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Introduction

On January 10 this year, President Putin signed into law new regulations on NGOs that increase government oversight of the registration, financing and activities of NGOs, with particularly onerous requirements for foreign NGOs.

Russia's NGO law follows moves in other countries in the region to restrict or more tightly regulate civil society, which in turn have come in the wake of the 'colored revolutions' in the region. Many now wonder what impact the Russian law will have in practice. I would like to first offer a glimpse of how similar regulations have been put into practice in one of these countries, Uzbekistan, where it was used to silence civil society. The law also should be set in the broader Russian context, so I will then look at the how the law is the latest piece of the Kremlin's agenda to dismantle or control all institutions that check or balance the government's power.

The Future?

Although the new Russian NGO law does not come into effect until April 10, we don't have to look far to see the possible implications of such restrictions on NGOs. I come to Human Rights Watch's Moscow office after two years in Uzbekistan where I fear my experience will be all too relevant to the situation now developing for Russia's civil society. Uzbekistan bears the dubious distinction of being at the vanguard of efforts to stifle civil society in the region.

To be sure, there are important differences between Uzbekistan and Russia, their governments, the level of repression, their civil societies. But the Uzbek experience offers us specific and relevant examples of how an NGO law that purports to merely regulate NGOs is in fact used to punish and control them. Whereas the Kremlin's moves to remove checks and balances to its power are rather recent, in Uzbekistan, the government has a long record of formal and informal censorship of the media, intimidating independent civil society activists, severely restricting public demonstrations, and banning political parties that are not loyal to the government.

Over the past two years, the environment for Uzbekistan's fledgling civil society has grown even more hostile: the government tightened restrictions on local and international nongovernmental organizations, constantly harasses and arbitrarily detains human rights

defenders and breaks up peaceful demonstrations. It has been particularly harsh with organizations whose work is designed to promote government transparency and accountability, such as local human rights organizations and international organizations such as the International Crisis Group and the Institute for War and Peace Reporting, whose staff were denied visas or accreditation necessary to work in Uzbekistan.

In late 2003, the government announced sweeping changes to the system of registration and oversight of international NGOs operating in Uzbekistan. The new regulations shifted authority over international NGOs from the Ministry of Foreign Affairs, which had performed a ministerial, administrative function, to the Ministry of Justice (MOJ). The regulations granted the MOJ broad authority to make registration decisions and gave the Ministry sole power to decide whether an organization's activities correspond to the goals outlined in the organization's own charter, giving the Ministry an effective veto over activities it finds undesirable.

Other regulations require international NGOs to receive advance permission for all their activities from the Ministry and allow Ministry officials to attend all events. In addition, the government imposed complicated regulations for banking and financial operations and gave oversight of grants from international NGOs to local partners to a closed, or what is in effect secret government commission.

The Uzbek government made assurances that these regulations would not affect INGO operations but instead were designed to help Uzbekistan comply with its international obligations to combat money laundering and the financing of terrorist organizations. These assurances were proven empty. I will highlight just a few examples of how administrative regulations that could appear benign on their face were used as the backbone of a government campaign to silence the NGO sector in Uzbekistan.

The first test after the new regulations came into effect happened in March 2004, several months after the Rose Revolution. At that time the Uzbek government refused to re-register the Open Society Institute for, among other things, renting office in a space without the proper zoning permits and damaging the country's image. Since then, the government has conducted extensive, time-consuming audits of most major international organizations operating in the country. After the completion of each audit, the MOJ issues findings of all violations of the laws and, if the government is unhappy with the organization's efforts to correct the violations, it can sue for suspension or liquidation of the organization. The audits demand significant time and resources in order to prepare and respond adequately; they can also drag on for months, leaving organizations unsure of their fate, complicating decisions about staffing and whether to invest further program resources; and paralyzing the organization's substantive work.

Although the regulations, on their face, appear to be benign administrative rules that should not affect NGOs' substantive work, their arbitrary, punitive implementation has produced a stranglehold on civil society. Never mind that the government's venue of choice, the civil court, has no jurisdiction over these disputes or that in some cases the government prepares its court case before receiving a response from the organization about its efforts to correct any violations. In a system where checks and balances have been dismantled or indeed never

existed and in an atmosphere of clear government animosity toward civil society, the government wins every time.

In the past year in Uzbekistan, the government liquidated Internews Network, a media support organization for, among other reasons, failure to have the appropriate licenses for some of its programs and a failure to register a change in its logo. Two local staff members were also convicted of related criminal charges. On the basis of MOJ complaints Uzbek courts also ordered the suspension of IREX, an educational exchange organization and Freedom House, a human rights organization, for providing internet services without a license and failure to receive permission from the MOJ for conducting meetings and trainings. The MOJ requested the prosecutor's office to open criminal investigations against staff at both these organizations.

Where the MOJ cannot or chooses not to use the audit procedures to stop a foreign NGO's activities, they can also deny visas and work accreditation to international staff, as has happened with IRI, ACCELS and the Eurasia Foundation.

The picture for local organizations is at once more simple and even more dire. The government denies registration to groups it finds threatening, such as all but two human rights organizations, or forces registered groups to close. Local groups are also subject to requirements of receiving permission from the MOJ before conducting any activities, getting approval for participant lists and to intrusive audits.

I would like to emphasize that in Uzbekistan, the regulations for the most part read well on paper and thorough formal safeguards are in place: the MOJ must provide written explanations for its decisions within reasonable time periods; organizations are granted 30 days to correct violations after receiving warnings and the Ministry's decisions to deny registration or take other action against an organization may be appealed in the courts. However, in a system of unchecked government power, these safeguards are rendered meaningless.

In this atmosphere, local staff are frightened and become blacklisted after working with certain organizations. NGOs expend enormous time and resources simply to comply with the government's reporting requirements, audits and allegations of violations, preventing them from conducting their substantive work. This robs NGOs of their crucial function of promoting government transparency and accountability and reduces the civil society sector to simply fighting to survive.

The Russian Context

While the situation in Russia is perhaps not as dire as that in Uzbekistan, the trend in Russia is profoundly negative. Many have viewed the new NGO law as a measure to prevent a 'colored revolution' in 2008. That may be the case, but it is important to bear in mind that the law's antecedents predate the colored revolutions. The law represents only the latest assault on civil society in Russia. Since coming to power in 2000, President Putin has pursued a policy of a gradual but systematic crackdown to remove checks and balances on government's power. Before Putin, Russia had a messy, flawed democracy to be sure, but a vibrant civil society had

emerged and Russia had made real achievements in the areas of civic freedoms and human rights. The Putin government has systematically undermined all checks and balances on government power, and these achievements are now lost.

As soon as Putin took office, the government aggressively sought to assert control over the media. By 2003, Putin had achieved effective government control over all television and radio stations with a national reach, severely limiting critical debate in the country.

Putin has also reigned in regional leaders, first appointing “super governors” creating new super administrative districts led by presidential appointees to sidestep regional governors and then backing legislation to strip governors of their seats in the Federation Council of parliament. After the Beslan massacre, direct elections of governors were scrapped altogether, giving Putin the power to nominate candidates.

Putin has also worked to create a compliant Duma and to undermine the independence of the judiciary.

It is in this context of government control over most aspects civil society and political life that we must view the new law on NGOs. Against this background, NGOs appear to be the latest target in the government’s efforts to remove checks and balances on its power.

NGOs working on human rights issues, particularly the war in Chechnya, have long faced official interference that often keeps them from doing their substantive work. Such interference has only increased over the last year. These groups, the activists who lead them, and the people they work with increasingly face administrative and judicial harassment, and, in the most severe cases, persecution, threats, and physical attacks.

The working environment for other NGOs has continued to deteriorate significantly. Government officials at both the federal and regional level stepped up their verbal attacks on these groups. In a few cases, officials used legislation that prohibits extremism to shut down NGOs while in others they selectively used registration procedures or audits to harass groups of which they disapproved.

I will highlight two especially troubling aspect of the new law.

First, the law requires all NGOs to submit reports on their activities to the government registration agency, but the specifics of this requirement will be defined only later in the implementing regulations. It is not as of yet clear whether NGOs will be required to report on their planned activities or only those they have already conducted or the degree of detail that will be required.

Next, the new law has particularly onerous implications for international NGOs. It requires offices of foreign NGOs to inform the government registration office about their projects for the upcoming year, and about the money allotted for every specific project. Russian government officials will now have an unprecedented level of discretion in deciding what projects, or even parts of NGO projects, comply with Russia’s national interests, as required

by the law. Officials from the registration office could prohibit foreign NGOs from implementing projects unless they have “the aim of defending the constitutional system, morals, public health, rights and lawful interest of other people, guaranteeing defense capacity and security of the state.” If a foreign NGO implements a banned project, the registration office could close its offices in Russia.

Defenders of the law argue that it is a series of benign administrative regulations and point to. However, when viewed in context, the law gives rise to concern that the law restricts the abilities of NGOs to operate freely and can be implemented arbitrarily to silence NGOs and civil society activities the government finds undesirable.

Recent developments

Recent developments in Russia highlight the worsening atmosphere for NGOs and perhaps give the flavor of the climate in which the new NGO law will be implemented. The law itself together with Putin’s statements questioning whose interests are served by NGOs, send a clear message to the security forces and other government agencies that NGOs should be regarded with suspicion rather than protected.

At the end of January, the Russian Ministry of Justice (MOJ) filed a lawsuit to liquidate the Russian Research Center on Human Rights, an umbrella organization of twelve Russian human rights groups, including the Moscow Helsinki Group and the Union of Soldiers Mothers Committees. The MOJ claims that the group had failed to file reports of its activities for the past five years, a claim disputed by the group.

Last week, a court in Nizhni Novgorod convicted Dmitrievskii Stanislav Dmitrievsky, executive director of the Russian-Chechen Friendship Society and editor of the organization’s newspaper on charges of “inciting racial hatred,” and gave him a two-year suspended sentence. The charges stem from the publication in the organization’s of two statements by Chechen rebel leaders Aslan Maskhadov calling for a negotiated end to the conflict and Akhmed Zakaev who called on Russian voters not to re-elect President Putin.

The Russian-Chechen Friendship Society, which raises awareness about human rights abuses in Chechnya and helps victims seek justice, had previously faced pressure last year, when the Nizhny Novgorod department of justice tried unsuccessfully to liquidate it. The Nizhny Novgorod tax inspectorate has claimed that the organization owed one million rubles (about U.S. \$35,000) in back taxes on a grant, which the inspectorate designated as “profit.” The organization is challenging the charges.