere, is discarded from the outset.

Each rejection by a court, however, served to make Sergei more indignant and determined. He was always the consummate professional. The grounds for his complaints were always clear, logical and based on straightforward evidence. Some examples of his complaints and the legal cynicism that accompanied the official responses to them are listed below.

- Sergei filed two petitions that investigators were prosecuting a case against him when there was no evidence of a crime having taken place or any evidence of his involvement in any wrongdoing. These petitions were dismissed.
- Sergei challenged the legal standing of the Interior Ministry officers to direct the case against him since they were the same ones against whom he had testified and had accused of stealing \$230 million from the Russian state. Sergei demanded they be removed from the investigative team. This petition was dismissed.
- Sergei petitioned the court to review and purge the false statements that had been added to his casefile to justify his ongoing detention by the officers against whom he had testified and the members of their investigative team. This petition was dismissed.
- Sergei challenged that the Interior Ministry had appointed “expert witnesses” in his case without informing his lawyers as required by Russian law. Investigator Silchenko told the court that he would make sure inform the defense in the future, and as a result the court dismissed Sergei’s petition. Silchenko did keep the defense informed as required in the future, however, which would compel Sergei to file another petition. This “cycle” happened numerous times, and every time Sergei’s petition was dismissed.
- Sergei challenged Investigator Silchenko’s decision to transfer him to a temporary holding unit from a normal detention cell as a means to apply pressure on him. This petition was dismissed.
- Sergei challenged that the court was not admitting valid evidence for his defense while at the same time allowing mere hearsay from the Interior Ministry to justify his arrest and continued detention. This petition was dismissed.
- Sergei appealed to Russian courts that the General Prosecutor of Russia did not respond to his previous complaints about human rights abuses during his detention. This appeal was ignored.

Finally, after the Moscow court ruled failing to invalidate the investigators’ actions despite numerous petitions, Sergei filed a claim with the Constitutional Court of Russia about the comprehensive legal violations of the Interior Ministry investigators and the judiciary. This claim was held by Investigator Silchenko for three months prior to it being forwarded to the Constitutional Court. This claim was due for acceptance at the time of his death.

V. Deterioration in Health

Sergei’s spirit remained undefeated. However, the deprivation of sleep, food and drink in detention had adversely affected his health. He was a strong 36 year-old man when he was arrested by the Interior Ministry in November 2008. Four months later he had lost 40 pounds. Sergei soon began to experience severe intestinal pain, and on July 1, 2009, Sergei was finally taken for a medical examination by doctors at Matrosskaya Tishina detention center. He was diagnosed with gallstones, pancreatitis and calculous cholecystitis and was prescribed an ultrasound examination and surgery within a month. Instead of arranging the planned surgery, on July 25, the officials transferred Sergei to a different detention center, Butyrka, which had no ultrasound or facilities to treat patients with pancreatitis – and where his worsening condition would go untreated.

Sergei’s diaries and complaints provide a chronology of the denial of medical assistance in Butyrka, some of which is set forth below.

Upon arrival at Butyrka on July 26, 2009, Sergei was given no medical examination, despite the pains he had reported at Matrosskaya Tishina and the diagnosis of pancreatitis he had already received. The same day he filed a written request to the administration for an appointment with a doctor. There was no response.

On August 9, Sergei formally requested a meeting with the head of the detention center, noting that his health was in danger. There was no response.

Two days later, on August 11, Sergei wrote a request for an appointment with a doctor, noting that the time prescribed for an ultrasound had passed. There was no response.

In addition to these written requests, Sergei made verbal requests during the paramedics’ rounds of the detention center, which would occur once or twice a week. The typical response was, “Write a request ... You did? Then just wait.”

On August 14, Sergei submitted a request that the drugs prescribed by the doctor in Matrosskaya Tishina could be passed to him from his relatives since he could not get any from the Butyrka doctors. Three days later, on August 17, Sergei’s mother brought the drugs. After Sergei’s mother asked the administration to confirm the delivery, they discovered the drugs had been passed to another cell. She brought more drugs, and they were ultimately passed to Sergei on September 4, nearly three weeks later.

On August 24, Sergei wrote in his diaries,

"The disease has become so acute that I could no longer lie in bed. At 4pm, my fellow inmate began to kick the door, demanding that I should be taken out to see a doctor. The warden promised to invite a doctor. ... I was taken to a doctor only five hours later. She said the medical record stated that I had already been treated."

On August 25, Sergei wrote a request for an appointment with a surgeon. There was no response. The next day, on August 26, as the deputy head of Butyrka was making a round of the cells, Sergei complained that urgent medical assistance was not being provided. He tried to show the letter indicating the diagnosed disease, but was told, "You are delaying us from our rounds."

On August 31, there was another visit of rounds. Sergei wrote to his lawyer,

"A similar round. ... Concerning the surgery, he said, 'You will have it when you are released. Here, nobody is obliged to provide it to you.' And he left."

Butyrka officials repeatedly refused to escort Sergei to another detention center to conduct an ultrasound examination on the ground that they lack guards.

In total, Sergei and his lawyers filed over 20 applications for medical treatment in August and September 2009. These were sent to Butyrka officials, Investigator Silchenko, General Prosecutor Chaika. Sergei personally appealed to Judges Krivoruchko and Stashina during court sessions which considered whether to prolong his detention. All petitions for medical help were refused. These rejections included:

- On September 2, Investigator Silchenko issued a decree denying "in full" a request from Sergei's lawyers about medical treatment.
- On September 14, Judge Krivoruchko in front of Investigator Silchenko and Prosecutor Burov rejected formal complaints from Sergei about his denial of medical treatment.
- On October 9, Officer Pechegin of the General Prosecutor's Office replied that there was no basis for Prosecutor's Office to review complaints about the violations of Sergei's rights, including the denial of medical treatment.
- On November 12, Judge Stashina rejected petitions from Sergei's lawyers about the denial of medical treatment for *cholecystopancreatitis*, diagnosed in July 2009.

VI. An Inconvenient Hostage for the Interior Ministry: the Motivation for Sergei's Torture

Ultimately, the officials whom Sergei had testified against had a very specific plan for him. They wanted to put enough pressure on Sergei so he would withdraw his testimony against them and make false statements against himself and his client, the Hermitage Fund. Most cynically, they specifically wanted him to take responsibility for the theft of \$230 million that they had stolen from the state. After moving him through several detention centers and an incalculable number of cells, they presented him with their plan. They kept telling him, "If you sign the following statements, then you will be freed." In spite of the hardships he was subjected to, he rejected their proposals. As a lawyer and someone who believed in justice, there was no way he would be pressured into making false statements about himself or his client. Instead, he wrote new complaints in which he described the pressure he was subjected to and how police officers knowing his innocence were producing false evidence. He explained how the tax charges against him were fabricated to cover up police involvement in the largest known fraud against the Russian budget.

On September 11, 2009, Sergei wrote to the investigator:

"My criminal persecution has been ordered, to serve as a retribution ... It is impossible to justify the charges brought against me, as I assert again that I did not commit any offenses, and the documents collected by the investigators only prove my innocence ... If this case is ever heard in court, these experts will simply be unable to justify their conclusions during cross-examination by the defense."

Realizing the invalidity of their claims, the investigators have arranged for physical and psychological pressure to be exerted upon me in order to suppress my will and to force me to make accusations against myself and other persons ... in exchange for a suspended sentence and freedom. Every time I reject these propositions by the investigators pushing me to commit such a base act, the conditions of my detention become worse and worse ... The administration of the detention centers has assisted the investigators to organize my persecution by creating intolerable conditions for me in their facilities."

Throughout this ordeal, Sergei stood true to his beliefs and principles no matter what new suffering was devised for him. His belief in those principles was so strong, and Sergei knew them to be so undeniably correct, that upholding them became his primary aim no matter the physical and psychological torture he was forced to endure.

On October 13, 2009, Sergei detailed the role of his persecutors in crimes against the Russian state and the theft of money from the Russian people, and his account illuminated the motivations of those officials behind his persecution:

"This prosecution is a repressive measure to punish me for assisting my client in connection with the investigated theft of the companies owned by my client. In the course of the legal assistance I was providing I gained knowledge of the possible participation of police officers in the said theft and that the stolen companies were subsequently used by the criminals to steal from the state budget the amount of 5.4 billion rubles (\$230 million), which had been earlier paid by the said companies in taxes"

at the time when they were controlled by my client...I believe that exactly the fabricated criminal case, which was initiated by Kuznetsov made it possible to confiscate the statutory documents and the registration documents of the stolen companies and it made it possible to deprive the legal owners of their control over the said companies... The direct personal interest of Kuznetsov in the illegal criminal prosecution against me is also shown by the fact that actually all documents, which were forged as a legal basis for detaining me in custody, were fabricated by the Tax Crime Department officers, who are the subordinates of Kuznetsov: Drozanov, Krechetov, Tolchinskiy... In my view, Kuznetsov and other law enforcement officers, who acted under the arrangement with Kuznetsov, could be involved in the theft of Rilend, Mahaon, and Parfenion and in the subsequent theft of 5.4 billion rubles from the state budget as described above. They were extremely interested in suppression of my activities I performed to assist my client in the investigation of the circumstances connected with the crimes against them, and that was the reason for the illegal criminal prosecution that was initiated against me by investigator Silchenko. I believe that with the participation of Investigator Silchenko, or with his tacit consent the inhuman and humiliating conditions were created for me in pre-trial detention."

The last complaint Sergei was able to file with Russian courts was made on November 11, 2009 – five days before his death. It described egregious tampering by the Interior Ministry in the materials in his case file and the falsification of evidence against him by Investigator Silchenko. Sergei saw that the materials in the file had been altered and intended to take criminal action against Silchenko and others, writing:

"Materials of [the] criminal case which are now being shown for me to review, are not the same materials that were produced to me on 20 October 2009 because they noticeably differ in the manner of certifying the authenticity of the included copies and in the manner of their binding, and because in both cases materials were collated in a manner that did not exclude the possibility to undo the binding, and add, delete or replace documents, and I do not exclude the possibility that these materials are also different in their contents."

Sergei concluded his complaint, which turned out to be the last in his life, stating his determination to bring those responsible for the falsifications to justice:

"It is now clear to me that originals of certain documents in the materials of the criminal case shown to me as copies cannot be at the disposal of the investigation, therefore the certified copies of these documents, in my opinion, could be treated as falsified proofs, because they have been certified without comparing the copies admitted into the criminal case with the original of the corresponding document or other properly verified copy of the document, and I intend to insist on bringing to justice the persons who certified these copies or placed them in the case materials."

On November 12, 2009, Sergei prepared the following hand-written notes for a court hearing scheduled for that day which considered and sanctioned the prolongation of his detention without trial:

"I have been detained in prison for a year as a hostage in the interests of the persons, whose intention it is to ensure that the criminals actually guilty in the theft of 5.4 billion rubles from the state budget will never be found. The same Investigator Silchenko and his subordinates [who directed the criminal case against Sergei Magnitsky] investigated the case of the money stolen from the budget. The man, who signed the forged documents, was convicted for 5 years in prison. That same man, a sawmill worker, was convicted, while the other swindlers have not been identified by the investigators. Investigator Silchenko does not want to identify the other persons, who made this fraud possible. He instead wants the lawyers of the Hermitage Fund, who pursued and continue to pursue attempts for this case to be investigated, be forced to emigrate from their country in which criminal cases were filed against them, or like me be detained in prison."

My imprisonment has nothing in common with the legal purposes of criminal proceedings... It has nothing in common with the purposes of the restraints listed in Article 97 of the RF Criminal Procedural Code, but this is a punishment for my merely defending the interests of my client, and finally the interests of the State, because should my client's interests be realized, should the law enforcement agencies assist in the realization of his interests instead of hindering them, then the theft of 5.4 billion rubles (\$230 million) from the state budget would become impossible.

The actual purpose of my criminal investigation and my detention in prison are in conflict with the law and no formal legal basis exists for my detention."

The corrupt officers tried to break him, but they found him stronger than they could have ever imagined. They probably never had a hostage who didn't break under this type of pressure before. Ultimately, he reached the one-year deadline for pre-trial detention under Russian law, the investigators had to put him on trial or release him. They were planning a big show trial for him where they were hoping for his false confessions to be the primary evidence of the trial. Instead they had no evidence of his wrongdoing, and more worrying for them, he was continuing to make very specific, public and incriminating statements about police involvement in the theft of \$230 million from the Russian government. He had become a very inconvenient hostage.

VII. Sergei's Last Days

On November 12, 2009, Sergei appeared before the Tverskoi District Court in Moscow, which ruled to extend Sergei's detention without trial. This is the last time Sergei was seen alive outside of detention. The next day, an Interior Ministry investigator stated to Sergei's lawyers that Sergei reported feeling unwell in his cell, but that it was "nothing serious" and refused to provide them any further details. Earlier that day, Sergei wrote a complaint to the Head of Butyrka:

"Over the course of the day on November 12, I was deprived of the possibility to have hot meals and deprived of the 8-hour sleep during the night, which may have caused exacerbation of the pain in the area of the pancreas and a fairly discomforting

pain in the area of the liver, which I did not have before, as well as nausea. Therefore, I request a recommendation as to whether I should take some medicine for liver treatment, unless the above described pain stops or if it continues systematically. In addition, I ask you to inform me when finally the ultrasound prescribed for as far back as August is going to be done."

This complaint was written three days before his death. When interviewed after Sergei's death, the Head of Butyrka replied simply, "Magnitsky never requested a meeting with me, and he never submitted any complaints. Neither did his lawyer."

The doctor did not see Sergei that day, despite two written pleas, nor at any time during the following next two days while he was in agonizing pain.

On the morning of Monday, November 16, Sergei's lawyers arrived to Butyrka to try to meet with Sergei. Investigator Silchenko informed them that Sergei would not see them because he was unable to leave his cell for health reasons. Silchenko refused to show them a copy of the medical report on Sergei's condition, saying it was a matter "internal to the investigation."

As this was happening, Butyrka officials were apparently scheduling to transfer Sergei to Matrosskaya Tishina detention center, having concealed this fact from Sergei's lawyers. It is not clear exactly when on November 16, 2009, Sergei left Butyrka but according to Matrosskaya Tishina officials, Sergei arrived there around 6:30pm, with a diagnosis of an "acute cholecystitis and pancreatitis." It is not clear what happened to Sergei en route and who accompanied him. One of the first words Sergei told officials at Matrosskaya Tishina center on arrival was that somebody tried to kill him. He didn't want to leave the nurse's room as he feared for his safety. In response, he was put in a straight jacket, handcuffed and moved to an isolation ward. The doctors who arrived to care for him were kept outside the prison fence until it was certain he was dead. When the doctors were let in, they found Sergei dead on the cell floor. He was reported dead at 9:50pm.

The next morning, November 17, 2009, Sergei's mother arrived at Butyrka with a parcel of fruit and other items. The administration notified her that her son had been transferred to Matrosskaya Tishina the prior evening. Upon her arrival at Matrosskaya Tishina, the guards told her that the package is "not necessary because your son is dead."

The Moscow Prison Oversight Commission empowered by law to monitor human rights in detention centers held an investigation into the circumstances of Sergei Magnitsky's death and released their report on December 28, 2009. They concluded that Sergei Magnitsky was subjected by investigators to physical and psychological pressure and kept in torturous conditions. They were astonished that the accounts they got from detention center officials and doctors were entirely contradictory in every detail of what happened to Sergei during the last hours of his life. Their report states that they conclude that the officials and doctors were lying and "deliberately concealing the truth."

The Commission's final conclusion was that the death of Sergei Magnitsky represented a breach of the right to life and a breach of the state's duty to safeguard life – rights guaranteed by the European Convention on Human Rights of which Russian Federation is a signatory.

VIII. Russian Government Actions After Sergei's Death

At first, the detention center officials told Sergei's lawyers that the cause of his death was a rupture to his abdominal membrane, but later that day they revised their story, saying he had died of a heart attack. Sergei's family requested that an independent expert be present during an autopsy. The authorities refused. The family then requested that they be allowed to conduct an independent autopsy. The Russian authorities refused. The family was told that Sergei's body could not be preserved long enough because the morgue's refrigerators had broken. When the authorities finally released Sergei's body to the family it was on condition that it be used only for an immediate burial. The family was denied the opportunity to conduct a wake. When Sergei's family saw him finally at the cemetery, they noticed his hands had bruises, abrasions on his knuckles and cuts in his palms.

The day after Sergei died, Irina Dudukina, the Russian Interior Ministry's Investigative Committee Press Secretary, announced that Sergei had died of "a heart attack and toxic shock." This was despite the fact that official medical reports made five days before his death stated that his heart activity was normal (on November 11, Butyrka staff wrote that Sergei suffered from "acute cholecystopancreatitis" but had a normal heart function). In another statement on November 17, Ms Dudukina stated that Sergei had made "no complaints" about his health over the course of his detention.

Sergei died still awaiting trial. Even by Russia's standards he was still "innocent" of the trumped-up charges the Interior Ministry had cobbled together against him. This didn't prevent Ms. Dudukina of calling a press conference a week after Sergei was killed to repeat the baseless charge against him, or Deputy Interior Minister Anichin calling Sergei "guilty", not only ignoring the principle of presumption of innocence, but making his statement on the sacred fortieth day of mourning after Sergei's death, publicly smearing the name of a man no longer alive to defend himself in front of his family and his country, a man whose spirit they couldn't break while he was alive.

Sergei's death created an uproar both in Russia and overseas. President Medvedev ordered an investigation into how a man who had yet to face a trial could be incarcerated for a year and ultimately die in the worst prisons in Russia. It has now been six months since Sergei's death, and no one had been punished. Aside from the dismissal of 20 detention center governors, 19 of whom had nothing to do with Sergei Magnitsky, no one has been held to account. The one detention center governor who did play a role in Sergei's death, the governor of Butyrka, was dismissed but quickly reappointed as the deputy director of another Moscow detention center.

In addition, no one has been brought to justice for the largest tax refund fraud in Russian history which Sergei discovered. The Russian officials and private criminals who together stole \$230 million walk free today – and in some cases, they have even been promoted within their respective ministries.

On April 22, 2010, the Moscow Helsinki Group, an independent human rights organization, publicly called on Russian authorities to open a case against the Russian Interior Ministry officers involved in the Sergei Magnitsky case for crimes under several articles of the Russian Criminal Code: “Conduct of criminal prosecution of a knowingly innocent man,” “Unlawful arrest and detention”; “Forced testimonies”; “Torture”; “Murder committed with a special degree of brutality” and “Murder committed to conceal other crimes.” (See <http://www.mhg.ru/news/EB81324>). To date, no official has been charged for their role in the persecution, torture and death of Sergei Magnitsky.

IX. Implications for U.S. Policy

We cannot change what corrupt officials do in Russia, but we can change what privileges they have access to in the West. The “legal cynicism” that pervades Russia and the corruption of Russian law enforcement threatens U.S. national interests. Although many of the criminals in this story reside in Russia, the United States government still has an enormous reach. Corrupt officials see their acts go unpunished in Russia, and they feel “untouchable” there, but they must understand that their actions will have consequences whenever the United States can reach them. How should the U.S. government react to the Magnitsky case?

1. Approve the “Cardin List” and Revoke the U.S. Visas of Corrupt Russian Officials.

As requested by Senator Benjamin Cardin in his letter dated April 26, 2010, the State Department should revoke the U.S. visas of the corrupt Russian officials involved in Sergei’s death and the \$230 million fraud.

2. Freeze the U.S. Bank Accounts of Corrupt Russian Officials.

In addition to revoking their visas, the U.S. Treasury should freeze any U.S. accounts owned by corrupt Russian officials or that it suspects of holding proceeds of Russian corruption. If the Treasury is aware of non-U.S. accounts of such individuals, it should work closely with the relevant foreign governments to freeze these accounts overseas.

3. Demand Russia Punish Those Responsible for Sergei’s Torture and Death.

To this day no one has been charged with Sergei’s torture and death and the Head of the Interior Ministry’s Investigative Committee Anichin, Investigator Oleg Silchenko, Lt Col Kuznetsov continue to work freely within the Interior Ministry. Senior Interior Ministry officers responsible for carrying out the \$230 million fraud against the Russian state have been promoted within the Interior Ministry. It is in the U.S. national interest that President Medvedev rid the Russian law enforcement bureaucracy of corrupt officials. Punishing those individuals responsible for Sergei’s death is an essential beginning.

4. Demand Russia Protect Its Lawyers.

Being a lawyer in Russia has become one of the most dangerous professions, and Sergei’s story tragically demonstrates this. But his story in many ways is not unique. Honest lawyers in Russia stand in the way of corrupt judges and police and are routine targets for harassment and worse. Sergei is not the only lawyer working for Hermitage who has suffered at the hands of the Russian Interior Ministry. Five other lawyers working for Hermitage have had to flee Russia with their families to escape the same fate as Sergei. These lawyers and others like them deserve the recognition of the United States, and their situations should be raised by the U.S. government in its discussions with Russia. President Medvedev, a lawyer himself, should understand the crucial role lawyers play in building a sustainable rule of law.

X. Conclusion

One can never judge the true character of a person until they are faced with extreme adversity. Most people, if faced with a far lesser challenge than Sergei, would have given in, and it would have been understandable if he had as well. But for Sergei, his integrity and honor were more important than any physical pain he was subjected to. His resolve never faltered, no matter how insurmountable the obstacle had been. He did what to most people seems to be the impossible; he battled as a lone individual against the power of an entire state. Sergei was an ordinary man who became an extraordinary hero.

Ultimately, Sergei’s story is one of extraordinary bravery and heroism that should be an example to us all. He died still believing, despite the cruel experience of the last year of his young life, that the rule of law could exist in modern Russia. Russia needs more, not fewer, patriots like him. Sergei, his heroic fight, and the ideals he stood for must be upheld.

Thank you for the opportunity to share this with you today.

Enclosed:

- “Complaint by Sergei Magnitsky to Yuri Chaika, General Prosecutor of the Russian Federation, September 11, 2009” (English translation)

English Translation of Complaint by Sergey Magnitsky to General Prosecutor Yury Chaika

Note: window frames and glass were installed only after the complaint dd. September 18, 2009 was filed, that is, 10 days after the first request. I am happy even about this, although during this period I caught a cold.

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On the Conditions of Confinement in Butyrskaya Prison

On July 25, 2009 I was transferred from Detention Centre-1 Federal State-Financed Organisation of the Federal Penitentiary Service of Russia (hereinafter “Matrosskaya Tishina” or “MT”) to Detention Centre 77/2 Federal State-Financed Organisation of the Department of the Federal Penitentiary Service of Russia for Moscow (hereinafter “Butyrskaya Prison” or “BP”).

In BP I was held in the following cells:

- No. 267 – from July 25, 2009 till September 1, 2009, a cell with an area of about 10.8 m², for a day 2 more men were held with me, then I spent a day alone and the remaining period I was held there with one more person. There are 4 beds in this cell.
- No. 59 – from September 1, 2009 till September 8, 2009, a cell with an area of about 8.2 m², 3 more men were held there with me. There are 4 beds in this cell.
- No. 35 – from September 8, 2009 till September 10, 2009, a cell with an area of about 10.1 m², 2 more men were held there with me. There are 6 beds in this cell.
- No. 61 – from September 10, 2009 till present, a cell with an area of about 8.2 m², 2 more men (once there were 3 more men for 24 hours) are held there with me. There are 4 beds in this cell.

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Healthcare – Since approximately June 2009, while I was staying in Matrosskaya Tishina, my health deteriorated. Medical examination carried out at the end of June – beginning of July 2009 revealed gallbladder stones and pancreatitis and calculous cholecystitis were diagnosed. Repeated examination was scheduled for the beginning of August 2009 and surgical treatment was planned. Prior to confinement, I didn’t have these illnesses or at least there were no symptoms. The MT doctors provided me with medical care, I was given the necessary medicines daily and advice on obtaining other medicines which were not available in the medical unit of MT and which my relatives could provide me with.

On July 26, 2009, immediately upon arrival at BP, I addressed a written request to the administration asking to be examined by a doctor as there was no such examination on arrival although it is obligatory in accordance with Internal Regulations (hereinafter “IR”) specified for the operation of detention centres.

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I was not seen by a doctor on that day or on the following days. On August 9, 2009 I made a request to see the head of the prison indicating that my health is under threat. I received no answer to this request.

On August 11, 2009 I addressed one more request to the administration asking to be examined by a doctor specifying that the time scheduled for my medical examination had long past; however, I still have not been taken to a doctor and received no answer to my request.

During morning checks, I have also repeatedly asked medical assistants who are present at these checks once or twice a week when I would finally be allowed to see a doctor. I made these spoken requests in addition to the abovementioned written requests. Medical assistants kept giving me the following answer: "You should write a request. If you have already done that, you should wait".

On August 14, 2009 I wrote a request asking if it is possible for my relatives to give me the medicines prescribed by the MT doctors.

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I received no answer to this request so for a long time I didn't know whether I was permitted to get the medicines and how should my relatives provide me with them. I asked medical assistants twice whether my request had been examined. The first time the medical assistant answered that he did not know. The second time he said that the head of the medical unit had examined the request but he wasn't able to remember whether he had permitted me to receive the medicines. Therefore I was only able to receive them on September 4, 2009.

On August 24, 2009 the pain became so acute that I was not even able to lie down. Then my cellmate started to knock on the door demanding for me to be taken to a doctor. This was approximately at 16:00. The warder promised to ask a doctor come but he didn't appear despite the recurrent demands of my cellmate. I was only taken to a doctor 5 hours later.

I informed the doctor about my illness and complained that during my confinement in BP I had never been examined by a doctor. The doctor was very displeased; while browsing through my medical

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record she kept saying: "What medical examination, what medical treatment are you talking about? It is written here that you have already been given medical care. Do you think that we are going to treat you every month?". I asked her whether I needed a special diet and what should I do for it to be prescribed. The doctor knew nothing about it and advised me to get an appointment with a surgeon who would resolve the issue.

On August 25, 2009 I wrote a request to make an appointment with a surgeon to resolve the issue of my treatment and the prescription of a dietary plan if necessary. This request went unanswered just like all the previous ones.

On August 26, 2009 the deputy heads of BP, I believe, including, the head of the medical unit were inspecting the cells. I complained that I was given no medical care and that a prescribed medical examination had not been carried out. I was told that no medical examination could be carried out at BP since it didn't have the required equipment. I tried to show them a copy of the MT letter which stated my diagnosis and the examination prescribed but

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they did not even let me get it out commenting that I had "already taken up too much of their time".

On August 31, 2009 I managed to deliver this letter during a similar inspection, because another head that was not present during the previous inspection agreed to listen to me with regard to this issue. The head of the medical unit protested: "Why are you keeping this document? This information should be in your medical record and if you keep it we will never know that a medical examination was scheduled for you". I argued that, firstly, this information is specified in my medical record as the doctor I managed to meet on August 24, 2009 read it aloud to me, and that it is evident that nobody had read my medical record before I explicitly asked about it and nobody had taken any actions upon reading it. Secondly, for a month I had repeatedly asked to be examined by a doctor in writing, mentioning that a medical examination which had been previously scheduled never took place. However, notwithstanding all my requests, the administration took no action.

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The head of the medical unit promised to examine this issue, took the copy of the letter and told me that that I could get the planned surgery when I am released as they do not have to provide me with it. After that he left.

The next time I met him on September 4, 2009 when he brought the medicines provided by my relatives. He said that he had written a request asking for my transfer to MT to carry out a prescribed medical examination. He added that if the request was approved I would be transferred there, but no earlier than in 3 weeks' time. I asked if it was possible to bring me there for one day as the examination I need (ultrasound) would only take several minutes. He answered that this was impossible due to transport and security problems. However, when it is necessary to bring me to court to extend my confinement term such problems do not usually arise.

In BP I was given no medical care (excluding the permit to

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receive medicines which were bought by my relatives) in relation to the diagnosed illnesses till present although I have already spent 8 weeks here and asked for medical care the very next day after I arrived.

I was not provided with the prescribed medical examination, I was not given any medical advice with regard to my illness, I didn't get an appointment with a surgeon and no dietary plan was prescribed or even considered.

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Participation in Court Hearings

Throughout my stay in BP I have been taken to court 4 times to participate in court hearings and every such journey takes place in a harsh and humiliating manner similar to torture.

I am informed about such journeys late at night, sometimes after midnight, right before the day of hearing. I am never informed about the subject of the hearing or issues to be considered; I usually become aware of these issues only when I am transferred to court. Under these circumstances, it is evidently not possible to efficiently prepare for a court hearing.

I have to leave my cell at 7:00 – 7.30, i.e. before breakfast. Then I am held in one of the prison boxes until 9:00 – 10:00, following that I am taken to court. Prisoners are transported in vehicles which have compartments that are 3.2 m long, 1.2 m wide and 1.5 high. The guards say that these compartments

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are intended for transporting 15 people; however, 17-18 people can be held there which means that some of them have to stand bending in an uncomfortable pose during the transfer. A drive from the prison to court usually takes about an hour, but once I had to spend one hour in the morning and 4.5 hours in the evening in such a vehicle as it did not head directly to the prison after leaving the court but first collected prisoners from other courts.

When prisoners are taken to court they are given instant lunches; however, it is not possible to prepare them as in court we are not provided with the boiling water required to cook instant soups or cereals which make up the lunch. Court guards explain it by the fact that they have no kettle; however I have seen a kettle in their office.

On August 13, 2009 I filed a complaint addressed to the Chairman of the Tverskoy District Court for the city of Moscow specifying that the prisoners are not provided with boiling water. This complaint went unanswered; on September 14, 2009 I was not provided with boiling water in court again.

The vehicle containing prisoners usually returns to prison at 19:00-19.30 p.m., but

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usually they don't let us out of the vehicles until 20:00 because they claim to be getting documents ready.

Arriving prisoners are not taken to their cells immediately and are instead held in a prison box for 3-3.5 hours. Not once have I been returned to my cell earlier than 23:00.

This prison box is 20-22 m², it has no windows or ventilation and may hold up to 70 people at the same time and this means that there is neither any room to sit or even to stand. Many of the prisoners smoke in the prison box and this makes it very difficult to breathe. There are toilets in these types of cells, but in most cases they aren't screened off from the rest of the cell and therefore they aren't used very often. In some cells there are taps and water supply but this water can't be drunk unless you boil it.

Since prisoners are returned to their cells late at night after being at court, on that day they are not served a hot dinner. As a result of this, the time in between hot meals can be up to 38 hours (from 18:00 the day before the visit to court when a prisoner receives a hot meal to 8:00 when breakfast is served on the day after the visit to court).

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If a court hearing goes on for several days in a row then this interval between hot meals increases.

On September 14, 2009, during a court hearing I pointed this out to Judge Krivoruchko and asked to be provided with a hot meal before the start of the court hearing, but the Judge rejected this and stated that this is not the responsibility of the court.

Considering the abovementioned, the people being judged are hungry and tired and have been exhausted by confinement in prison boxes and the journey in the vehicles. This is especially damaging to those that have to take part in court hearings that last for several days in a row. Of course, to defend yourself effectively in court under such conditions is impossible. I have heard from many prisoners that they would rather agree to not take part in court hearings than suffer on the days when they are transported to court.

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Sanitary and Hygienic Conditions in Confinement

Hot Water

The cells in BP are equipped with a hot water supply, however, hot water does not reach the cells because the hot water taps are cut off. Yet I am certain that there is hot water in the pipes: for more than a month I have been held in cell No. 267, which is next to a shower that is supplied with hot water. In accordance with the IR, if a cell has no hot water then the administration shall bring hot water for washing and boiling water for drinking daily, but in BP they give you neither hot water nor boiling water.

When I arrived at BP my water heater was removed from me and placed in the storage for personal items, but in cell No. 267 (where I was placed) did not contain a water heater or an electric kettle. There were no water heating devices at all. I immediately wrote a written request to have my water heater removed from storage and given to me. In addition to this I asked to be provided with boiling water to be able to make tea.

They refused to give me any boiling water and I only received my water heater after a week. As a result I couldn't make tea or any other hot drinks for 6 days (at BP you aren't given hot drinks) and couldn't even access boiling water and obviously this had a bad affect on my health due to the digestive system diseases which I suffer from.

I could have got boiling water from the prisoners in other cells but only at night, however, at night the electricity supply to the sockets in the cells is cut off by the administration and therefore I couldn't take advantage of that opportunity.

On August 13, 2009 I filed a written complaint about the electricity supply to the sockets being cut off at night but I didn't receive any kind of reply to this. I also repeatedly asked the warders to not switch off the electricity supply at night, but they continued to turn it off anyway. As I understand, this is done so that at night prisoners are not able to watch television, but in all the cells I have been held in there were no televisions.

On August 26, 2009 when the representatives of the BP administration were inspecting the cells I complained about the electricity being switched off at night and pointed out the sometimes at night I have to take medicine and I have to take it with tea. In reply to this, the head of the Medical Section said: "At night you have to sleep."

I tried to discuss the lack of hot water and the failure to provide us with water for washing and boiling water for drinking with the representatives of the BP administration again on August 31, 2009. Their reply was as follows "We don't have to do anything for you. You shower once a week and that is enough. Supplying hot water to the cells is a violation; if you need hot water then you've got a kettle. Make use of it."

Here it is necessary to state that all the cells in MT that I was held in and also in Detention Facility Five (Detention Centre-77/5 Federal State-Financed Organisation of the Department of the Federal Penitentiary Service of Russia for Moscow, where I was held from December 2008 until April 2009) were supplied with hot water.

When I told the representatives of the BP administration about this, the head of the Medical Section said that by supplying hot water to the cells Detention Facility Five had violated effective regulations and that I could send a complaint to Detention Facility Five about that.

Instead of doing that, on the same day (August 31, 2009) I wrote a complaint (and filed it on September 1, 2009) about the fact that at BP cells are not supplied with hot water. This complaint was addressed to the higher authority - the Department of the Federal Penitentiary Service of Russia for Moscow.

The BP administration reacted to this immediately. On the same day that I filed the complaint (September 1, 2009) I was transferred to cell No. 59 where conditions were considerably worse than in any of the previous cells.

With regard to my complaint, I can not be sure that BP even sent it to the addressee. Usually, one or two days after either an application or a complaint has been filed, the prison administration informs prisoners that the application or complaint has been sent and tells them the date and reference number for its dispatch. I didn't receive any information about the abovementioned complaint even though when I filed the complaint I made a special request for such information. On September 14, 2009, I filed a complaint about the fact that the dispatch of my complaint dd. August 31, 2009 to its addressee had not been confirmed and I requested to be informed about the reference number and date of dispatch. I still have not received this information.

Size of cells

Judging by the number of beds in the BP cells where I was held, all these cells were built on the basis of 1.7-2.7 m² per prisoner which is significantly less than the area stipulated by the sanitary standard in accordance with the Russian law which equals 4 m² per person, let alone the standard of 7 m² per person recommended by The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

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While I was held in cell No. 267 together with only one person for the most part, i.e. we had 5.4 m² of the cell area each, on September 1, 2009, immediately after I filed a complaint about BP to a higher authority, I was transferred to cell No. 59, where each prisoner had 2.05 m².

Currently I am being held in cell No. 61 with 2 more persons and each of us has 2.73 m², but there is one unoccupied bed in the cell, where one more person was placed although only for a day. The warders say that somebody else might be placed with us.

Facilities in the Cells

Toilet – the toilet in every cell in BP that I have been kept in has simply been a hole in the floor in a corner of the cell, above which there is a brick elevation that holds a lavatory pan.

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These lavatory pans are so dirty that is awful simply to look at them (toilet brushes are not sold in the BP shop and they can only be obtained from relatives under special permission from the head of BP). We were able to clean the lavatory pan in cell No. 267, but in all the other cells it was impossible.

In cell No. 267 water gushed from the lavatory pan so strongly that after using the toilet you had to wash your feet, but the toilet was separated from the rest of the cell by a 1.5-1.7 m high dividing wall. In other cells there were no dividing walls. In order to use a toilet without exposing yourself to the other prisoners you had to use the bed sheets that we were provided with. Of course, it was impossible to use them as bed sheets afterwards.

In order to stop the toilet from stinking, once we made a plug out of a plastic cup containing kasha and used it to block the hole.

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The next morning it turned out that a hole had been bitten in the cup that was as big as an average sized apple and the kasha had been eaten by rats which evidently run freely along the sewerage system. It's surprising that they don't crawl into the cells via the system, although several times I have seen rats running along the corridors and at night you can hear them squeaking.

In cells No. 59 and 61 the prisoners' beds are not placed more than 1 metre away from the toilet. In other cells some beds are further away.

In cells No. 59 and 61, the only sockets are located directly above the toilet. Therefore one has to boil water by holding the kettle above the lavatory pan, and in order to heat up water to be used for washing in a bucket, one has to place the bucket directly on the elevation that holds the lavatory pan, since there no other place can be reached due to the length of the water heater's cord.

The table – the IR specifies that a cell should be equipped with a table and benches with

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the number of seats corresponding to the amount of individuals being held in the cell. If in cell No. 267 the table and bench were big enough to seat two people, then in cell No. 35 there was no bench at all and the table was only big enough for 2 people sitting on beds (this is a cell that is intended for 6 people), and in cell No. 61 the table is 42.5 by 82 cm, the bench is 82 cm (the same sort of table and bench were also in cell No. 59, both are intended for 4 people). At such tables there is only room for one person and therefore one often has to eat standing up or sitting on a bed. Prisoners also have to write while sitting on a bed because the table is often occupied; it means that they have no sufficient opportunities to prepare their defence.

Television and refrigerator. All the cells in which I have been held in Detention Facility Five and in MT had televisions and refrigerators. Not one of the cells that I was held in BP had televisions or refrigerators.

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The IR stipulate that the cells should contain these items "if possible". A few of the prisoners in neighbouring cells managed to acquire these items and they told me that in the storage facilities there are many televisions and refrigerators.

I filed many written requests to be provided with a television and fridge, but I did not receive an answer to any of them. I made similar spoken requests to representatives of the administration, but I just received the answer "that is not possible", and that if I want such items then I should get my relatives to give them to me.

On August 19, 2009 I filed a written request for permission to receive a television and a fridge from my relatives. I did not receive any answer to this request.

Around September 3, 2009 my mother was personally received by the head of Butyrskaya Prison and asked for permission to give me a television and a fridge but was given a refusal.

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He said that if I write a request I will be provided with a television and a refrigerator from the storage facilities. I filed a request about this on September 4, 2009, September 10, 2009 and September 11, 2009 but I did not receive a single reply to any of them. Condition of facilities and repair. – In many of the cells the facilities need to be repaired or are missing.

In cell No. 267 the tap is broken. On August 4, 2009 I filed a written application about getting it repaired, but I did not receive a reply.

In cell No. 59 on the evening of September 8, 2009 sewerage started to rise in the lavatory pan. It did not overflow onto the floor, but I know out that the neighbouring cell, No. 60 was flooded. On the same evening we were transferred to cell No. 35. In cell No. 35 there was no glass in the windows and the walls were damp. At first we didn't pay any attention to this, but the next day the reason for the damp became clear.

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At about midday, in the cell, sewerage started to rise from the drain under the sink, and half of the cell floor was flooded straight away. We asked for a plumber to be called, but he only arrived at 22:00 and could not repair the fault. We requested to be transferred to a different cell but were told that we had to stay put until the next morning. On the morning of the following day the plumber did not arrive and by the evening the whole floor was covered in a layer of sewerage. It was impossible to walk on the floor and we were forced to move around the cell by climbing on the beds like monkeys. The plumber only arrived at 22:00, spent a lot of time messing around but wasn't able to fix anything. The plumber and the warder that brought him to the cell were shocked by the conditions that we were being kept in. We asked to be transferred to another cell but the warder was not able to do this without permission from some head. Permission was only obtained at 23:00 and we were transferred to cell No. 61, that is, 35 hours after cell No. 35 was flooded with sewerage. In cell No. 35 there was no glass in the windows.

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On September 9, 2009 we filed complaints about this but did not receive a reply. In cell No. 61 there weren't even any window frames. On September 11, 2009 I filed an application in which requested for window frames to be installed. Due to the cold I had to sleep in my clothes, covered in a blanket and a coat, yet they didn't install any window frames. On September 18, 2009 we filed a complaint that due to the lack of window frames, which led to low temperatures we contracted colds and only on September 19, 2009 window frames were installed. However it turned out that windows panes that they installed were only single- and not double-glazed. We can live with it in September weather, but when the cold season arrives these windows will not protect us from frost.

Sanitary Treatment. – On arrival to BP I was not able to take a shower despite the fact that the IR stipulate that all individuals shall be allowed to shower upon arrival to the detention centre. On July 26, 2009 I filed a request to take a shower, but I did not receive any reply. I only managed to shower on the following Tuesday (you are only allowed to shower once a week according to the schedule which specifies that on Tuesday, prisoners in cell No. 267 are taken to the shower).

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On Tuesday (August 18, 2009) I was assigned a court hearing and so on the morning of August 17, 2009, with the knowledge that I would not be able to shower the next day, I requested to be taken to the shower on that day (August 17, 2009). This was met with the answer "You can only shower according to the schedule. That's too bad. Wait until next week." After that I wrote a complaint on the refusal to take me to the shower; I was allowed to shower, but on August 19, 2009 instead of August 17, 2009. Here I must state that the shower is located no more than 5 metres away from cell No. 267 where I was being held at the time.

On September 10, 2009 at around 11:00 I was led from my cell and transferred to a prison box and was told that either I would be taken to court or to the investigator. I spent all day in that prison box without food or access to drinking water and on that day I wasn't actually taken anywhere. I was only returned to my cell at 19:30 and therefore on that day I had to go without lunch, dinner and more importantly, I missed the weekly shower (this took place on a Thursday; prisoners from Cells Nos. 53, 61 and 35 are allowed to shower on Thursday).

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On September 11, 2009 I filed a request to take a shower because the day before I had missed the chance to take a shower. However, I didn't receive a reply to that request and therefore I wait another week to take a shower (in accordance with the schedule), and this meant I didn't have any sanitary treatment for 2 weeks. In such conditions where there is no supply of hot water in the cells and you simply can't take a shower if on the day that you are supposed to shower according to the schedule, you are taken to court or simply transferred to a prison box, it is extremely difficult to follow hygiene requirements. There are even difficulties when it comes to cutting one's nails. According to the IR, prisoners shall be given knives and nail scissors for temporary use. Sometimes it takes several days to acquire such items. When you finally receive them they are so blunt that the

warders themselves admit that it's difficult to cut paper with them, let alone nails. On July 29, 2009 I filed a request for permission to receive nail clippers from my relatives (I had nail clippers in Detention Facility Five and in MT).

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However my request was verbally rejected on August 26, 2009, that is a month after I filed this request.

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Isolation from Society and my Family

In BP I have been subject to stricter isolation from society and communication with my family was more limited than when I was in Detention Facility Five and in MT. This is also contrary to what is permitted by the law and the IR.

The law states that prisoners shall be entitled to correspond with their relatives and other individuals without any restrictions. The IR state that the representatives of the administration shall collect letters from the prisoners every day and the letters shall then be checked and sent to their addressees within 3 days. Instead of this, prisoners are told to put their letters on special boxes during walks and it is supposed that the administration will regularly collect these letters and send them. The last letter which I intended to send was placed on one of these boxes on September 9, 2009, yet on September 15, 2009 it was still lying on the same box and due to this my letters are only received after significant delays or are not received at all.

30

The letters that are sent to me are also only received after significant delays. I received my first letter at BP on August 10, 2009, yet it was sent to me via the same post office that serves BP on July 30, 2009. A letter that was sent to me from a different city reached the BP post office after 4 days - from August 10, 2009 to August 14, 2009 it traveled more than one and a half thousand kilometres, yet I only received it on September 8, 2009, that is, in the prison it took 25 days to get to me. However, the IR specify that the administration shall hand over letters no later than three days after they arrive.

This limitation in the opportunity to communicate with my family, even if only by letters has made life particularly difficult for me, especially considering that for the 10 months I have been under arrest, the investigator has not let me meet with my wife, mother or any other relatives even though I repeatedly filed applications which requested such meetings.

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Isolation from the outside world exceeds all reasonable limits - it is basically impossible to regularly receive information about the events which are going on in the world, as

- Not one of the cells in which I was held was equipped with a radio (the IR states that every cell shall be equipped with a radio). My repeated requests to install a radio were ignored.
- Despite my repeated requests to install a television in the cell or for permission to receive a television from my relatives, I was unable to obtain one.
- Once every three or four weeks the administration of BP give us newspapers and magazines to read, however, the majority of them are from a few months or even a few year ago. A newspaper from 2006 doesn't surprise anyone. The only thing that is surprising is that they manage to find such old magazines and newspapers.

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- My wife subscribed to a few newspapers in September on my behalf. In MT I was subscribed to these newspapers and I usually received them on the day that they were published. In BP, the first time I received newspapers was on September 18, 2009, that is, 18 days after the beginning of the subscription period, furthermore, I received less than half of the copies published up to September 15, 2009. It seems that the rest had simply been lost.

33

Opportunities for Defence

The opportunities for defending my interests, including defending against criminal proceedings being carried out against me are extremely limited.

- In most cases, filing complaints about the conditions of confinement does not lead to any change whatsoever. It gives the impression that the majority of complaints and requests addressed to the administration of Butyrskaya Prison are simply ignored, and after filing such complaints the conditions of my confinement worsened very significantly.
- The act of writing complaints is often a problem because the table in the cells is very small. Sometimes it is impossible to place all the necessary material on it which is needed to write a document and often the table itself is occupied and so I have to write while sitting on a bed.

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- The BP library does not contain any regulatory materials (it doesn't even have the text of the Criminal Code or the Code of Criminal Procedure), and the administration will not let me obtain such from my relatives. However, I understand that this is a problem for the majority of detention facilities in Russia: the administration of Detention Facility Five did not allow my wife to give me the text of the Constitution.

- Every time, complaints made about the actions of the investigator or the prison administration in court mean either subjecting yourself to the harsh treatment linked with the journey to court or the need to refuse to participate in a court hearing.

- Even the opportunity to meet with my lawyers is limited. Due to massive lines, they have not once been able to meet with me any earlier than 15:00 and usually we are only able to meet at 16:30.

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- In addition to this, at 17:30 the employees of BP start to demand that the meeting should finish because by 18:00 all the meeting rooms have to be empty. Because of this I am often not able to discuss everything that I want to with my lawyers during the meetings and several times it has been impossible to hold meetings at all since my lawyer had to wait all day yet a meeting room did not become available or the employees of BP did not find time to take me from my cell and accompany me to the building where meetings are held. This also leads to an unjustified increase in the amount that has to be paid to the lawyers as they have wasted their time, but as this is not their fault they have to be paid, and this isn't exactly cheap.

- In order to prepare and carry out my defence I often have to make copies of several documents. In MT I was able to make such copies in a day.

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- In BP, on August 10, 2009 I filed a request to make a copy of one of the minutes from court hearings that I own. The minutes and the request were taken from me and I haven't seen them since. On September 1, 2009 I filed a request to make a copy of the answer of the Prosecutor General's Office to one of my complaints. This answer was announced to me but I was not provided with it, and as I understand, it is being stored in my file by the Butyrskaya Prison administration. I have still not received a reply to my request and I have not been given a copy of the answer of the Prosecutor General's Office.

- Significant delays that I encounter when sending and receiving letters also considerably impact the ability to prepare my defence.

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Applications Which I Have Sent in Butyrskaya Prison

During my time at BP, I have sent many applications addressed to the administration of BP. The majority of these applications have been ignored and I received no answers to them. Some applications have been rejected. Part of the applications has been either fully or partially satisfied.

Below is a list of applications and complaints that I did not receive a reply to, received a notice of rejection, or they were only partially satisfied or satisfied in full but after a significant delay. I have written brief commentaries where necessary.

38

• On the opportunity to take a shower	July 26, 2009 August 17, 2009 September 11, 2009
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Note: the complaint dd. August 17, 2009 was addressed on August 19, 2009, the other requests and complaints (including those listed below) were not answered or were not addressed unless otherwise specified.

• On acquiring a water heater from the storage facilities	July 26, 2009 July 30, 2009 July 31, 2009
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A water heater was on received on

• On acquiring books and other personal items from the storage facilities	August 4, 2009 September 2, 2009 September 18, 2009
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• On seeing a doctor and the head of Butyrskaya Prison about issues connected with my treatment	July 26, 2009 August 9, 2009 August 11, 2009 August 25, 2009
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• On permission to receive medication from my relatives	August 14, 2009
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Note: I did not receive an answer to this.
I was given the medication on September 4, 2009

• On receiving a television and a refrigerator from the BP administration and on permission to receive them from my relatives	August 4, 2009 August 19, 2009
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September 2, 2009
September 4, 2009
September 10, 2009
September 11, 2009

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- On making copies of documents
August 10, 2009
September 1, 2009
- On issuing items that are specified by the IR (radio, board games, basins), on hot water supply, repair of cell facilities and installation of windows
July 29, 2009
August 4, 2009
August 5, 2009
August 13, 2009
September 2, 2009
September 10, 2009
September 11, 2009
- On provision of equipment to clean the cell
July 26, 2009
July 31, 2009
August 21, 2009

Note: For the request dd. August 26, 2009 we were only given a broom, a bucket for rubbish and a mop. The request to be provided with a dustpan, a toilet brush and bags for the bin was rejected. Later it was explained to us that these items can be provided by our relatives by way of a special permission from the head of Butyrskaya Prison or his deputies.

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- Other applications and complaints
 - On providing me with a list of paid services rendered by BP
July 26, 2009
 - On permission to receive nail clippers from my relatives
July 29, 2009
 - On delivering the Code of Criminal Procedure from a library
July 29, 2009
 - Complaint about the refusal to be given fruit by my relatives
August 21, 2009
 - Complaint about the untimely submission of a writ of appeal to court
September 3, 2009
 - Complaint about the sewerage system breakage
September 10, 2009
 - Complaint about being held in a prison box in the daytime (on September 10, 2009)
September 11, 2009
 - Complaint about the failure to send complaints about the administration of BP to the higher authority (Department of the Federal Penitentiary Service)
September 14, 2009
 - Complaint about the untimely dispatch and delivery of correspondence
September 14, 2009
 - Complaint about the refusal to provide a knife and nail scissors
September 14, 2009

Note: With regard to the complaint dd. August 21, 2009, the head of BP informed my mother that he allows fruit to be given to prisoners. The complaint dd. September 10, 2009 was addressed 12 hours after it was filed, yet it should have been addressed immediately due to the urgency of the situation

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Below is a list of applications and complaints which were addressed.

- On replacing broken spoons and mugs and a torn blanket
July 26, 2009
- On informing about the dispatch of appeals and applications to the investigator and the court.
August 5, 2009
August 11, 2009
August 11, 2009
August 13, 2009
August 20, 2009
August 21, 2009
- On permission to receive a hair clippers from my relatives.
September 3, 2009
- On installing window panes and window frames
September 9, 2009
September 11, 2009
September 18, 2009

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Cochairman McGOVERN. Ms. Lokshina.

STATEMENT OF TANYA LOKSHINA, DEPUTY DIRECTOR HUMAN RIGHTS WATCH, MOSCOW OFFICE

Ms. LOKSHINA. Thank you, Mr. Chairman. The Commission's hearing has come at a very important moment where the international scrutiny can play a crucial role in preventing a full-blown crisis in the volatile region of the North Caucasus.

The Islamist insurgency in Chechnya, Ingushetia and Dagestan appears to be on the rise. In countering it, Russian law enforcement and security agencies continue to commit grave violations of fundamental human rights, such as torture, enforced disappearances and extrajudicial executions. Human Rights Watch has not found any evidence to indicate that the government has taken any steps to prevent these violations from occurring or to hold their perpetrators accountable.

The use of unlawful and violent counterinsurgency methods coupled with rampant impunity for human rights abuses antagonize the population of these republics and results, in fact, in widening the gap between the public and the government.

Meanwhile, the security situation in the region is also deteriorating. Insurgent attacks are perpetrated with increasing frequency, and in March of this year, for the first time since 2004, a major attack was perpetrated in Moscow by two female suicide bombers from Dagestan, allegedly on the orders of Dokku Umarov, the commander of the insurgent network in the North Caucasus. The two explosions in the Moscow Metro occurred during the morning rush hour on March 29th, killing 40 people and wounding dozens. While this heinous crime cannot have any justification whatsoever, the very fact that terror returned to Moscow raises very serious questions about Russia's North Caucasus policy.

In Chechnya, security forces continue to legally illegally detain and torture individuals, and impunity for abusers is next to absolute. The failure to implement fully the judgments of the European Court of Human Rights on Chechen complaints contributes to the persistent climate of impunity.

I would like to emphasize in this respect that to date the European Court of Human Rights issued 137 judgments on Chechen cases, and those cases are all about torture, unlawful detentions, disappearances and extrajudicial hearings. The existing judgments pertain to the abuses that were perpetrated during the early stages of the war by the Federal forces. However, the fact that Russia simply chooses the easy way out, pays the monetary compensation, as Mr. Goble here has already indicated, but does not implement the core of the judgments, does not change its law enforcement practice, does not do anything to stop such abuses from happening in the future, all that encourages law enforcement and security agencies under de facto control of President Kadyrov to perpetrate similar abuses, and they are convinced that they are not going to be held accountable. New complaints from Chechnya are lodged with the European Court of Human Rights, increasing its already staggering backlog of cases.

Human Rights Watch has documented the Chechen authorities' collective

punishment practices against people with suspected rebel ties. In particular, between July 2008 and July 2009, we were able to document 30 cases of punitive house burnings, where relatives of alleged insurgents were targeted by law enforcement and security agencies and had their houses torched in order to pressure them into convincing the alleged rebels they were related to to surrender.

Such pressure is not only about punitive house burnings, but also about abduction-style detentions and torture. The Chechen Government has adopted an open policy of collective punishment. In the past 3 years, high-level Chechen officials, including President Kadyrov himself, have been systematically making public statements, including on Chechen television, stressing that insurgent families are responsible for what the insurgents do, and unless they are able to force those insurgents to surrender, they would have to pay a heavy price. In doing so, those officials openly undermined Russian law. Such statements, while falling short of directly instructing law enforcement and security agencies to destroy houses of insurgent families, encourage lawless and punitive actions by police and security personnel. In one striking example of such lawlessness and impunity documented by Human Rights Watch, on July 7, 2009, Chechen law enforcement agencies carried out an extrajudicial execution of a man who they accused of giving a sheep to the rebels.

In addition, the number of abductions in Chechnya more than doubled in 2009 if compared with the previous year.

The situation keeps deteriorating. During our most recent field mission to the region in February of this year, we documented four cases of enforced disappearances perpetrated by Chechen security agencies in the second half of 2009. In three of those cases, there are very strong allegations of involvement of high-level Chechen officials. One of the disappeared, Zarema Gaisanova, a local staff member of the Danish Refugee Council, was taken away by law enforcement officials during a special operation conducted in the city of Grozny in October last year, and according to the Chechen Ministry of Internal Affairs, that operation was personally led by President Kadyrov.

In Ingushetia, the human rights situation has significantly worsened since the summer of 2007, which saw a rise of insurgent attacks on public officials, security and law enforcement personnel, and civilians. The Russian Government's response to the attacks, however, violated Russian and international law. The counterinsurgency practices, widespread in Ingushetia, involve extrajudicial executions, abduction-style detentions, cruel and degrading treatment.

President Evkurov is trying to close the gap between the public and the government. He is really trying to do something to stamp out these lawless practices, but it appears he has no capacity to control the security services. Therefore, the human rights situation is not improving, and these systematic human rights abuses antagonize the public and play into the hands of the insurgents by further destabilizing the situation in the Republic.

In the neighboring Dagestan, the number of abductions and extrajudicial executions and disappearances in connection with counterinsurgency operations has been on the rise since 2009. Often the targets of this operations are Salafis, individuals who are strictly observant Muslims.

The year 2010 saw new insurgency attacks and new abductions in Dagestan. The appointment of the new President of the Republic Magomedshamil Magomedov this past winter so far has not had an impact on the human rights and security situation on the ground. On March 31st of this year, 2 days after the suicide bombing in Moscow, another 2 explosions took the lives of 11 people and had dozens wounded in the Dagestani town of Kizlyar.

Those who speak up against lawlessness, human rights abuses and impunity in the North Caucasus are subjected to pressure, receive threats, and even fall victim of attacks and killing. The year 2009 was particularly tragic for Russia's human rights community when four activists working in the North Caucasus were killed. I am talking in particular about Natalya Estemirova from Memorial, a very close friend and colleague; two other Chechen activists, Zarema Sadulayeva and Alik Dzhabrailov from a charity NGO, Save the Generation; and a civic activist and leader of local political opposition in Ingushetia, Maksharip Aushev.

This situation is indeed intolerable, and for Russia's civil society, 2009 was mainly about funerals, funerals of friends and colleagues.

On January 23rd of this year, Prime Minister Putin urged authorities in the North Caucasus to "do everything to support the normal work and daily activities of rights-defending organizations in the region." Now, this is an unprecedented and welcome statement, which reflects consolidated pressure by Russia's international partners in the wake of the killings that I have been just talking about. Unfortunately, this statement itself has not yielded tangible results so far.

In February and March of this year, rights activists in Dagestan, particularly the Mothers of Dagestan for Human Rights organization, continued to receive threats. Also in Chechnya, on February 7, 2010, three members of the Joint Mobile Group of Russian Nongovernmental Organizations, which is a coalition effort established after the killing of Estemirova to fight impunity in Chechnya, were unlawfully detained by police in the town of Shali, held in custody overnight, interrogated, had their property confiscated, and so on and so forth. In the end they were released; however, the unlawful actions of law enforcement officials have not been punished in any way. I would also like to emphasize that their detention was organized by the head of Shali police, Magomed Daudov, who was later promoted to the position of Vice Premier for Law Enforcement and Security in Chechnya.

Soon after Prime Minister Putin's statement, Ramzan Kadyrov withdrew libel complaints he had previously filed against Memorial, Novaya Gazeta, and the Moscow Helsinki Group. However, apparently disregarding Putin's instructions regarding the need to ensure normal working conditions of human rights defenders, President Kadyrov and other high-level officials in Chechnya continued making threatening and inflammatory statements about their critics. A smear campaign launched by the government and displayed by the media against Memorial on the wake of Estemirova's killing is still ongoing.

Recent allegations by the Austrian Government about Kadyrov highlights the danger that this situation is indeed absolutely explosive. On April 27, 2010, the Austrian prosecutor's office announced that following a year-long investigation, the country's Federal counterterrorism agency concluded that the Chechen President ordered the kidnapping of a 27-year-old Chechen refugee in Austria. The report said

that the refugee, Umar Israilov, had been killed as a result of an alleged botched abduction attempt. In the year prior to his murder, Israilov stated publicly that he had been tortured by Kadyrov personally, and he named Kadyrov in a case that he brought before the European Court of Human Rights. Prior to the killing, Mr. Israilov also complained to Austrian law enforcement authorities about getting threats and being visited by Kadyrov's emissaries, who were trying to push him to withdraw his complaint from the European Court and to return to Chechnya, allegedly on Kadyrov's orders. On January 13, 2009, he was shot dead as he left a grocery store in Vienna.

We have a list of conclusions and recommendations for the United States Government that in our opinion could actually serve to improving this situation.

President Medvedev's strong rhetoric on the rule of law presents a window of opportunity for the United States to make impact on the human rights situation in the North Caucasus. The Government of the United States should work together with the European Union to develop a common and meaningful policy of human rights in Russia in order to alleviate the growing crisis in the North Caucasus region. Speaking one voice with the EU member states, the United States should call on the Russian Government to condemn unequivocally attacks on human rights defenders and journalists and investigate and prosecute those crimes to the fullest extent of the law.

Inform the international community on the status of the investigations into the murders of Stanislav Markelov, Natalya Estemirova, Zarema Sadulayeva and Alik Dzhabrailov, as well as attacks against nongovernmental organizations in the region.

Investigate potential official collusion in recent killings, attacks and threats against activists in the North Caucasus, and promptly investigate these crimes and hold perpetrators accountable.

Ensure effective protection and foster a favorable climate for human rights workers in the North Caucasus.

Closely examine evidence gathered by the Austrian Government which indicates the President of Chechnya, Ramzan Kadyrov, ordered the kidnapping of Umar Israilov; scrutinize Kadyrov's governance record; and cooperate with Austrian authorities seeking justice for Israilov's murder.

Ensure access to the region for U.N. special mechanisms, including the Working Group on Enforced and Involuntary Disappearances and the Special Rapporteurs on Torture.

Ensure meaningful accountability mechanisms to bring perpetrators of serious abuses to justice.

Ensure transparency regarding investigations.

In cases of arrest, ensure that all procedural guidelines are fully observed, and family members are provided with adequate information on the status and whereabouts of their arrested relatives.

Immediately stop the practice of extrajudicial executions, forced disappearances, abduction-style detentions and collective punishments, as well as other abuses perpetrated by security services, military and law enforcement agencies.

Put an end to the impunity in the region.

I would like to refer you to my full written testimony, which would provide

you with more details on the situation in the Northern Caucasus.

Thank you.

Cochairman McGOVERN. Thank you.

[The statement of Ms. Lokshina follows:]

PREPARED STATEMENT OF TANYA LOKSHINA



Human Rights in Russia Hearing May 6, 2010

North Caucasus Panel

Testimony by Tanya Lokshina, Human Rights Watch Russia Office

Thank you for giving me the opportunity to take part in this hearing on Russia. Human Rights Watch is pleased to submit our main findings and recommendations on the human rights situation in the North Caucasus of the Russian Federation. The Commission's hearing has come at a very important moment, when international scrutiny can play a crucial role in preventing a full blown crisis in this volatile region.

The Islamist insurgency in Chechnya, Ingushetia, and Dagestan appears to be on the rise. In countering it, Russian law enforcement and security agencies continue to commit grave violations of fundamental human rights such as torture, enforced disappearances, and extrajudicial killings. Human Rights Watch has not found any evidence to indicate that the government is taking any steps to prevent these violations from occurring or to hold their perpetrators accountable when they do.

The use of unlawful and violent counter-insurgency methods coupled with rampant impunity for human rights abuses antagonizes the population of these republics and results in widening the gap between the public and the government. Meanwhile, the security situation in the region is also deteriorating. Insurgent attacks are perpetrated with increasing frequency, and in March this year, for the first time since 2004, a major attack was perpetrated in Moscow by two female suicide bombers from Dagestan allegedly on the orders of Dokku Umarov, the commander of the insurgent network in the North Caucasus. The two explosions in the Moscow metro occurred during the morning rush hour on March 29, killing 40 people and wounding dozens. Whilst this heinous crime cannot have any justification, the very fact that terror returned to Moscow raises serious questions about Russia's North Caucasus policy.

Chechnya

In Chechnya, security forces continue to illegally detain and torture individuals, and impunity for abuses is rampant. The failure to implement fully the judgments of the European Court of Human Rights on abuses in Chechnya contributes to this persistent climate of impunity.

To date, the European Court of Human Rights has issued 137 judgments on Chechen cases holding Russia responsible for violating the right to life, the ban on torture, and its other fundamental obligations under the European Convention on Human Rights. The existing judgments pertain to the abuses perpetrated by federal servicemen in the early years of the second Chechen war. The Russian Government pays out monetary compensations to the victims, as required by the Court, but fails to hold the actual perpetrators accountable even in those cases where their identity is known, and does not take any measures to prevent similar abuses from re-occurring. As a consequence today, law enforcement and security agencies under President Ramzan Kadyrov's de facto control receive the message that they will not be held accountable for human rights violations they commit. New complaints from Chechnya are lodged with the European Court, increasing its already staggering backlog of cases.

Human Rights Watch has documented the Chechen authorities' use of collective punishment practices against people with suspected rebel ties. Families of active or alleged insurgents are singled out, including in particular as targets for punitive "house-burnings." Human Rights Watch is aware of 30 cases between July 2008 and July 2009 in which houses belonging to particular families have been deliberately targeted and burned apparently by Chechen law-enforcement officers. All the families in question have alleged insurgents, usually sons or nephews, among their close relations. Prior to the actual house-burning, they all came under strong pressure from law enforcement and administration officials to compel their relatives to surrender and were threatened with severe repercussions for failure to do so. No one has been held responsible for any of the house burnings. From mid-summer 2009 to date, Human Rights Watch continued to receive reports of punitive house burnings in Chechnya, with the most recent incident occurring in the town of Shali on March 16, 2010. House burnings represent only one of the punitive measures used against relatives of alleged insurgents.

Chechen security services also use abduction-style detentions. For example, as reported by Memorial Human Rights Center (Memorial), on April 12 this year, Khizir Chichkanov (born 1963) was thrown into a car by unknown servicemen in the town of Sernovodsk. Chichkanov's kidnappers put a bag over his head and drove him to a forest where prior to releasing him they interrogated him for several hours asking questions about his son, an alleged rebel fighter. They demanded that he make his son surrender and threatened him with severe repercussions if he failed to do so.

The Chechen government has adopted an open policy of collective punishment. In the past three years high-level Chechen officials, including the president, Ramzan Kadyrov, have been systematically making public statements, including on Chechen television, stressing that insurgents' families should expect to be punished unless they convince their relatives to surrender. In doing so, the officials openly undermined Russian law. Such statements, while falling short of direct instructions to law-enforcement to destroy houses of insurgents' families, encourage lawless punitive actions by police and security personnel. In one striking example of such lawlessness and impunity documented by Human Rights Watch, on July 7, 2009, local law enforcement carried out the extrajudicial execution of a man they had accused of giving a sheep to rebels.

In addition, the number of abductions in Chechnya more than doubled in 2009 compared with the previous year. According to Memorial, 90 people were abducted in Chechnya by law enforcement and security agencies; of these 18 have disappeared (in 2008, Memorial reported 42 abductions and 12 disappearances). Those who were released, sometimes for ransom, refer to being tortured in *incommunicado* detention but dare not make formal complaints for well justified fear for repercussions.

During a field mission in Chechnya in February this year, Human Rights Watch documented four cases of enforced disappearances perpetrated by Chechen security agencies in the second half of 2009. In three of these cases there are strong allegations of involvement of high-level Chechen officials. One of the disappeared, Zarema Gaisanova, a local staff member of the Danish Refugee Council, was taken away by law enforcement servicemen during a special operation in Grozny in October 2009, which according to the Chechen Ministry of Internal Affairs' website was led personally by Ramzan Kadyrov.

Ingushetia

In Ingushetia, the human rights and security situation has significantly worsened since the summer of 2007, which saw a rise of insurgent attacks on public officials, security and law-enforcement personnel, and civilians. The Russian government's response to these attacks, however, has violated Russian and international law. The counterinsurgency practices wide-spread in Ingushetia involve extra-judicial executions, unlawful, abduction-style detentions, and torture and cruel or inhuman treatment.

Yunus-Bek Evkurov, appointed president of Ingushetia in the autumn of 2008, appeared to be open to a discussion about the human rights situation in the republic. He held numerous meetings with local human rights defenders, protestors against human rights abuses, and relatives of the disappeared. He also created a human rights council to advise him on human rights and invited a number of prominent civic activists to join. In an April 2009 meeting with Human Rights Watch, Evkurov stressed his commitment to ensuring that counter-insurgency operations and measures are carried out in line with Russia's law and international human rights obligations.

In June 2009 Evkurov was the victim of an assassination attempt, and other insurgent attacks on police and civilians in summer 2009 have further destabilized the situation. Evkurov returned to office after several months of medical treatment and continues his attempts to end the insurgency while uphold the rule of law and eliminating corruption in the republic. Though his good will earned him significant support of Ingushetia's residents, Evkurov appears to be unable to stop abduction-style detentions and enforced disappearances by security forces. According to Memorial, 19 people were abducted in 2009, 13 of whom have "disappeared". Notably, while the number of abductions in 2009 was similar to what Memorial reported in 2008, the number of those who disappeared grew dramatically (according to Memorial, out of 22 people that were abducted in 2008: three disappeared but one was put in official custody and 18 were later released, most of whom reported that they have been held in *incommunicado* detention and ill treated).

Systemic human rights abuses antagonize the local population and play into the hands of the insurgents by serving to further destabilize the situation in the republic.

Dagestan

In Dagestan, the number of abductions, extra-judicial executions, and enforced disappearances in connection with counter-insurgency operations has been on the rise since 2009. Often the targets of these operations are Salafis, individuals who are strictly observant Muslims.

According to the Memorial, 18 people were abducted by law-enforcement and security agencies and six of them have disappeared. Human Rights Watch is aware of five extra-judicial executions in August 2009 of individuals the government presumes to be involved in the insurgency and five abductions in September 2009 alone. Among them was Nariman Mamedyarov, who in September 2008 was held by authorities in *incommunicado* detention, tortured, and later released. He was abducted again in September 2009; his body with gun-shot wounds was found two weeks after his abduction. Local authorities claimed that he was killed during an armed clash between law-enforcement servicemen and the insurgents. However, there has been no thorough investigation into the circumstances of the killing and official reports are not sufficiently substantiated to be convincing.

During the last week of 2009, Human Rights Watch documented the abduction and disappearance of Magomed Rashidov from the village of Gubden, which is known as home to a large community of strict Muslims. Rashidov was dragged from bed at night and thrown into a car by unknown armed personnel. His mother, Umukusum, tried to intervene with the kidnappers and was hit in the face. Rashidov's two sisters and his sister in law were also ill-treated by the servicemen, who stole some of the family's gold and jewelry. Though Magomed's father, Andurashid Rashidov, immediately informed the police authorities of his son's

abduction and described the perpetrators' vehicle, the family is not aware of any tangible efforts to stop the car. To date, Magomed Rashidov's fate and whereabouts remain unknown.

The year 2010 saw new insurgency attacks and new abductions in Dagestan. The appointment of the new president, Magomedshalam Magomedov, this past winter so far has not had an impact on the human rights and security situation on the ground. On March 31, two days after the suicide bombing attack in Moscow, another two explosions took the lives of 11 people and had dozens wounded in the Dagestani town of Kizlyar.

Attacks on Civil Society Activists and Outspoken Victims of Abuse

Those who speak up against lawlessness, human rights abuses and impunity in the North Caucasus are subjected to pressure, receive threats, and even fall victim of attacks and killings.

The year 2009 turned out an unprecedentedly tragic year for Russia's civic society as at least six activists and journalists, whose work was focused on the turbulent North Caucasus region, were brutally murdered. High-level Chechen officials have made threatening statements accusing human rights activists of supporting insurgents, which further underscores the danger to those working for justice in Chechnya, where human rights work has become lethal.

In summer 2009 alone, against the background of increasingly lawless and violent counter-insurgency operations in Chechnya, three local activists were abducted and killed. The shocking murder on July 15 of Natalia Estemirova, a leading human rights defender in the republic who documented abuses by Chechen law-enforcement and security agencies on behalf of Memorial, was followed by harassment and intimidation of several of Memorial's staff-members in Chechnya. Four of them had to be evacuated from the region due to evident danger to their physical security and safety of their families. Less than a month after the killing of Estemirova, on August 10, 2009, Zarema Sadulayeva and her husband, Alik Dzhabrailov, who worked for Save the Generation (an NGO that provides assistance to children affected by conflict in Chechnya), were abducted from their Grozny office and discovered murdered the next day. Local law enforcement and security personnel have been implicated in the abduction and murder of Sadulayeva and Dzhabrailov, and their involvement in Estemirova's murder cannot be excluded.

In Ingushetia, though President Yevkurov is open to contacts with civic activists and appears ready to discuss their concerns, political killings still represent a grave problem. On October 25, 2009, Ingush opposition activist and head of the independent news source Ingushetia.org, Maksharip Aushev, was shot and killed in Nalchik, the capital of the North Caucasus republic of Kabardino-Balkaria, when a passing vehicle sprayed his car with more than 60 bullets. The investigation into this crime is ongoing. Aushev was an outspoken critic of abuses committed by the government's security forces. Ingushetia.org's former owner Magomed Yevloyev was shot dead in August 2008, shortly after he was detained by police and placed in a police vehicle, and his family is still waiting for justice.

In Dagestan, human rights activists and independent journalists documenting and publicizing cases of extra-judicial executions, enforced disappearances and torture have been subjected to harassment and intimidation. For example, in August 2009, an arson attack burned the office of the independent organization the Mothers of Dagestan for Human Rights, a group formed in 2007 by mothers of young men believed to have been forcibly "disappeared." The group gathers information on abusive counterterrorism practices and provides legal support to victims of rights violations. The fire followed the shooting dead of Abdumalik Akhmedilov—a newspaper editor who had criticized law enforcement officials for suppressing political and religious dissent in their campaign against religious extremism—on August 11 in Makhachkala, the capital of Dagestan. Also, in September 2009, several local activists, journalists and lawyers, including two staff-members of Memorial, received leaflets with explicit death threats.

On January 23, 2010 Prime Minister Vladimir Putin urged authorities in the North Caucasus to "do everything to support the normal work and daily activities of rights-defending organizations" in the region. This is an unprecedented and welcome statement, which reflects consolidated pressure by Russia's international partners in the wake of the killings I have just described. Unfortunately, it has yielded few tangible results.

In February and March 2010, rights activists in Dagestan, particularly the Mothers of Dagestan for Human Rights continued receiving threats. Also, in Chechnya on February 7, 2010, three members of the Joint Mobile Group of Russian Non Governmental Organizations, a coalition effort established after the killing of Natalia Estemirova to fight impunity in Chechnya, were unlawfully detained by police when investigating a human rights violation case in Shali, a town in southern Chechnya. The activists were held in custody overnight and interrogated. The activists reported that the head of Shali police, Magomed Daudov, personally arranged the detention. While they were in custody, Shali police officers searched their car. A video-recording device was removed from the car, severely damaged, and returned to them in the morning with all information deleted from it. The police also seized the activists' dictaphone and deleted all their files from it. The activists filed a complaint on the unlawful detention and property damage with the prosecutor's office. To date, the official investigation into their allegations has not brought satisfactory results. Soon after the detention, Magomed Daudov was promoted to the position of vice-premier for law enforcement and security in Chechnya.

Soon after Prime Minister Putin's statement, Ramzan Kadyrov withdrew libel complaints he had previously filed against Memorial, *Novaya Gazeta*, and the Moscow Helsinki Group. However, apparently disregarding Prime Minister Putin's instruction regarding the need to ensure normal working conditions for human rights defenders, President Kadyrov and other high-level Chechen official continued making threatening and inflammatory statements about their critics. A smear campaign launched by government controlled Chechen media against Memorial on the wake of Estemirova's killing is still on-going.

In April 2010, Human Rights Watch's media monitoring found numerous examples of the Chechen leadership's open hostility toward the work of human rights activists who raise international awareness about human rights abuses in Chechnya. In his

televised meeting with several key local officials and also in a televised interview in early April, Ramzan Kadyrov said, for example, that “people spreading gossip—so-called provocateurs—have a death wish.” He also said,

“People like that are our nation’s enemies and they will be punished for each false word they have spread about Chechnya. They are worse than terrorists. I consider them even worse than those who have killed my close relatives. Being abroad should make them feel safe. I swear to you by the name of Allah that no matter their location and position each of them will be punished cruelly. I promise that.”

Kadyrov also ordered his staff to closely scrutinize the Internet and identify the names and whereabouts of all activists “spreading negative information” about Chechnya and his governance. These remarks were posted on April 3 on the official website of Kadyrov’s administration: www.chechnyatoday.com, though they were removed from the website the same day. Human Rights Watch has a downloaded version on file.

Recent allegations by the Austrian government about Kadyrov highlight the danger that these quotes convey. On April 27, 2010, the Austrian prosecutor’s office announced that, following a year-long investigation, the country’s federal counterterrorism agency concluded that the Chechen president ordered a kidnapping of a 27-year-old Chechen refugee in Austria. The report said that the refugee, Umar Israilov, had been killed as a result of an alleged botched abduction attempt. In the years prior to his murder, he had stated publicly that he had been tortured by Kadyrov and had named Kadyrov in a case he had brought before the European Court of Human Rights. According to *The New York Times*, in 2008 Israilov said that “an emissary from Mr. Kadyrov had arranged meetings with him and demanded that he drop his legal complaints and return to Chechnya. The man threatened Mr. Israilov’s family.” In January 2009, Israilov complained to Austrian police authorities that he was being followed by unknown individuals. Several days later, on January 13, he was shot dead as he left a grocery store in Vienna.

In August 2008, another alleged victim of torture in Chechnya, Mokhmadalakh Masaev, was abducted in Chechnya several weeks after the publication of an interview in which he described his torture and illegal detention in a secret prison allegedly run by Kadyrov in his home village. To date, Masaev’s fate and whereabouts remain unknown.

Conclusions and recommendations

President Medvedev’s strong rhetoric on the rule of law represents a window of opportunity for the US government to make impact on the human rights situation in the North Caucasus.

The government of the United States should work together with the European Union to develop a common, meaningful policy on human rights in Russia in order to alleviate the growing crisis in the North Caucasus region.

Speaking in one voice with the EU member states, the US should call on the Russian Government to:

- Condemn, unequivocally, attacks on human rights defenders and journalists, and investigate and prosecute those crimes to the fullest extent of the law;
- Inform the international community, including the EU, on the status of the investigations into the murders of Stanislav Markelov, Natalia Estemirova, Zarema Sadulayeva, and Alik Dzhabrailov and into attacks against NGOs in the region;
- Investigate potential official collusion in recent killings, attacks, and threats against activists in the North Caucasus, and promptly and effectively investigate these crimes and hold perpetrators accountable;
- Ensure effective protection of and foster a favorable climate for human rights workers, civic activists, lawyers, and independent reporters fighting abuses and impunity in the Northern Caucasus.
- Closely examine evidence gathered by the Austrian government which indicates the president of Chechnya, Ramzan Kadyrov, ordered the kidnapping of Umar Israilov, scrutinize Kadyrov’s governance record, and co-operate with Austrian authorities seeking justice for Israilov’s murder.
- Ensure access to the region for UN special mechanisms, including the Working Group on enforced and involuntary disappearances and the Special Rapporteurs on torture, on extrajudicial, summary and arbitrary executions, and on violence against women in full agreement with the requirements for conducting visits that these procedures’ terms or reference set forth;
- Ensure meaningful accountability mechanisms to bring perpetrators of serious abuses to justice and ensure transparency regarding investigations and/or prosecutions undertaken, including their outcome;
- In cases of arrest, ensure that all procedural guidelines are fully observed and family members are provided adequate information on the status and whereabouts of their arrested relatives;
- Immediately stop the practice of extra-judicial executions, enforced disappearances, abduction-style detentions, and other abuses perpetrated by security services, military, and law-enforcement agencies.

For more information, please see the following Human Rights Watch reports:

"What Your Children Do Will Touch Upon You"

<http://www.hrw.org/en/reports/2009/07/02/what-your-children-do-will-touch-upon-you>

"Who Will Tell Me What Happened to My Son?"

<http://www.hrw.org/en/reports/2009/09/28/who-will-tell-me-what-happened-my-son-0>

"As If They Fell From the Sky"

<http://www.hrw.org/en/reports/2008/06/24/if-they-fell-sky>

Please also see Human Rights Watch press releases:

Russia: Act on Findings Implicating Chechnya Leader

<http://www.hrw.org/en/news/2010/04/29/russia-act-findings-implicating-chechnya-leader>

Austria: Bring Killers of Chechen Exile to Justice

<http://www.hrw.org/en/news/2009/01/14/austria-bring-killers-chechen-exile-justice>

Russia: Torture Victim Abducted in Chechnya

<http://www.hrw.org/en/news/2008/08/05/russia-torture-victim-abducted-chechnya>

Russia: Leading Chechnya Rights Activist Murdered

<http://www.hrw.org/en/news/2009/07/15/russia-leading-chechnya-rights-activist-murdered>

Russia: Halt Punitive Attacks in Chechnya

<http://www.hrw.org/en/news/2009/07/13/russia-halt-punitive-attacks-chechnya>

Russia: Investigate Dagestan Arson Attack

<http://www.hrw.org/en/news/2009/08/20/russia-investigate-dagestan-arson-attack>

Russia: Ensure Independent Inquiry Into Activists' Killings

<http://www.hrw.org/en/news/2009/08/11/russia-ensure-independent-inquiry-activists-killings>

Cochairman McGOVERN. Everybody's testimony will appear in full in the record.

I also wanted to ask unanimous consent that the statement of Congressman Christopher Smith of New Jersey be part of the record as well.

[The information follows in the appendix.]

Cochairman McGOVERN. Mr. Patten.

**STATEMENT OF SAM PATTEN, SENIOR PROGRAM MANAGER,
EURASIA AT FREEDOM HOUSE**

Mr. PATTEN. Thank you, Cochairman McGovern, for the opportunity to join this distinguished panel on the issue of human rights in Russia today.

When confronted with evidence of their criminality, their misrule and their abuse of human rights, Russian Government officials generally do one of three things: They will obfuscate, they will offer stale comparisons, or they will ratchet up the level of vitriol in their rhetoric.

One of the wonderful advantages that Congressman Tom Lantos brought to this modus operandi was the ability to speak plainly and truthfully about human rights abuses in a way that Russian Government officials and the Russian public could understand. This Commission is well-positioned to call for a sharper focus on and higher priority for these issues in the United States' ongoing process of dialogues with Russia.

In Russia's case, one of the most important things America can do right now is to listen what the Russian people themselves are saying. Due to a number of circumstances Freedom House has been systematically tracking for years, that may be easier said than done.

Freedom House produces a series of annual reports. Last week we released our Press Freedom in the World Survey. Copies of that survey are available here for review. Not surprisingly, the Russian Government responded yesterday through Pravda, accusing us of lies, which is actually a higher degree of response than we have gotten in the past, which generally indicates we have hit a nerve.

Other publications include Freedom in the World Survey. This year, our Freedom in the World Survey showed a continuing decline in Russia's performance. Most significant, there was the reality gap between President Dmitry Medvedev's rhetoric and action. It became more pronounced as 2009 passed. And our Nations in Transit Survey, which takes a more complex and detailed look at former Soviet states, did not have any good news for Russia either. Russia continues to perform at rock-bottom levels in terms of national democratic governance, electoral processes, civil society, independent media, local democratic governance, judicial framework, independence of the courts, and corruption. In each of our reports, this regression has showed a steady decline over the past decade, and over this last decade we have seen a trend in Russia between acts of terror and the steady regression of democratic freedoms.

We have seen this trend in 1999 with the apartment bombings, which then led to increased state control over major television stations. We saw it in Beslan, which precipitated the end of elected governors in Russia. And wherever a major terrorist action occurs, a reaction occurs in terms of the deprivation of democratic rights and human rights to the Russian people.

The American Committee for Peace in the Caucasus, a Freedom House project that tracks events in the five North Caucasus republics of Russia, shows a

direct correlation between acts of violence between militants and authorities increasing in a cyclical, mutually reinforcing pattern. This research also shows a heightened degree of coordination among militants in the various republics, tracking back to the declaration of a trans-Caucasian emirate in 2007.

Corruption is seen most powerfully in the number of cases that are brought to the European Court of Human Rights. For Russians, there is no alternative. Corruption and impunity play a clear role in the cycle as the demand for sharia, or Islamic law, can be seen as driven by the absence of any accountability in the legal system. Repressive though the imposition of Islamic law may be in a secular country, it is at least a legal system with clear rules and consequences for violating them.

While there may be a response against attacks on authorities through operations against militants, there is no such response for attacks against civilians, journalists or human rights defenders in the North Caucasus. This perceived lack of justice fuels the ideology of a mounting and increasingly coordinated insurgency throughout the region.

As Russia plans to host the 2014 Winter Olympics Games near the city of Sochi, on territory that was itself the scene of genocide a century and a half ago, it is difficult to imagine security in this dangerous corner of the Federation improving without a significant shift in strategy from what we have seen over the last decade. Greater accountability by regional as well as Federal authorities and responsiveness to the needs of citizens in these republics should be cornerstones of such a strategy.

Those Russians who have stepped forward to call for greater protection of human rights have often paid a terrible price, as we have heard today. The bravery of human rights defenders, like Tatiana Lokshina on this panel, they do not allow the daily threat of violence to stop their work. Yet these are the few. For the many, fear, understandably, has a deterrent effect,

Against this grim background, it is important to note that the Russian public has not been completely silent in the face of the effects of autocracy, corruption and a failure to protect. Yet the protests that have drawn thousands to the streets of Vladivostok and Kaliningrad in recent months have not been stirred by outrage over human rights. Rather, the demonstrators in each of these spontaneous protests across the country are speaking out against the deprivation of equally fundamental rights: decent living conditions, freedom from arbitrary regulations against motorists, and fair taxation.

Taken jointly, these demonstrations recall the public anger and reaction to the failure of "shock therapy" in 1993 and 1994 when life savings were wiped out, and the outrage manifested itself in the resurgence of the Communist Party and nearly unseated former President Boris Yeltsin in 1996. Coincidentally, it was also in this period that the first Chechen war finds its roots.

When deprived of what they have come to know as their rights, Russians will demand change. Even if the connection between a repressive political order and the widespread deprivation of human rights, indeed of the very civil liberties that caused the tragic death of Sergei Magnitsky, is not immediate to the man on the street today, what is clear is that all is not well in Russia.

Media repressions are just one way the current regime seeks to prevent Russian citizens from connecting the dots between the widespread abuse of their

rights and the deteriorating conditions in regions across the Russian Federation.

Throughout its long and tortured history, political change in Russia has never come without violence. As a highly educated and undeniably cultured people move forward in the 21st century, there is much that the friends of the Russian people can do to help them release social and political pressure and counter this historic trend. Demonstrating that friendship in a way that is meaningful to any Russian comes not only through constructive criticism, but also by a collective will to stop accepting things the way they are simply because it appears that is the way they have always been. In the case of Russia and its deteriorating human, civil and political rights, the stakes are simply too high for seemingly pragmatic acquiescence.

The Russian people deserve better. They are unlikely to strive for it without encouragement and support from beyond their borders. The respect that the Russian Government craves abroad is not commensurate with its actions at home. The needs for practical support of those Russians with the courage and determination to push for change in an ever more Orwellian environment has neither been recognized nor adequately funded by their friends abroad. It is, as the man whose name this Commission bears might remind, our moral responsibility is to recommit ourselves to helping Russians defend their rights and to do better.

Thank you.

Cochairman McGOVERN. Thank you very much.

[The statement of Mr. Patten follows:]

PREPARED STATEMENT OF SAM PATTEN

**Testimony of Sam Patten, Senior Program Manager for Eurasia at Freedom House
Before the Tom Lantos Human Rights Commission, U.S. House of Representatives
On the Status of Human Rights in the Russian Federation
May 6, 2010**

Co-Chairman McGovern, Co-Chairman Wolf, thank you for the opportunity to join this distinguished panel of experts today to address the situation of human rights in the Russian Federation. I once had the chance to watch the giant after whom this commission is named interact with some of his Russian counterparts in Spaso House and witness the moral authority he commanded, even when he and those in Moscow disagreed – which was frequently. As you have heard just now, today the status of human rights in Russia is no less precarious than it was in Tom Lantos' time, and this Commission is well-positioned to call for a sharper focus on and higher priority for these issues in the United States' ongoing process of dialogues with Russia. It is rare, however, that governments take the lead in defending the rights of people. In Russia's case, one of the most important things America can do right now is to listen to what the Russian people themselves are saying. Due to a number of circumstances Freedom House has been systematically tracking for years, that may be easier said than done.

Last week, Freedom House released its annual *Freedom of the Press* survey in which Russia's position slipped further showing declines in a number of key areas as dozens of criminal cases and hundreds of civil cases were filed against journalists. Russia remains one of the most dangerous countries in the world for journalists to work, as the Committee to Protect Journalists' Nina Ognianova will likely describe in greater detail. Our *Freedom in the World* survey this year noted continued decline in Russia in the categories of political rights and civil liberties as a significant reality gap between President Dmitry Medvedev's rhetoric and action became even more pronounced. Regrettably, our *Nations in Transit* survey this year, which takes a closer, more textured look at former Communist countries, does not hold any brighter news – to the contrary it describes near rock-bottom performance in terms of national democratic governance, electoral processes, civil society, independent media, local democratic governance, judicial framework and independence and corruption. In each of Freedom House's annual reports, this trend tracks with a steadily regressive pattern over the past decade.

Over this period, a direct relationship between acts of terror and the dismantling of rights and freedom can be seen. The second Chechen War followed apartment bombings in 1999 and in its wake came the take-over of national television networks by state-owned corporations wholly loyal to the Kremlin. After the hostage-taking at the Dubrovka theatre in Moscow in October of 2002, these controls tightened following a parallel incident in which one television station attempted to decipher decision-making processes within the Kremlin by reading then-President Vladimir Putin's lips as he met with advisors. Following the hostage-taking of children and teachers on the first day of school in the North Ossetian city of Beslan in September 2004, the Kremlin responded by repealing the direct election of governors – a milestone in the roll-back of democratic freedoms.

The American Committee for Peace in the Caucasus, a Freedom House project that tracks events in the five North Caucasus republics of Russia, shows a direct correlation between acts of violence between militants and authorities increasing in a cyclical, mutually re-enforcing pattern. This research also shows a heightened degree of coordination among militants in the various republics tracking back to the declaration of a trans-Caucasian emirate in 2007.

Corruption and impunity play a clear role in this cycle as the demand for *Shari'a* can be seen as driven by the absence of any accountability in the legal system. Repressive though the imposition of Islamic law may be in a secular country, it is at least a legal system with clear rules and consequences for violating them. While there may be a response against attacks on authorities through operations against militants, there is no such response for attacks against civilians, journalists or human rights defenders in the North Caucasus. This perceived lack of justice fuels the ideology of a mounting, and increasingly coordinated, insurgency throughout the region. As Russia plans to host the 2014 Winter Olympic Games near the city of Sochi – on territory that was the scene of genocide a century and a half ago – it is difficult to imagine security in this dangerous corner of the federation improving without a significant shift in strategy from that which grew out of the last decade. Greater accountability by regional as well as federal authorities and responsiveness to the needs of the citizens in these republics should be cornerstones of such a strategy.

Those Russians who have stepped forward to call for greater protection of human rights have often paid a terrible price, as we have heard today. The brazen murder of a human rights lawyer and an independent journalist on a busy street in Moscow or that of a human rights researcher in Chechnya, both in 2009, demonstrate not only the risk, but also the bravery of human rights defenders like Tatiana Lokshina who do not allow the daily threat of violence to stop their work. Yet these are the few. For the many, fear understandably has a deterrent effect.

Against this grim background, it is important to note that the Russian public has not been completely silent in the face of the effects of autocracy, corruption and a failure to protect. Yet the protests that have drawn thousands to the streets of Vladivostok and Kaliningrad have not been stirred by outrage over human rights. Rather, the demonstrators in each of the spontaneous protests across the country are speaking out against the deprivation of equally fundamental rights—decent living conditions, freedom from arbitrary regulations against motorists, and fair taxation. Taken jointly, these demonstrations recall the public anger in reaction to the failure of “shock therapy” in 1993-4 when life savings were wiped out and the outrage manifested itself in the resurgence of the Communist Party, which nearly un-seated former President Boris Yeltsin in 1996. Coincidentally, it was also in this period the first Chechen War finds its roots.

When deprived of what they have come to know as their rights, Russians will demand change. Even if the connection between a repressive political order and the widespread deprivation of human rights – indeed of the very civil liberties that caused the tragic death of Sergei Magnitsky in a Moscow jail – is not immediate to the man on the street today, what is clear is that all is not well in Russia. Media repressions are just one way the current regime seeks to prevent Russian citizens from connecting the dots between the widespread abuse of their rights and deteriorating conditions in regions across Russia’s eleven time zones.

Throughout its long and often tortured history, political change in Russia has never come without violence. As a highly-educated and undeniably cultured people move forward in the Twenty-First Century, there is much that the friends of the Russian people can do to help them release social and political pressure to counter this trend. Demonstrating that friendship in a way that is meaningful to any Russian, comes not only through constructive criticism, but also by a collective will to stop accepting things as the way they are simply because it appears that is how they have always been. In the case of Russia and its deteriorating human, civil and political rights, the stakes are simply too high for a seemingly pragmatic acquiescence.

The Russian people deserve better. But they are unlikely to strive for it without encouragement and support from beyond their borders. The respect that the Russian government craves abroad is not commensurate with its actions at home. The needs for practical support of those Russians with the courage and determination to push for change in an ever more Orwellian environment have been neither recognized nor adequately funded by their friends abroad. It is, as the man whose name this commission bears might remind, our moral responsibility to recommit ourselves to helping Russians defend their rights, and to do better.

Cochairman McGOVERN. Ms. Ognianova.

**STATEMENT OF NINA OGNIANOVA, PROGRAM COORDINATOR
EUROPE AND CENTRAL ASIA AT THE COMMITTEE TO PROTECT
JOURNALISTS**

Ms. OGNIANOVA. Chairman McGovern, thank you for the opportunity to participate in this important hearing on human rights in Russia. My name is Nina Ognianova, and I coordinate the Europe and Central Asian Program at the Committee to Protect Journalists. We are an independent, international organization that defends press freedom worldwide, and it is an honor to speak to all of you today.

I will focus my testimony on the continued problem of impunity in journalist murders in Russia. And I will bring to your attention the introduction of a new bill currently before the State Duma that would return Soviet-era censorship authority to Russia's main security agency, the Federal Security Service.

After a deadly decade for the press, the tone set by the Kremlin appears to have changed. President Medvedev has made public statements on the importance of solving journalist murders as part of ensuring the rule of law in Russia. International attention on the matter has also intensified, with top U.S. officials, the European Parliament, the U.N. Human Rights Committee condemning ongoing attacks on journalists.

But from the streets of Moscow to the restive region of the North Caucasus, the brutal reality has not changed. At least three journalists were killed for their work last year alone, bringing to 19 the work-related slayings in Russia this decade. Murder convictions have been won in only one of those cases, and even there, those who ordered the murders have evaded punishment. There have been a few tentative advances in this field, like an arrest in one murder, promises to examine several unsolved cases, but those steps have done little to alter the dangerous conditions confronting the nation's critical press.

Ahead of World Press Freedom Day, May 3rd, we at CPJ released our Annual Impunity Index, which calculates the number of unsolved journalist murders as a percentage of each country's population. Only those nations worldwide that have five or more unsolved cases were included in the index, which examined the years 2000 through 2009. Russia ranked ninth in last year's index, but climbed to the Index's eighth spot this year, reflecting a rise of violence against the press, particularly in the North Caucasus.

Out of the three latest victims, two worked for a single newspaper, the independent Novaya Gazeta, which, by the way, has lost a total of five journalists to murders this decade. The latest victims included prominent journalist and human rights defender Natalya Estemirova, who was kidnapped in Chechnya and found murdered in Ingushetia a year ago in July. Despite ostensibly tight security along the Chechnya and Ingushetia border, her kidnapers passed through guarded checkpoints undetected.

Concern has been mounting over seeming lack of political will to solve Estemirova's murder. Regional leader Ramzan Kadyrov has given contradictory

messages about his government's readiness to assist the investigation. Immediately after the murder, he condemned it and said that the perpetrators would be brought to justice. But right after that he smeared Estemirova in a radio interview, calling her "a woman who no one needs."

Instead of focusing his high office's efforts on helping to track down the murderers, Kadyrov filed a defamation lawsuit against Estemirova's boss, Memorial, who had accused the Chechen President of involvement in the killing.

In her 10 years of reporting on the second Chechen war, Natalya Estemirova had documented and publicized human rights abuses by all parties of the conflict, including the separatists. Her work could have provided a number of parties with a motive to kill. But can an independent investigation be conducted by a Chechen authority when its President says that no one needs the victim? Can anyone believe that local investigators really have the freedom to examine work-related motives, including Estemirova's reporting on human rights abuses by the officials? Can anyone blame witnesses in the kidnapping for being too afraid to speak to investigators in reality?

CPJ and others have called on Russia's Prosecutor General's Office and the Federal Level Investigative Committee to assign the case to independent detectives from outside the North Caucasus region, and to require that those detectives regularly report to them and make those reports public. But such progress reports are yet to come.

Although extreme in its animosity, Kadyrov's reaction to Estemirova's murder was similar to views expressed by other Russian officials in response to earlier media killings, and that response roughly goes like this: Broadly promise to investigate, but marginalize the victim, play down work-related motives, and dismiss the possibility of any official involvement.

Recall that even as he pledged an investigation into the 2006 killing of Novaya Gazeta journalist Anna Politkovskaya, then-President Putin called her work "insignificant" and said he could not "imagine that anybody currently in office could come to the idea of organizing such a brutal crime."

Last September, we presented a detailed report on unsolved journalist murders to Russia's Investigative Committee, which is the agency directly responsible for investigating and solving these crimes. Our report, *Anatomy of Injustice* -- and for those of you who are interested, you can pick up a copy right here at the table -- *Anatomy of Injustice* concluded that a lack of political will is at the core of impunity, and that fundamental steps must be taken to reverse the record of injustice. Closed investigations must be reopened. Investigations that are open in name but stalled in practical terms ought to be restarted. In the cases where conflicts of interest have hampered the investigation, new and independent detectives must be assigned, and, where appropriate, cases should be transferred out of their current jurisdiction entirely. Where cases are brought to trial, the proceedings must be made open to the public and to the media to ensure their transparency and independence.

Under Russia's centralized law enforcement system, Federal officials in Moscow have the ultimate responsibility for solving the journalists' murders. They must demand specific progress reports from their subordinates at their district and regional levels.

Russia's top leaders, President Medvedev and Prime Minister Putin, share the moral responsibility for Russia's impunity record. They must hold their appointees accountable for progress in these killings.

Some Russia officials have suggested that the country's record of impunity is an internal matter, and the world should not meddle. But Russia's partners in the United States, Europe and elsewhere in the world have a deep and intrinsic interest in having this record corrected.

Deadly violence leads to pervasive self-censorship among journalists, which leaves issues of international importance underreported or entirely uncovered. The world must not leave it up to the killers to decide what stories out of Russia can be read, seen or heard.

CPJ commends the Tom Lantos Human Rights Commission for holding this important hearing and encourages the Commission to continue its hearings on press freedom, on attacks on journalists, and on impunity in Russia in the future. We recommend that the Commission share today's testimony, all of these testimonies from today, with President Barack Obama and members of the executive branch, and we urge American leaders to actively engage with their Russian counterparts on this pressing issue. Wherever relevant, U.S. leaders ought to offer assistance and cooperation to their Russian counterparts in combating impunity.

In closing, I would like to alert the members of this Commission to a worrisome legal development for press freedom in Russia: the introduction in the State Duma of a bill broadening the rights of the Federal Security Service, or the FSB. On April 24th, the Russian Government submitted to Parliament amendments to the country's Administrative Code and the law on FSB activities, which would give the security agency the right to summon journalists for questioning and demand that editors remove articles that "aid extremists or appear undesirable" from their publications. The proposed amendments introduce penalties for those who do not comply that range from monetary fines to a 5-day detention.

Particularly disturbing in the proposal is an explanatory note which blames certain media outlets for the rise of extremist activities in Russia. This note reads in part, "Certain mass media outlets, including print and electronic, openly aid the formation of negative processes in the spiritual sphere; the affirmation of the cult of individualism and violence; and the mistrust in the ability of the state to defend its citizens, thus practically involving the youth in extremist activities."

If passed, this broadly worded amendment would give the FSB the same broad censorship powers that its predecessor, the KGB, had in Soviet times. The bill would give FSB the rights to act against individual journalist and media outlets without having to go through a prosecutor. If passed, the bill would contribute further to the spread of self-censorship in Russia's press corps.

Rather than fighting violence against journalists, Russian authorities are gearing up again to fight journalists themselves. CPJ recommends that the Tom Lantos Human Rights Commission express concern about this bill and its potential repercussions for Russia's press freedom.

Thank you for this opportunity to address these issues.

Cochairman McGOVERN. Thank you very much.

[The statement of Ms. Ognianova follows:]

PREPARED STATEMENT OF NINA OGNIANOVA



Testimony before the Tom Lantos Human Rights Commission

Submitted by Nina Ognianova
Europe and Central Asia Program Coordinator
Committee to Protect Journalists

May 6, 2010

At a commission hearing on human rights issues in Russia

Chairmen McGovern and Wolf, and Members of the Commission:

Thank you for the opportunity to participate in this important hearing on human rights issues in Russia. My name is Nina Ognianova. I coordinate the Europe and Central Asia program at the Committee to Protect Journalists, an international, independently funded organization that defends press freedom worldwide. It is an honor to speak to you today.

I will focus my testimony on the continued problem of impunity in journalist murders in Russia. I will also bring to your attention the introduction of a bill, currently before the State Duma, that would return Soviet-era censorship authority to Russia's main security agency, the Federal Security Service.

After a deadly decade for the press, the tone set by the Kremlin appears to have changed. President Dmitry Medvedev has made public statements on the importance of solving journalist murders as part of ensuring the rule of law in Russia. International attention on the matter has intensified, too, with top U.S. officials, the European Parliament, and the U.N. Human Rights Committee condemning ongoing and unpunished attacks on journalists.

But from the streets of Moscow to the restive region of the North Caucasus, the brutal reality has not changed. At least three journalists were killed for their work last year alone, bringing to 19 the number of work-related slayings in Russia this decade. Murder convictions have been won in only one case and, even there, the masterminds have evaded punishment. There have been a few tentative advances—arrests in one murder, pledges to re-examine other unsolved slayings—but those steps have done little to alter the dangerous conditions confronting the nation's independent press.

Ahead of World Press Freedom Day, May 3, CPJ released its annual Impunity Index, which calculates the number of unsolved journalist murders as a percentage of each country's population. Only those nations with five or more unsolved cases are included in the Index, which examined the years 2000 through 2009. Russia ranked 9th in last year's Index, but climbed to the Index's 8th spot this year, reflecting a rise of violence against the press, particularly in the North Caucasus region.

Out of the three latest victims, two worked for a single newspaper—the independent, Moscow-based *Novaya Gazeta*. They included prominent journalist and human rights defender Natalya Estemirova, who was kidnapped in Chechnya and found murdered in Ingushetia a year ago in July. Despite ostensibly tight security along the Chechnya-Ingushetia border, her kidnappers passed through guarded checkpoints undetected.

Concern has been mounting over a seeming lack of political will to solve Estemirova's murder. Regional leader Ramzan Kadyrov has given contradictory messages about his government's readiness to assist the investigation. Immediately after the murder, Kadyrov condemned the killing and said the perpetrators would be brought to justice, but he later smeared Estemirova in a radio interview as "a woman who no one needs."

Instead of focusing his high office's efforts on helping to track down the murderers, Kadyrov filed a defamation lawsuit against Estemirova's supervisor at the Russian human rights organization Memorial, who had accused the Chechen president of involvement in the killing.

In her 10 years of reporting on the Second Chechen War, Estemirova had documented and publicized human rights abuses by all parties in the conflict, including the separatists. Her work could have provided a number of parties with motive to kill. But can an independent investigation be conducted by Chechen authorities when its president says "no one needs" the victim? Can anyone believe that local investigators really have the freedom to examine work-related motives, including Estemirova's reporting on official human rights abuses? Can anyone blame witnesses to Estemirova's kidnapping for being too afraid to speak to investigators?

CPJ and others have called on Russia's federal-level Prosecutor-General's Office headed by Yuri Chaika and the Investigative Committee headed by Aleksandr Bastrykin to assign the case to independent detectives from outside the North Caucasus region, and to require regular progress reports from them. Such progress reports are yet to come.

Although extreme in its animosity, Kadyrov's reaction to the Estemirova murder was similar to the views expressed by other Russian officials in response to earlier media killings: Broadly promise to investigate, but marginalize the victim, play down work-related motives, and dismiss the possibility of official involvement. Recall that even as he pledged an investigation into the 2006 killing of *Novaya Gazeta* reporter Anna Politkovskaya, then-President Putin called her work "insignificant" and said he could not "imagine that anybody currently in office could come to the idea of organizing such a brutal crime."

In September 2009, CPJ presented a detailed report on unsolved journalist murders to the Prosecutor General's Investigative Committee, the agency directly responsible for solving the crimes. Our report, *Anatomy of Injustice*, concluded that a lack of political will is at the core of impunity and that fundamental steps must be taken to reverse the record of injustice.

Closed investigations must be reopened; investigations that are open in name but stalled in practical terms must be restarted. In the cases where conflicts of interest have hampered probes, new and independent investigators should be assigned and, where appropriate, cases should be transferred out of current jurisdictions entirely. Where cases are brought to trial, proceedings must be made open to the public and the media to ensure their transparency and independence. Under Russia's centralized law enforcement system, federal officials in Moscow have the ultimate responsibility for solving journalist murders; they must demand specific progress reports from their subordinates at the district and regional levels. Russia's top leaders, President Medvedev and Prime Minister Vladimir Putin, share the moral responsibility for Russia's impunity record; they must hold their appointees accountable for progress in journalist killings. (For those interested in reading the report, it is available online and downloadable as a PDF at <http://cpj.org/reports/2009/09/anatomy-injustice-russian-journalist-killings.php>).

Some Russian officials have suggested the country's record of impunity is an internal matter and that the world should not meddle. But Russia's partners in the United States, in Europe, and throughout the world have a deep and intrinsic interest in having this record corrected. Deadly violence leads to pervasive self-censorship among journalists, leaving issues of international importance underreported or entirely uncovered. The world must not leave it up to the killers to decide what stories out of Russia can be read, seen, or heard. A nation that closes its society raises questions about its reliability as an international partner.

CPJ commends the Tom Lantos Human Rights Commission for holding this important hearing and encourages the commission to continue its hearings on press freedom, attacks on journalists, and impunity in Russia in the future. We recommend the commission share today's testimony with President Barack Obama and members of the executive branch, and urge them to actively engage with their Russian counterparts on this pressing issue. Wherever relevant, U.S. leaders should offer assistance and cooperation to their Russian counterparts in combating impunity.

In closing, I would like to alert the members of this commission to a worrisome legal development for press freedom in Russia—the introduction in the State Duma of a bill broadening the rights of the Federal Security Service, or FSB. On April 24, the Russian government submitted to parliament amendments to the country's administrative code and the law on FSB activities, which would give the security agency the right to summon journalists for questioning and demand that editors remove articles that "aid extremists" or "appear undesirable" from their publications. The proposed amendments introduce penalties that range from a fine of up to 50,000 rubles (US\$1,710) to a 15-day detention for noncompliance.

Particularly disturbing is the proposal's "explanatory note," which blames "certain media outlets" for the rise of extremist activities in Russia. The note reads:

"An analysis of the information available to the organs of federal security attests to the intensification of the activities of radical organizations, which leads to the rise of social tension and the strengthening of negative processes in society, in the first place among the youth.

Certain mass media outlets, including print and electronic, openly aid the formation of negative processes in the spiritual sphere; the affirmation of the cult of individualism and violence; [and] the mistrust in the ability of the state to defend its citizens, thus practically involving the youth in extremist activities."

If passed, the broadly worded amendments would give the FSB the same broad censorship powers that its predecessor, the KGB, had in Soviet times. The bill would give the FSB the right to act against individual journalists and media outlets without having to go through a prosecutor.

The bill follows the adoption in 2006 and 2007 of two repressive amendments to the law on extremism. Enacted despite domestic and international criticism, the measures broadened the definition of extremism to include media criticism of state officials and public discussion of extremist activities. A number of individual journalists and media outlets have been prosecuted under those laws since.

If passed, this new law would contribute further to the spread of self-censorship in Russia's press corps.

Rather than fighting violence against journalists, Russian authorities are gearing up again to fight journalists themselves. CPJ recommends the Tom Lantos Human Rights Commission express concern about this bill and its potential repercussions for Russia's press freedom.

Thank you for this opportunity to address these important issues.

Cochairman McGOVERN. We will express our concern about the new bill, and your testimony and the testimony of everybody here will not only be shared with the administration, but, as you can tell, this is a camera here. We are carrying this. There will be a video of this that Members of Congress and staff and others will have access to. We are developing a new Web page, which hopefully will be up and going in the next couple of weeks, and your testimony and all of this will be on that Web page that is going to go to tens of thousands of people.

So part of the reason why we have this Commission is to try to raise these issues and get the information out and raise awareness.

We are short on time because we have to get out of this room quickly, in a very short time, but I want to say a couple of things and get some reactions, if I could.

I have had the privilege of being the cochair of this Commission for almost 2 years, and I have learned an awful lot. I have to tell you, however, the bad thing is that most of the testimony I hear is very depressing, like the testimony we are hearing today. This is not good news. There is a serious human rights problem in Russia, and it is getting worse, as Lokshina and others pointed out, and we should all be concerned about it.

During the last couple of years, we have been inundated with so many statistics and facts that sometimes we lose the human ability to actually feel them. We say thousands of people, hundreds of people, or the number of journalists, it just grows and grows and grows to the point where it is just there.

Mr. Browder, that is why I am grateful you were here to talk about the case of Mr. Magnitsky. That is a really tragic story. One of the things we have been trying to figure out is how do you influence governments, and how do you have an impact? We do letters, and we do public press conferences, and sometimes we visit countries and we raise issues, but that doesn't always work. So I agree with what Senator Cardin is trying to do.

I think people who are involved in serious human rights violations at a minimum should not be allowed to travel to the United States, and other countries should do the same thing, and we should be figuring out a way to make sure that their assets are frozen. People who commit murder, and I think that is what happened in that case, should not have the right to travel here and invest in business here and make money here. There should be a consequence. If we can't get the consequence to happen in Russia, well, then, maybe there is something we can do here. Maybe other nations can do the same thing.

We had a hearing not too long ago on human rights violations in the UAE, and we had a videotape of a member of the royal family who liked to torture people and liked to do it on tape. So there are tapes of him torturing not one, but several people. We have asked the UAE to investigate that and to make sure that there was justice.

What they did was they basically said that the member of the royal family who did that was drugged by somebody else, and this is what the cause of it was, and it was all dismissed. So we are in the process now of introducing legislation that would prohibit him from coming to this country and benefiting in terms of investments in this country.

So one of the things I would like to do, we will not only send a letter to

Hillary Clinton, but I think we should introduce legislation and put those 60 people's names down there, and move it to the committee and make a formal recommendation from Congress, pass it on the floor, saying to the administration, this is a consequence. You have got to do this, because if you don't, nothing is going to happen.

I have heard too many cases over and over and over again where we decry how terrible things are, and then we kind of throw up our hands and say there is nothing we can do about it. Well, we may not be able to get the Russian courts to do the right thing, but at least we can do something here to show there is a consequence and that we are watching. So you have that pledge that we will do that.

Mr. BROWDER. Thank you very much.

Cochairman McGOVERN. I guess the question, and some of you have alluded to it, is kind of what do we do concretely? We are talking about the impunity for politically motivated killings, the impunity for people who lash out against journalists and so on and so on. Part of this is whether or not the Government of Russia has the political will and the political desire to actually clean up its act, and if it doesn't, then it is very hard to figure out how we can influence things internally.

If the issue is do we need to find a way to professionalize the Russian judiciary, which I think would be a nice thing, right, there are resources available to help do that. The question is, is there the political will within those who rule?

Ms. MOSKALENKO. There is not, no.

Cochairman McGOVERN. There is not, right?

Ms. MOSKALENKO. I am afraid there is not.

Cochairman McGOVERN. The question is, what are the pressure points for the United States? Is it more of a presence, more of our people there? What do we do?

Mr. GOBLE. I would make two points. First, to pick up on what you just said, the great Russian memoirist Nadezhda Mandelstam observed, happy is that country in which the despicable will at least be despised.

The fact is we need to despise a lot in Russia. We find it convenient to despise things in Belarus because we have fewer equities dealing with Minsk, but we do not equally express horror when worse things are committed by the powers that be in Moscow, and we need to start doing that.

Cochairman McGOVERN. Is that the administration being more vocal?

Mr. GOBLE. That is the Congress. During pre-1991, both the Congress and the administration took up these things, and it has helped. Failure to do that, or saying we have larger equities that we must not disturb -- let me just give you one minimal thing. We are watching today the reporting about the investigation of the car bomb plot in New York City. One of the first principles of investigating terrorist attacks is you want to get the person who commits those alive, and you want to interrogate him to find more. Consistently, the Russian Government and its agents at all levels have sought to kill the people before any such investigation can be undertaken, guaranteeing that they don't know any more about what is going on, but also covering up their own tracks.

I think as much as we are concerned about countering terrorism, it is a major American interest, that for us to sit still for a President and Prime Minister in the

Russian Federation that routinely call for murdering everyone, rather than bringing them to justice, and nothing is said by our government or by the international community, betrays who we are, betrays the cause of countering terrorism. And if you go back, ever since Vladimir Putin rose to the top in 1999, you will see that far more people have been killed by the Federal authorities in supposed terrorist actions than have been killed by the terrorists.

That is a violation of what we are about, it is a violation of law, it is a violation of human rights, but I have yet in the last decade heard anyone being willing at the official level in our country to speak out on that.

I was reading the paper coming in on the subway today, and what I see is how much we are learning by interrogating this man and how little the Russian Government has managed to learn.

Cochairman McGOVERN. I think that is an important point.

Ms. Moskalenko, I always worry about your safety.

Ms. MOSKALENKO. Thank you very much.

Cochairman McGOVERN. I appreciate your candor and your bluntness and your commitment to human rights, but as I am hearing the testimony here, I always worry about you.

Ms. MOSKALENKO. I am very safe. Thank you very much for your worrying. I am much more safe than those who are not enough famous. I mean, if I am doing these things, I am doing it on a purely legal basis. That is why my organization is famous, with small results in the small cases of individuals.

What I would propose, let's say the Kudeshkina case. Everybody wants to improve the Russian judiciary, but without judges thinking that they are more or less independent, we cannot do anything. It is not only lack of political will, it is also a fear of the judges.

If one case, the Kudeshkina case, and this is the only judge in Russia who was so brave to go to the European Court to win the case, but the authorities, they have refused recently to restore her into office. It is completely against the judgments of the European Court.

Why the world would not be so -- I mean, the judicial community in this country and all other countries -- would be so pervasive every time to the main Russian authorities that you have not implemented this judgment. Because if Mrs. Kudeshkina would be reinstated, then other judges would try their best to be more independent.

So our central activity is small cases, small victories, but creating the precedent for others. Of course, our authorities don't like the rules, these cases, and probably they don't like very much us ourself. But what they can do, if it is not the political statements, but these are pure legal cases which have been won. If they do something against us, of course they can, but then they do it against the European Court, which the jurisdiction of which they have recognized once and forever, I hope.

Cochairman McGOVERN. Let me just ask a question. I will let you respond. But while you are talking, can I ask you what role the bloggers play? We are all learning more about how the Internet is changing things here. We just read in the paper today that Newsweek is losing money in large part because people are getting their news off the Internet, and not necessarily reading the newspapers and stuff like

that. I am just curious what role the bloggers and Internet play in Russian society and this whole new social networking operation.

Ms. OGNIANOVA. Yes. I can answer the question first, and then I will give you some recommendations.

Well, the Internet is relatively free in Russia. I mean, you could have a variety of opinions. President Medvedev himself is a blogger. He has said that many, many times.

Cochairman McGOVERN. Me, too. Maybe we should blog together.

Ms. OGNIANOVA. The problem is that Internet media in general use Web sites, Live Journal, which is very popular, that don't have the power to influence public opinion, that don't have the power to trigger a political event, so to speak. They don't have the organizing power that the Internet could have here or in some other countries in Europe, for example, because the saturation is not there yet.

Having said that, there are some new attempts to regulate even the small amount of blogs and Internet opinion. It hasn't -- that kind of censorship has not yet received full force --

Cochairman McGOVERN. But it is something to worry about.

Ms. OGNIANOVA. We are definitely monitoring this very closely at the Committee. We have had individual cases where bloggers and journalists have been prosecuted at least on charges of defamation, insults, and convicted as well. But because of international attention to that, there was one case where a journalist was first convicted and then acquitted, and there was another case again in the provinces where there was a case started, a criminal case started against him, and then the case was dropped. But we are definitely monitoring this as an area of concern.

In terms of what the United States leaders can do and the international community can do to influence the Russian counterparts on impunity issues, of course, we are not prosecutors. We cannot play the role of investigators ourselves.

Cochairman McGOVERN. Does it help if we raise the issue of journalists who have been killed?

Ms. OGNIANOVA. Exactly. Being vocal and putting those cases front and center and on the agenda for bilateral meetings of the highest level definitely helps. We do have the ability to at least inconvenience the Russian Government and to raise those cases at every opportunity.

We have noticed that every time there is some sort of summit between, let's say, President Medvedev and President Obama, there is some sort of movement either on the Politkovskaya case or the Klebnikov case, and those are the high-profile cases.

Cochairman McGOVERN. I think some of the frustration that a lot of us have is when you have those meetings, the human rights stuff is talked about quietly behind closed doors so you don't know what anybody is saying. Look, I think President Obama and Secretary Clinton are absolutely committed to human rights. I don't know what is said. But it always drives me nuts when we raise kind of business concerns publicly that we have a problem with, some sort of a trade issue or patent issue or whatever, and that is always public, but when you are talking about an individual journalist who has been threatened or killed, or, you know, a lawyer who has been killed, or something that is just dealing specifically with a horrendous human rights record, that tends to be played down. We read about that being part of

the discussions.

I have 5 minutes before I have to vote, so I am going to let anybody who wants to say anything else, say anything else.

Ms. LOKSHINA. Thank you, Mr. Chairman. I just would like to emphasize in conclusion that the Congress should make it clear to the administration that there has to be meaningful Russia policy with human rights in the core of it, because without such policy the United States is not going to make any impact on the situation.

It would be essential, in fact, for the administration to get together with their European counterparts, because it is only when the United States and the European Union speak in one voice when maximum impact has been achieved.

I am 100 percent convinced that the only reason Prime Minister Putin for the very first time in his rather impressive political career said something positive about human rights organizations and expressed concern about the working conditions in North Caucasus, the only reason that he did it was simply because of all the consolidated pressure coming from the Europeans, coming from the United States, because of the murder. And it is great. It is a wonderful result. But then at the same time, did we have to wait for the people to die?

Cochairman McGOVERN. I agree.

Is our embassy doing enough in terms of human rights on the ground?

Mr. GOBLE. Mr. Chairman, just on that, one of our biggest problems in communicating to the Russian Government and other governments our concern for human rights is human rights is usually assigned to one of the most junior officers in the embassy.

Cochairman McGOVERN. Okay. Thank you for letting me know that.

Mr. GOBLE. Were we to have a minister counselor in our embassy in the capital of the Russian Federation responsible for human rights, it would send a powerful message to the Russian Government. At present, I believe it is a Second Secretary.

Cochairman McGOVERN. I think that is a good conversation that I should have with the Secretary for Human Rights.

Mr. Patten?

Mr. PATTEN. The Advancing Democratic Values Act that Congress passed in 2006 actually requires the State Department to prioritize democracy and human rights. However, service in DRL is not a career promotion track at State.

Cochairman McGOVERN. How many human rights officers does the U.S. Embassy have in Russia; do you know? In China we have one, which stuns me.

Mr. GOBLE. In Soviet times, we had a single Third Secretary who was responsible for religion, nationality and dissent, and we have not dramatically expanded that since 1991.

Ms. LOKSHINA. I think it is one.

Ms. MOSKALENKO. It is one.

Cochairman McGOVERN. Given the enormity of the problem, I am sure the person who is doing it is good, but I don't care how good you are, it is hard. If you are going to make this a priority, you need to elevate it within the embassy. We have made a request of the administration to put more people in China. Maybe the same

thing goes here for Russia as well.

Ms. MOSKALENKO. Two words, if you will permit me. I will go to the brilliant idea when they started a black list, why not for the Russian human rights community to complete this list? Somebody was torturing --

Cochairman McGOVERN. Again, when I think about how do we influence behavior in another country, I can give all the speeches I want, and they can choose not to listen to them. If there is a consequence for somebody who is behaving badly and who is guilty of human rights abuses that is meaningful, then I think that maybe, just maybe, that may begin another discussion at a different level where we actually see some progress.

Mr. BROWDER. I was just going to say that the psychology of these people who do these bad things is they can do all the bad stuff they want in Russia, and nothing happens to them. And then they can travel abroad to go to fancy vacations, spend their money, buy companies, invest in real estate, and live as if they are respectable human beings. The one thing we can do outside of Russia is close off that opportunity so they have to go on vacation to Kyrgyzstan.

Mr. GOBLE. We have allowed the Russian Government to open an Institute for the Study of Human Rights in New York City. Why don't we have a similar U.S. Government-backed institution in Moscow?

Cochairman McGOVERN. I think that is a good suggestion.

I have no time to vote. I have to run. Let me end with saying I appreciate the testimony. This was an excellent panel. I have learned an awful lot here today. We are going to spread this information around. We are going to work with you, Mr. Browder, on legislation and a letter. We will do both.

Again, thank you so much for coming. It is great to see all of you. I appreciate it.

This hearing stands adjourned. Thank you.

[Whereupon, at 11:47 a.m., the Commission was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD



**Tom Lantos Human Rights Commission (TLHRC)
Hearing Notice**

Human Rights in Russia: An Overview

**Thursday, May 6
10 – 11:30 a.m.
2255 Rayburn HOB**

Please join the Tom Lantos Human Rights Commission for a hearing on the human rights situation in Russia, including the precarious situation of journalists and human rights and political activists working in the country, and the tensions in the North Caucasus. The hearing is open to the media and the public.

The 2009 U.S. State Department human rights report on Russia emphasized that the situation in the North Caucasus “remained an area of particular concern,” and “local government and insurgent forces reportedly engaged in killing, torture, abuse, violence, politically motivated abductions and other brutal or humiliating treatment, often with impunity.”

Freedom of the press also continues to erode. The Glasnost Defense Foundation documented 59 journalists who were attacked, eight of whom were killed in 2009. Reporters Without Borders assessment for 2009 stated that: “Media freedom [in Russia] has not significantly improved over the past decade. Radio and TV news diversity is still lacking, independent media outlets are harassed by police and courts and those who kill journalists are not punished.” According to the Committee to Protect Journalists, a vaguely worded new press law currently under consideration further expands the reach of security agents to censor the press to ostensibly combat extremism.

Many high profile killings remain unresolved, including the 2006 murder of Anna Politkovskaya and the 2009 killing of Natalya Estemirova.

To discuss these issues we welcome the following witnesses:

- **Karina Moskalenko**, founder and director, *International Protection Center*
- **William Browder**, chief executive director, *Hermitage Capital Management Ltd.*
- **Tanya Lokshina**, deputy director, *Human Rights Watch – Moscow*
- **Sam Patten**, senior program officer, *Freedom House*
- **Paul Goble**, director of research and publications, *Azerbaijan Diplomatic Academy*
- **Nina Ognianova**, program coordinator for Europe & Central Asia, *Committee to Protect Journalists*

If you have any questions, please contact Hans Hogrefe (Rep. McGovern) or Elizabeth Hoffman (Rep. Wolf) at 202-225-3599.

/s/James P. McGovern, M.C.
Co-Chair, TLHRC

/s/Frank R. Wolf, M.C.
Co-Chair, TLHRC

**Prepared Statement of the Honorable Chris Smith, a Representative in Congress from the State of
New Jersey
Tom Lantos Human Rights Commission
“Human Rights in Russia: An Overview”
Thursday, May 6, 2010
10:00a.m.**

Good morning, Mr. Chairman, and welcome to everybody joining us this morning.

Since Putin assumed power in Russia, human rights, civil liberties, and press freedom have been in retreat. Whether one calls the Putin-Medvedev era “managed democracy” or “illiberal democracy,” since 2000 the accent has never been on democracy.

We all know that the list of abuses over which first Putin and now Medvedev has presided is long.

There were numerous reports of governmental and societal human rights problems and abuses during the year. Direct and indirect government interference in local and regional elections restricted the ability of citizens to change their government through free and fair elections. During the year there were a number of high profile killings of human rights activists by unknown persons, apparently for reasons related to their professional activities. There were numerous, credible reports that law enforcement personnel engaged in physical abuse of subjects. Prison conditions were harsh and could be life threatening. Corruption in law enforcement remained a serious problem, and many observers, including some judges and law enforcement personnel, asserted that the executive branch influenced judicial decisions in some high-profile cases. Security services and local authorities often conducted searches without court warrants. Government actions weakened freedom of expression and media independence, particularly of the major television networks. Eight journalists, many of whom reported critically on the government, were killed during the year; with one exception the government failed to identify, arrest, or prosecute any suspects. Beating and intimidation of journalists remained a problem. The government directed the editorial policies of government-owned media outlets, pressured major independent outlets to abstain from critical coverage, and harassed and intimidated journalists into practicing self—censorship. The government limited freedom of assembly, and police sometimes used violence to prevent groups from engaging in peaceful protest. In some regions the government limited freedom of association and restricted religious groups. There were instances of societal discrimination, harassment, and violence against religious minorities. Manifestations of anti-Semitism continued during the year, but the number of anti-Semitic attacks decreased. Corruption was widespread throughout the executive, legislative, and judicial branches at all levels, and officials often engaged in corrupt practices with impunity. The government restricted the activities of some nongovernmental organizations (NGOs), making it difficult for them to continue operations. Violence against women and children, including domestic violence, remained a significant problem. Trafficking in persons also continued to be a significant problem. There was some governmental and widespread societal discrimination against ethnic minorities and dark-skinned immigrants or guest workers. During the year

xenophobic, racial, and ethnic attacks and hate crimes, particularly by skinheads, nationalists, and right-wing extremists, continued to be a significant problem. Instances of forced labor were reported.

Of many of these abuses it cannot be said that the government is struggling to bring them under control. It's much worse than that. Intimidation of the media, political opponents, and human rights activists by secret police and Mafia thugs, particularly the killing of investigative journalists—all these abuses are fundamental to the mode of governance by which the “United Russia” party maintains its control over Russia.

So Mr. Chairman, in the fight for human rights in Russia, if the government has all too often decided to be the very origin and source of the problem, we have to look to the Russian people, to encourage and sustain those brave men and women who are working for change. Millions of Russians want change in respect of human rights—I believe that most of the supporters of “United Russia” want an end to corruption and violence. Russian voters support United Russia not because of but despite its leaders involvement in corruption and the abuses that flow from it. I have heard this over and over when I meet with Russian human rights lawyers and activists, and from Russian church leaders—and I thank God for the revival of Orthodoxy in Russia, this is a great sign of hope for the future of Russia.

Thank you, Mr. Chairman, for calling this hearing on human rights in Russia.