

**THE MEDVEDEV THAW: IS IT REAL?
WILL IT LAST?**

HEARING
BEFORE THE
**COMMISSION ON SECURITY AND
COOPERATION IN EUROPE**
ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

JUNE 23, 2009

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THE MEDVEDEV THAW: IS IT REAL? WILL IT LAST?

March 4, 2008

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC

The hearing was held at 10 a.m. in room SVC 203/202 Capitol Visitor Center, Washington, DC, Hon. Benjamin L. Cardin, Chairman, Commission on Security and Cooperation in Europe, presiding.

Commissioners present: Hon. Benjamin L. Cardin, Chairman, Commission on Security and Cooperation in Europe; and Hon. Darrell E. Issa, Commissioner, Commission on Security and Cooperation in Europe.

Witnesses present: Sergey Cherepanov, Russia Coordinator, Watch Tower Bible and Tract Society of Pennsylvania; Musa Klebnikov, Executive Director, The Paul Klebnikov Fund; William Browder, CEO, Hermitage Capital Management; and Sarah E. Mendelson, Director, Human Rights and Security Initiative, and Senior Fellow, Russia and Eurasia Program, Center for Strategic and International Studies (CSIS).

HON. BENJAMIN L. CARDIN, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. CARDIN. Let me welcome everyone to today's hearing for the Helsinki Commission. The hearing today will concentrate on Russia. I think it's a very timely hearing for the Commission considering that President Obama will shortly be traveling to Moscow and that our Helsinki Commission will participate in the Parliamentary Assembly in Vilnius next week.

I think this hearing is particularly important and I want to thank all of the witnesses for making extraordinary efforts to be here. We've had some travel halfway around the world in order to be at this hearing today and one from London. We appreciate those efforts.

I think it's critically important for us to understand what is happening in Russia. It's evolving all the time—in the news today about—in Russia, what's happening in that region. Our bilateral relationship in recent years has unfortunately been cool at best. Some of this is the result of the failed policies of the Bush administration, but the Russian government has regressed on reform.

The rollback of Russia's fledgling democracy, the erosion of the rule of law, the deadly attacks on independent journalists and the

recent war in Georgia are just a few of the many examples of hard-line policies emanating from the Kremlin.

The new administration has been quite active in reaching out to Russia and there has already been a number of high-level meetings. I am hopeful that we are at the beginning of a new and fruitful partnership with Russia.

Although our two great countries may not see eye to eye, being best friends may not be the measure of a successful relationship. There are many issues of mutual concern that we cannot afford to ignore, and restoring trust and mutual respect with Russia will allow us to pursue common security while fully upholding our OSCE commitments.

Some in the human rights community here and in Russia are concerned that the reset in U.S.-Russia relations may lead to less attention being paid to traditional concerns such as religious freedom, media freedom and the rule of law. Today's hearing is intended to send the message that the laudable goals of improving relations with Russia and taking Russia's compliance with human rights commitments seriously need not be mutually exclusive.

When General Secretary Brezhnev signed the Helsinki Final Acts or the Helsinki Accords on August 1st, 1975 on behalf of the USSR, Soviet officials believed that they had gained an important foreign policy victory. Indeed, there were some provisions the Soviet diplomats had sought during negotiations with the 35 nations that they were successful in accomplishing.

However, the West, for its part, had insisted on certain provisions in the area of human rights and humanitarian affairs, including the right of citizens to know their rights and to act upon them.

In this context it is worth reminding everyone that since the 1991 Moscow Declaration, raising human rights concerns in the OSCE context is the legitimate prerogative of participating states and cannot be construed as interference in another country's internal affairs as the OSCE states have recognized the right and obligation to monitor and comment on the fulfillment of human rights commitments in any OSCE country.

It's our responsibility. We have the perfect right to raise violations of OSCE commitments in any of the OSCE countries. As Chairman of this Commission I take seriously my responsibility implementation of the Helsinki Final Act and subsequent agreements throughout the expansive OSCE region, including in my own country, and I have done that.

Governments, including parliamentarians, have an important role to play in candidly raising human rights concerns and cases as part of their ongoing engagement. As the late Soviet human rights advocate Andrei Sakharov once observed, "The whole point of the Helsinki Accords is the mutual monitoring, not mutual evasion, of difficult problems."

The Helsinki Commission and the OSCE are fully committed to the development of democracy, civil society and the rule of law, free markets in the Russian Federation. We trust that the Russian President shares that commitment when he claimed that the most important task is the further development of civil and economic freedoms.

Yet we see evidence of Russian authorities continue to selectively prosecute and harass human rights advocates, religious communities, prominent business leaders, and journalists by employing arbitrary and actual legal means to achieve political ends. This is often accomplished through the manipulation of the court system, thus denying citizens and foreign investors the impartial application of the rule of law and equal justice.

So today's hearing, is not only to listen to experts as we try to understand what is happening in Russia and to try to improve our relationship with Russia because we have a lot of issues that are in common, but also to make it clear that we can hold Russia to its commitments under the OSCE.

Now, normally we would start our discussion with the representative of the State Department, and that person would normally be Phil Gordon, who is the Assistant Secretary of State for Europe and Eurasian Affairs. Secretary Gordon is on travel today, and he wanted to be with us but could not because of his schedule. We wanted to make sure this hearing took place before the 4th of July recess.

So it's just too urgent to hold off on hearings, and we therefore are proceeding without the normal protocol of hearing from the administration first.

On our first panel we have Mr. Sergey Cherepanov, who is the leader of the Jehovah's Witnesses community in Russia, and he traveled all the way from St. Petersburg to be with us today. That's a commitment. I assume that's St. Petersburg, Russia.

And then we have Ms. Musa Klebnikov, widow of the American journalist Paul Klebnikov, who was murdered in Moscow almost 5 years ago. Ms Klebnikov is the executive director of the New York-based Paul Klebnikov Fund, which is active in supporting excellence in journalism in civil society in Russia.

We are also happy to have Mr. William Browder, CEO of the Heritage Capital Management and a leading global shareholder rights activist and outspoken fighter for better corporate governance in Russia. He has traveled from London to be at this hearing.

So we really have a global panel here today, and we thank them very much for their participation, and we will start with Mr. Cherepanov. Sergey, why don't you start the panel?

SERGEY CHEREPANOV, RUSSIA COORDINATOR, WATCH TOWER BIBLE AND TRACT SOCIETY OF PENNSYLVANIA

Mr. CHEREPANOV. Mr. Chairman, I would like to take this opportunity to thank the members of the U.S. Commission on Security and Cooperation in Europe for allowing me to testify on behalf of the more than 157,000 Jehovah's Witnesses in Russia.

However, at the outset I'd like to state that I was deeply saddened by the terrible news of the Metro crash yesterday and express my condolences to those who lost their beloved ones.

Our life is filled with negative news, and I'm afraid my statement represents concern, and will not sound much too positive.

The precious fundamental freedoms Jehovah's Witnesses gained following the collapse of the Soviet Union have never been more threatened. We have experienced—we are experiencing a deep

freeze, not thaw, in the Russian Government's treatment of our religion.

During the 1960 and 1970s, the KGB considered Jehovah's Witnesses to be a foreign religion and a threat to Russia's national security. The persecution of Jehovah's Witnesses and other religious minorities during that time is well documented.

After the fall of the Soviet Union, we experienced considerable relief and obtained national registration in 1991 and are now registered in 73 regions of Russia. However, the Russian Government is suddenly reverting to dealing with us as it did during the Soviet era.

Since the year 2000, the FSB labeled Jehovah's Witnesses as extremists, and in 2007, all prosecutors' offices in Russia received a letter on methods for preventing religious extremism, signed by Deputy Prosecutor Vilya Green.

Days after this letter was sent out, 34 warnings were issued to all local religious organizations across Russia. Individual witnesses were searched, detained and forcibly photographed. Individual rights were violated as private information was gathered on school children, school teachers, and other professionals who are Jehovah's Witnesses.

This year events have escalated considerably further. The FSB is working through local prosecutors to file claims of extremist activity against Jehovah's witnesses throughout Russia. By misapplying the revised 2007 law in counteracting extremist activity, they are trying to ban our religious interchange and liquidate our local religious organizations.

We are already defending eight lawsuits filed by local prosecutors across Russia on the extremist issue alone. They are also seeking any pretext to close our national office in St. Petersburg with the overall objective of banning our worship throughout Russia.

This was the goal of the Golovinsky trial, which resulted in the banning of our religious community in Moscow in 2004. Local prosecutors have hired their own so-called experts to study our religious literature, knowing that these experts will support their accusations if just one regional court judge anywhere in Russia rules that the nature of our literature promotes extremist activity.

It will be posted on the Federal list of extremist literature and banned throughout the country. Once literature is placed on this list, it is nearly impossible to have it removed.

In February 2009, the Russian Federation General Prosecutor's Office ordered local prosecutors' offices throughout Russia to gather any negative information they could find on Jehovah's Witnesses. They were authorized to involve agencies of the FSB, police, public health agencies, local departments of justice and military commissariats to try and find such negative information.

As a result, over 500 investigations have been initiated against individual witnesses and our local religious organizations. Thus, the General Prosecutor's Office is orchestrating a witch hunt on Jehovah's Witnesses that will lead to the criminal prosecution of individuals simply because of their religious convictions.

For instance, on April 23, Mr. Yuri Panov was discussing the Bible with the local residents in the town of Ramon in the Veronezh Region when local police stopped him, falsely accused

him of committing burglaries in the neighborhood and took him to the police station. Because Mr. Panov refused to admit to the false accusations, the police handcuffed and beat him.

The also forced him to wear a gas mask and cutoff the oxygen supply so that he could not breathe. After they threatened to administer electric shocks and sexually assault him, Mr. Panov was so intimidated that he admitted to the burglaries. The police then abruptly ended the torture and stated that they had made a mistake in accusing Mr. Panov of any crime.

On May 24th, police in the city of Asbest raided a religious meeting of Jehovah's Witnesses without a warrant or a legal basis and unlawfully detained 50 witnesses. A female congregation member who was pregnant was subjected to police interrogations that were so coercive that shortly afterward she was hospitalized and suffered a miscarriage.

A 15-year-old boy, who was also in attendance, was detained over 3 weeks in a foster home despite repeated efforts on the part of his parents to procure his release.

In addition to these negative developments, our administrative center near St. Petersburg has been subjected to repeated intrusive investigations by the local prosecutor's office and numerous other state authorities with the intent of unlawfully closing it. Although the prosecutor's office has repeatedly stated that no violations can be found, it refuses to end the investigation, which has continued since November 2004.

Our appeals to the Russian courts to stop this prosecutorial abuse have been denied and our domestic legal remedies have been exhausted. In March of this year we filed an application with the European Court of Human Rights concerning this matter.

In recent months, Russian authorities have also attempted to obstruct the legal representation and support that we received from Russian, U.S. and Canadian attorneys in defending our rights in the Russian courts.

For example, in September 2008, the FSB initiated a disciplinary case against our Russian attorney, Igazov Chernikov, who is defending witnesses in Asbest and [inaudible].

On April 5 of this year, two Canadian attorneys for Jehovah's Witnesses were deported, and just last month the authorities attempted to deport James Ander, an attorney with our Office of General Counsel in New York.

These actions by Russian authorities have made it more difficult for us to defend ourselves. In his November 11, 2008 address to the Federal Assembly of the Russian Federation, President Medvedev highlighted all the changes that must be made to the present system in Russia so as to promote such worthy ways as honest courts and responsible leaders, freedom of religion and dignity of human life.

If these words become reality, then there is hope that the thaw will be felt by us. [Inaudible] the current reality is that Jehovah's Witnesses are being harassed, deprived of their freedom to assemble peacefully together in worship, slandered, coerced, physically abused and charged as extremists by the Russian authorities.

Once again I would like to thank the Commission on Security and Cooperation in Europe for allowing me to testify about the deteriorating situation facing Jehovah's Witnesses in Russia.

Mr. CARDIN. Mr. Cherepanov, I want to thank you for making the real effort to be here today. You put some face on the issues. We hear about the repression in Russia, but I think your firsthand accounts are very important for our work. So I know it's not easy to make the trip. We thank you very much for being here.

Ms. Klebnikov?

**MUSA KLEBNIKOV, EXECUTIVE DIRECTOR, THE PAUL
KLEBNIKOV FUND**

Ms. KLEBNIKOV. Good morning, and thank you for inviting me to speak. Is this on?

Mr. CARDIN. Yes.

Ms. KLEBNIKOV. Here we discuss the assassination of my husband, Paul Klebnikov, 5 years ago and the subsequent experiences with repressed freedom and rule of law in Russia.

All his life Paul was interested in Russia, and once he became a journalist he relentlessly pursued the truth. He was highly respected for his bold investigative pieces on oligarchs during the Yeltsin years.

He was appointed the first editor of Forbes Russia, and while this was enormously challenging, it was exhilarating for him because he believed that Putin was bringing needed change from the Yeltsin era and that through the media he could encourage Russians to find their own routes of civil consciousness and individual responsibility.

As I cannot put all my energies into exposing the truth about my husband's assassination, I'm happy to devote my efforts to continuing what Paul hoped for in Russia, bringing to toward a civil society.

Paul hoped that truth and transparency would make room for justice and fairness, and that a restored Russia would have much to teach the rest of the world. He specifically wanted to bring American-style journalism to Russia and spent a great deal of time mentoring and training people in fact-checking, source development, styles, ethics, and all the other standards we're used to.

Journalism is not highly respected in Russia because so often truth is ignored and indeed false articles are planted routinely. There are of course many distinguished news publications which do adhere to our standards, like [inaudible].

Six months into his job, and 1 day after I was sitting with him and our son in a playground in Moscow and enjoying a summer afternoon, Paul was repeatedly shocked by a group of hired Chechen hit men. He died, stuck in a hospital elevator that broke down.

There was much speculation about who ordered the assassination. We do not believe that it was someone from the Forbes 100 list necessarily, nor a rogue government official, but we cannot be sure. What we do know is that the hit men were hired. They are Chechens. Some of them are apprehended, and after a long and expensive case were released.

In a meeting in September 2005, President Putin informed us that Nukhayev, a Chechen business partner of oligarchs and a professional criminal, was the one who ordered the killings. The theory was that Nukhayev was annoyed by a book Paul had written about him called, "Conversations with a Barbarian."

Others speculate that the subject of Paul's other book, "Godfather of the Kremlin," was also involved. Investigative reporters in Russia believe that government agents, Chechens, and Berezovsky could all be involved.

President Putin was greatly disturbed by the assassination and said so publicly several times. He also asked Foreign Minister Lavrov to send me a letter in which it was reported that he attaches the utmost importance to resolving this crime; that we consider it to be a direct challenge to the society and its democratic foundations to such holy values as people's belief in justice, freedom of mind and speech, and you may be confident that everything will be done to ensure that those who have ordered, organized and committed this crime are brought to justice.

Well, after some solid police work, a case was made against the hit men. The case against the mastermind was never pursued, as far as I know. I committed to having a lawyer follow the case through the court trial because the case was going to be closed to the public, and victims have standing in Russian criminal cases.

The trial had many irregularities and was even appealed to the Supreme Court and an acquittal of return, but ultimately the defendants were released. We're trying to find out if there has been any further activity since Medvedev has become president but do not have any information yet.

The State Department has taken this case very much to heart, and Secretary Clinton, Ambassadors Burns and Beyrle have brought up the question with the appropriate officials in the Russian Government. They have not, however, been able to make much headway. We would like a strong commitment from the administration to continue pursuing this case with the Russians.

This brings up the issue of jury trials in Russia. Over the course of the trial we became acquainted with many admirable Russians working in law and with the U.S. Department of Justice and State Department staff working to provide them with more skills.

The uncertain outcome of trials reflects, I think, a general reluctance of jurors to accept incomplete evidence. This satisfaction with irregular proceedings and misrepresentations leads to a high level of acquittals. We experience these issues plus undue influence, which ultimately doomed the trial.

Nonetheless, I do believe it's better to encourage the improvement of Russia's justice system through corrections of its procedural problems than to cynically give up. The general population has to be invested in rule of law.

The relationship between rule of law and journalism is now absolutely critical to the survival of civil society. Since Paul's assassination, an additional nine journalists have been murdered. None of those murders have been solved either, and they may not have happened at all if a different legal climate had been created.

One could say that the right to life is at issue. Government control over society has increased since self-censorship is high in the

respectable papers and TV is no longer considered independent. So while professional ability in the media overall has improved, investigative journalism is now rare.

Without stronger rule of law, there will just be more and more dead journalists. This winter the Paul Klebnikov Fund, with DOJ, invited a group of jurors to visit the United States and examine our courts and meet our judges. I spent time with your organizer, a reporter from Novaya Gazeta called Nikotinski.

He claims that thuggish brute force often establishes how law is enforced in the provinces, be it by criminals, local rogue military or the official legal establishment. Legal power is not vertical; it's local.

Nikotinski is both a brave and rare investigative reporter. Many of his colleagues have been murdered, including Anna Politkovskaya, and yet he continues exposing the truth, organizing jury groups, and hoping for a better system.

We're also convinced that supporting moral and courageous members of the Russian judiciary is crucial at this time. Our fund is launching a legal scholar exchange between U.S. and Russia law schools.

The purpose is to provide respect and encouragement for the legal establishment in Russia and offer scholarly contacts and opportunities for both sides. A desire to assist in the evolution of rule of law in Russia is not contradicted by the demand for its application in the case of Paul's assassination. Rather, this presents a perfect opportunity for the Russian government to demonstrate that law is supreme and to make it work.

I will be in Moscow during the upcoming summit and Civil Society Conference, which happens to coincide with the fifth anniversary of Paul's death. My family is holding a memorial service and has been told of the possible attendance by high-level officials from both countries. This level of attention is appropriate during this summit because all should be able to agree that seeking justice in this case could lead to a turning point in Russia.

My own experience is that whenever there has been a congressional resolution or committee letter regarding Paul's assassination, the Russian Government pays attention. My request today is that you consider the people of moral conscience in Russia as needing your encouragement and support.

Please pass resolutions asking for the improvement of jury trials in Russia, encouraging the Russian President to strengthen the rule of law and, above all, demand justice in the case of Paul's assassination and other [inaudible].

Please send a strong signal to all of those who support truth, rule of law, and freedom of the press. Thank you.

Mr. CARDIN. Ms. Klebnikov, as I said in the opening, we have an obligation under the Helsinki Final Act to raise these issues and we're pleased to hear that your belief is that the reaction to these types of actions by Congress has an impact with Russia. We thank you.

Our main objective is that reporters have an opportunity to operate freely in Russia without fear for their personal safety. We know that's not the case today. So we thank you very much for your testimony.

We're joined by Representative Issa, a member of the Commission. We're pleased to have him here, and we'll now hear from Mr. Browder.

WILLIAM BROWDER, CHIEF EXECUTIVE OFFICER, HERMITAGE CAPITAL MANAGEMENT LIMITED

Mr. BROWDER. Thank you very much for inviting me today. I'm very grateful for the opportunity to tell my story. I've got an unconventional way of telling it with some slides. You might not want to turn around from your desk. You should have these presentation books.

The story I want to tell today, which is on page two, is about how in normal countries there are business executives that exist. There are government officials and law enforcement authorities, and there are criminals that are all very separate groups of people.

And in Russia, what we discover is that oftentimes the business executives and criminals are the same individuals. And I'm going to tell you a brief story about what happened to me and how basically the rule of law and legal—the rule of law doesn't exist the way we know it, and legal realism is rife in Russia.

A brief introduction of myself—I run an investment firm that invested in the Russian stock market for 10 years. I was the largest foreign investor in the country. And I became a very vocal shareholder activist, fighting corruption in companies like Gazprom and Chernomorneftegaz, and I did it by naming and shaming the companies that were involved. In fact, I worked very closely with Paul Klebnikov, who was one of the most brilliant journalists out there.

As you can imagine, by naming and shaming I created some enemies—page four. The first consequence of that was the expulsion—the taking away of my visa and being expelled from Russia in 2005 on the basis that I was a threat to national security.

As being the largest foreign investor—foreign portfolio investor in the country, I tried to fight hard to get my visa back and had an opportunity—on page five—to meet, in the World Economic Forum in Davos, with the then-first Deputy Prime Minister and now President Medvedev.

I asked him for help with my visa, and he responded, give me the papers and I'll see what I can do. And I gave him the papers, and the next thing that happened was no visa, but an unusual telephone call from a member of the Moscow Interior Ministry, Lieutenant Colonel Artum Kuzinsov from the tax crimes department, who basically said, I understand you needed to get your visa renewed. I'd like to have an informal meeting, and depending on what you provide during this meeting and how you behave, I'll give you—your problems could be solved and your visa will come back.

Well, we took that as an extortion attempt and so we refused to have the meeting. And normally, when you ignore such requests they sort of disappear, but this was one of the times when it didn't disappear. And the next thing that happened, on page seven, was Lieutenant Colonel Artum Kuzinsov led a team of 25 officers on a raid on our Moscow office and on a raid of the law firm that we used in Moscow called Firestone Duncan.

Now, if you go to the next page, during the raid of the law firm, he started taking away all of their computer servers, which had all

of their client information for 150 clients. And one of their young lawyers protested the taking away of all of their other client documents. He was taken into a conference room and beaten very viciously, arrested, fined 15,000 rubles and hospitalized.

On the next page, page nine, the officers were particularly interested in grabbing four very important documents and items—the corporate seals, charters and certificates of our Russian investment companies—as part of their raid.

The next thing that happened, on page 10, was that we no longer—we discovered that we no longer owned our companies. Our name had been wiped off the share registry and a new company called Pluton in Targerstan had become the owner of our Russian companies.

Go to the next page. We then searched on who Pluton was and we discovered that Pluton was a company owned by a man named Viktor Markaylov, who was a convicted murderer.

So, go to the next page on page 12. How is it possible for our companies to change ownership, and the answer is that they give you those four documents that the police had seized. And so the police basically were working with a convicted murderer to steal our companies.

Skip over two more pages to page 14.

The next thing we discovered was that our companies had been sued in St. Petersburg court without our knowledge. A bailiff came to our office and said, you owe \$376 million to a company we had never heard of because of a lawsuit in St. Petersburg.

And so we then sent our lawyers up to St. Petersburg to find out what happened and we discovered a big stack of forged back-dated contracts that had been created using the documents seized by the police.

Go to page 15.

Although we were not aware of these cases in the St. Petersburg court and we had no idea that they were going on, three defense lawyers who we hadn't appointed showed up to defend our companies.

Go to the next page, page 16.

Mr. CARDIN. Pro bono, I assume. [Laughter.]

Mr. BROWDER. Well, they didn't do a very good job in the court because they claimed guilty. And so, as a result, the judge awarded \$376 million in damages against our companies to a \$300 shell company that had filed a lawsuit based on these forged backdated contracts.

Go to page 17.

We discovered the same thing had happened in three other courts in Russia, with total damages against our companies totaling \$973 million. We couldn't understand what they were up to until about March 2008 when we started to analyze the court judgments and look at them relative to the companies profits in previous years. And then it all started to make sense.

Our companies had made, in 2006, \$973 million in profits and reported those to the Russian tax authorities. And the bandits then created \$973 million of fake losses by using these courts with these court judgments to create an adjusted net profit of zero, looking backdated.

Well, why do they want adjust a net profit of zero—page 19—so that the \$230 million of taxes that we paid in 2006, they could go back to the tax authorities and say there was a mistake made from these companies that they had just stolen. And they said, we want to have the tax money back.

And, incredibly and remarkably—go to page 20—the criminals applied for a tax refund of \$230 million and were awarded it in 2 days. It normally takes 5 years to get a \$10,000 tax refund. They were given a \$230 million tax refund, which was probably—which I think was the largest refund in Russian tax history, in 2 days.

Go to page 21.

The money was then sent through two Russian banks and laundered through a number of U.S. banks shortly thereafter.

So the crime was pretty incredible. What was even more incredible was what they didn't do when we complained about it, on page 22. We filed about 30 different complaints, including six 255-page complaints with the Russian general prosecutor and the State Investigative Committee and the Internal Affairs Department of the Russian Interior Ministry, along with every other body in Russia, and we have not received one substantive response.

The only thing that's happened is the most cynical part of the whole thing, which is after stealing our companies and then stealing the tax money that they paid, they then are now trying to blame us. And, page 24, they've opened up a criminal case against me for a totally unrelated issue based on a 2001 company that I was a director of.

On page 25, they open up a criminal case against my chief operating officer in a totally different company that he was the director of.

On page 26, they've opened up a criminal case against one of our lawyers who was the one filing all of the lawsuits against the government.

On page 27, they opened up a Federal case against another lawyer from a different law firm, who was trying to help us bring this whole case to light.

On page 28, they arrested and have imprisoned—he's been in prison now on pretrial detention for 7 months, Sergei Magnitsky, who is from the law firm Firestone Duncan, who did a lot of the investigative work which helped us expose this crime. And there are a number of other lawyers from different law firms who have had to flee Russia in order to avoid this kind of persecution.

On page 29, this type of situation is—this story might be shocking, but it's not unique. This thing happens—I think has happened 70,000 times in Russia. There is—this is a common activity called raider activity, and there's even a pricelist for this type of thing. We found this on the Internet. For a complete raider package it costs between 500,000 (dollars) and several million dollars. It's at the bottom of page 29.

On page 30, the president of Russia has rightfully declared that legal realism is ruining Russia, and so he thought that maybe he would do something about this. And so we wrote to all 19 members of his Anti-Corruption Commission that was formed after he declared legal realism to be something he wanted to fix, and we've not received one substantive reply.

So what should the U.S. Government do about this? I've got six proposals and recommendations. The first is to understand the nature of the Russian state. This is not a functioning—the Russian government doesn't function in the same way as other governments in the world. There are many people in the government who are acting for their own business interests. They're not acting as patriots or government officials acting in the national interest.

And when we negotiate with them and have bilateral attractions with them, we have to understand that. And I think it's very crucial that one is not naive to think that this is a country where the people who are sitting across the table from us are necessarily acting in the best interests of their country.

No. 3 was a very important point, which is that we have very comfortably decided to press the reset button before the Russians have pressed the reset button. And I think the Russians need to reset the commitment to fighting corruption and dealing with some of the issues that I brought up and the issues that my other witnesses have brought up before we can properly reset the relationship and agree that we're all friends again.

I believe that we need to push hard for the Russians to recognize and address these cases, and the best way of doing that is, in some, with respect to ones coming up, cases like my case, the Klebnikov case and other cases, should be brought up very specifically and individually, and we shouldn't be afraid to bring these cases up because of other issues on the agenda.

No. 5 is that the Russians misuse the international criminal justice system very aggressively, and when they have cases like this, they will put out Interpol notices for people, when the real criminals are the people who are putting out the Interpol notices.

And I believe that the system needs to be changed so that the Russians can't just use the international legal system to corruptly fight their own legal battles, and there should be some type of rigorous review when it comes from a second-tier country like Russia and possible veto.

And the final thing is that Russian lawyers and other lawyers should be protected in defending and fighting for their clients.

Thank you.

Mr. CARDIN. Well, thank you very much for that testimony. It's pretty vivid and documented.

The success, I think, of the Helsinki Commission over the years has been to bring up individual cases. Once again, it's easy to make a general statement. And when you follow it up with a specific case, as we did during the Soviet era on immigration issues, or as we did on freedom of religion issues, or restitution of property issues or an individual case, it brings a lot more to the table.

It's more difficult for the representatives of a country to avoid answering when you say, you know, what happened in the Browder case. So I want to thank all three of you for giving us specifics today.

And the fundamental point here is rule of law, and how can you have a country that respects rule of law if it allows these types of activities to take place? Corruption—the commission has made corruption and fighting corruption the center part of our strategies, and it's fundamental to rule of law. It's widespread. As, Mr.

Browder, your testimony is in Russia, it's going to be difficult to see how we can make those types of advancements.

Another aspect of rule of law is how the criminal justice system works, that you have some independence, and then when case are brought there is a fair investigation. And, clearly, in the case of Paul Klebnikov, that was not the case.

And then, on the lawyers—I mean, I think that's a very interesting point, that lawyers are being indicted. And it's my understanding that the Jehovah Witnesses, those who have tried to help the Jehovah Witnesses have been harassed. So it's dangerous to be a lawyer fighting these issues in this environment today.

So, Mr. Cherepanov, let me just start with you, if I might. Is it the Jehovah's Witnesses that are being singled out, or is it more widespread as far as religious tolerance in Russia today? Why do you believe that the Jehovah's Witnesses particularly have been singled out for this type of harassment and action?

Mr. CHEREPANOV. Well, of course we don't know for sure, but what we see is the unequal treatment of religions. There is the Orthodox religion, which is perceived as the state religion, although the constitution separates religion from the politics of the government, but we don't see the equal treatment.

We are not the only ones who are singled out. For example, recently we had some news on Scientologists, Mormons, and Pentecostals and so forth. The Jehovah's Witnesses are operating throughout Russia, and since we are active, probably we are primarily targeted.

Also, we fight in courts. Like, if our rights are violated we go to courts and we try to defend ourselves. And probably this serves as a precedent for the local authorities. But we believe that on the so-called religious market, if you can say, they want to shove off all other religions and to have green light on the few selected, and probably that's the core of the issue.

Mr. CARDIN. Are you finding it difficult for lawyers to represent you, in light of what's happened against some that have come forward?

Mr. CHEREPANOV. Well, what we meet is—like you mentioned, legal realism, that—take, for example, we're now advising the Republic of Volta in Siberia. Our lawyers went there, and the local FSB immigration authorities, they were hunting foreign lawyers, because the presence of a foreign lawyer in the courtroom brings certain discipline on the part of the judge and the prosecutor. They start behaving differently and probably they become nervous. Therefore, the authorities try to get rid of foreign lawyers.

But for Russian lawyers, so far it was not a major problem. This particular case of the Igazov Chernikov, he was participating in defending witnesses [inaudible] work when the FSB made an illegal raid on the place of worship and held many people for many hours. So therefore this lawyer was very actively protecting them, which was too much of an annoyance for the officers.

And then they instigated the case of disbaring him. And this was kind of alarming. But for other cases, yeah, lawyers didn't have much of a problem. But it's a big fight. You know, every time you go to the court, if you're a lawyer you have to make your way through and, you know, plead all the motions, and it's not easy.

Mr. CARDIN. This Commission has sent letters on behalf of the Jehovah's Witnesses in Russia and other parts of Europe. We've also had resolutions in Congress. Do you find that helpful or do you find that when we put a spotlight on this, there are actions by the Russian authorities that are positive or negative?

Mr. CHEREPANOV. What we find is that this thing, the authorities on the local level, they try to do it in darkness. So whatever light is shed on what is going on is helpful because then they're afraid to do wrong moves. So, therefore, any attention and any publicity serves to the better.

Mr. CARDIN. Mrs. Klebnikov, let me talk a little bit about—has the government—has the Russian Government been in touch with you in a substantive way to try to explain what happened in regards to the—

Mrs. KLEBNIKOV. Well, I met—

Mr. CARDIN [continuing]. This prosecution of the criminals?

Mrs. KLEBNIKOV. I met with President Putin in 2005, and then subsequently met at least twice with Foreign Minister Lavrov, with updates on how things were going or not going. And then when Ambassador Ushakov was in Washington, I saw him frequently.

So, in addition, Paul's brothers and—my brother's-in-law are in touch with many of the principal people in the prosecutorial and investigative branches. And we had a longstanding kind of dialogue going on. That doesn't actually mean we know what's happening or that we can influence it.

Mr. CARDIN. Well, this is a highly visible case, and therefore it's understandable that the Russian authorities would want to be polite and meet with you. The question is, are they—do you believe that they are acting in good faith to try to bring the perpetrators to justice? Do you think that they don't have the ability to intercede in the courts?

I mean, what—it seems outrageous.

Mrs. KLEBNIKOV. That's a very good question. I think there's a mixture of things. I think a lot of the police work is really well done and is solid. The mastermind case and investigation was separated from the hit men. So it never really got to the point of even really revealing any of the evidence on the hit, which obviously is the crux of the matter.

The hit men were—some of them were arrested and there was this whole case. The case, to some extent, was done in good faith by some of the people. We were very sympathetic to the prosecutor. He wasn't completely able to make it happen the way he wanted.

There was intimidation and all kinds of problems. I mean, it's quite hard to be on a jury in a courtroom with, you know, a ton of Chechen gangsters sitting there staring you in the face. I mean, it's very unlikely that you're going to really stand up and be brave and bold, though some of them were and stood up and voted against the acquittal.

Ultimately there has to be political will to make things come to a head. So the question now is we were told there was political will, that it would be given, and then in fact it didn't translate into the court action. The supreme court that received the case from the Moscow city court was very fair. They absolutely called it as a trial with many irregularities. It was overturned and sent back.

So the answer is, it's scattered. Some people—perhaps the ones that don't have political consequences, are earnest and trying hard and in many cases very professional and admirable people. Others are maybe inept. Others are acting on political orders not to go forward. It's really not a straight story. We've seen a little bit of everything.

But right now the ask we have is that the mastermind be revealed, that the evidence be analyzed, that the investigation go forward, and that if it is within their powers, they proceed with that case.

Mr. CARDIN. But there is no—you don't have a sense of confidence that the authorities are actually pursuing it?

Mrs. KLEBNIKOV. I don't know. We haven't had recent information. I know that our Ambassador in Moscow has just met recently with Ambassador Ushakov, who is the foreign advisor to Prime Minister Putin, and they're looking into it. Because the anniversary is coming up and the summit, that might generate, you know, some focus on this case.

Mr. CARDIN. So—

Mrs. KLEBNIKOV. But I don't know of any actual stuff going on.

Mr. CARDIN. But your objective is to get to the planner of the assassination as your top priority, but—

Mrs. KLEBNIKOV. I think—

Mr. CARDIN. Those who actually pulled the trigger, you want them held accountable—we all do—but your main objective is to go after those who planned the assassination.

Mrs. KLEBNIKOV. There should be sincere effort to arrest and—

Mr. CARDIN. Now, the police work you're referring to that you had some confidence in, was that also done to those who planned the assassination or just those who carried it out?

Mrs. KLEBNIKOV. I don't know because the case against the hit man was separated from the case against the mastermind.

Mr. CARDIN. Well, we're going to continue to raise this issue. We have not only your husband but journalists are not safe in Russia today, and when the authorities allow these unsolved cases to go without showing a transparent effort to find out what has happened, it puts all journalists at greater risk.

Mrs. KLEBNIKOV. I do think a lot of people really wanted to make it work. I mean, Paul worked with a lot of policemen. He worked with a lot of law enforcement people. As Mr. Browder knows, he was trying to make the establishment work better. Obviously that was then and things have changed and all that.

But there were honest people working hard. That's not good enough, though, because the system isn't working.

Mr. CARDIN. Mr. Browder, this is quite remarkable evidence and a very concise presentation. You have dotted all the i's, all the dots, have brought it into focus here. I mean, the numbers that add up is just amazing as to how open they were in their efforts to carry out their corrupt scheme.

And my question is very direct: What response are you getting from the U.S. Government in regards to this issue, and whether you have any confidence that this area, this issue, this case can very well be used as an example to further the U.S. objectives of

anti-corruption in Europe, whether they are taking your information and are prepared to use it.

Mr. BROWDER. This is just the tip of the iceberg, by the way. If we had more time—this is better than a John Grisham novel, how deep it goes. The answer is—

Mr. CARDIN. Maybe you ought to recoup some of your losses by selling the rights. [Laughter.]

Mr. BROWDER. Perhaps. I've gone to the White House and I have specifically asked them to put our issue on the agenda as one of the issues to raise in terms of improving the rule of law for—generally for foreign investors in particular. And I made that request very specific, and it's not clear to me whether it will or it won't be, but I hope that perhaps—

Mr. CARDIN. Are you talking about in the summit?

Mr. BROWDER. For the summit. I'm hoping that perhaps my presence here and your listening to my story might in some way tip the balance of probability so that this is something considered emblematic of what's going on that's important, and as a way of not just addressing my issue but addressing the issue of people who are not—who are too scared to bring their own issues up.

Mr. CARDIN. Well, I'll just make an observation. I know the list to choose from on the summit, between—for the United States has to be a difficult and a long list because there's a lot of concerns. Let's just take human rights for one of them.

There is a lot of concern on the human rights basket in the relationship between the United States and Russia, and what's happening in Russia today. And my hope is that the administration will use this opportunity of the summit to raise human rights issues, whether it's the safety of journalists of holding journalists responsible, or the corruption issues, or the American who in good faith was operating as a businessperson in Russia and has been placed at great risk.

Those issues [inaudible] the Jehovah's Witnesses and religious freedom. These issues need to be raised at the meeting between our presidents. And I don't now how they're going to make the final decision, but I'm going to be pushing to make sure that the human rights basket is robust at the summit meeting itself.

Congressman Issa?

**HON. DARRELL E. ISSA, COMMISSIONER, COMMISSION ON
SECURITY AND COOPERATION IN EUROPE**

Mr. ISSA. Thank you, Senator. Sometimes you never know where to begin, even after there has been a round of questions.

Mr. Cherepanov—hopefully I'm halfway right on the pronunciation—I was raised a Mormon. My schedulers [inaudible]. So I have a view—I'd like to question perhaps a little differently than the senator did.

Both of our religions are ones of internal family if you will; strong bonds within the members of the religion. If you will, we get accused even in this country of being a cult. But the one thing that you do know is that in your religion, in mine, you spend an awful lot of time communicating with your fellow members.

Is that, in your estimation, one of the biggest reasons that organizations—in this case religions—but any organization which tends

to have a broad membership, feeling a bond with each other and communicating is a threat to, if you will, this way of doing business in Russia where you separate everybody and then power takes control over everyone's life?

Mr. CHEREPANOV. Well, it's hard to answer this question, but we just observe that like authorities treat us differently on different levels. On the one hand they invite us to participate in some events like cleaning the streets and profoundly thank us for that. On the other hand they make us a target in newspapers and always, you know, there are few issues they would like to raise.

Mr. ISSA. I think they are only there for you when they need you. [Laughter.]

Mr. CHEREPANOV. Oh, yeah, that's right, like when something bad is happening, you know, that could be to any citizen, you know, they say, OK, yeah, sure, this is one of the Jehovah's Witnesses. If something good is happening they say, oh, hmm, I'm surprised he's one of the Jehovah's Witnesses but something good has happened.

You know, whatever happens they portray us like in a negative light. But I think the question in Russia is, you know, Russia [inaudible] ideology, and when communism fell in 1997, the quality of national strategy—in Yeltsin's time the Orthodox Church was proclaimed as—

Mr. ISSA. The dominant church.

Mr. CHEREPANOV. Yes, of significance to the Russian society. And I think the government has invested much into this ideology.

So, therefore, any region, the performance of other regions, they consider it as a rivalry. And probably that's—this is how I personally see it. You know, there is no other logical explanation because when it comes again to the level of local governments, we have no problems.

Mr. ISSA. So diversity of thought—

Mr. CHEREPANOV. Yeah, diversity of thought is intimidating for some of the authorities. And I think they have a, you know, special forces somewhere in the government, and the government—the Federal Government [inaudible] in Yeltsin's time and Putin's time, and even now in Medvedev's time—in the Presidential administration, they say, well, we don't have a problem with you guys. You are a big religion, like you operate within the frame of the law, like we don't have problem. So our question, why is it that we have a problem and from whom? We still cannot answer this question, but we know that FSB is very actively promoting this idea that we are a threat to national security. They try to say that we are a threat to the national ideology, or whatever, which is not true.

Mr. ISSA. I appreciate that and you obviously have my personal sympathies. I grew up listening to religious radio in this country that somehow found a way to think that we weren't Christians just because we weren't of one particular order. And oddly enough, my father was Syrian Orthodox, so [laughter] which, in this country, is not so popular.

Ms. Kleb—ah, I'm going to work on my Russian—Klebnikov—obviously, each time either a journalist is beaten, expelled, or killed, it's going to have a chilling effect on the rest of them who might stick their heads up. After far more than a decade of this and I've

done business as a businessman in Russia, I always say it's the only place you ship all your goods wrapped in black so that they have to figure out which ones to steal, and if they steal them all, they'll get yours, but that's the only way they're going to do it.

And we really began running—and you've seen it, I'm sure—everything comes into Russia wrapped in black plastic so you have no idea what's inside, if you don't have the papers, it still gets stolen. But after more than a decade of this, you still seem somewhat optimistic that there's a hope that somehow, this will change—that the light that journalists try to put onto these kinds of problems can, in fact, succeed and somehow, there can be a turning point. What makes you think that there's a tipping point that's positive in the foreseeable future?

Mrs. KLEBNIKOV. I don't think I have an exact reason for it. It's more of a principle that, if you meet people who are of moral conscience and they have the same values we do, we have to believe that that is something worth pursuing.

Mr. ISSA. Well, you know President Bush meant Putin when he said he could see his soul. President Obama has already said positive things about the new President. Are these people simply too clever for Americans to properly see them for what they are and what they'll do—I'm talking about strong political leaders that seem to—and I know you're in a spot, a little bit, because you try to work them, but you know, they—and I'm going to—I think to Mr. Browder, I'm going to particularly add that, you know, you meet with the highest level and they tell you yes, yes, and then you find yourself being brutally attacked just when you thought you had somebody that could be, at least here somewhat, your honest broker.

Mrs. KLEBNIKOV. I'm really not in a position to judge if they're too clever for us, but I think they're different, and I think the way people treat each other does affect results. On the one hand, you want to be firm against criminal behavior in every way possible; on the other, you also want to be [inaudible] things that are positive. I mean, I don't think you have to go one way or the other entirely. Mr. Browder has outrageous problems to be addressed and I'm just saying civil society also comes from nurturing the good people. And my experience is that shaming and embarrassing people is a complicated approach; sometimes, we have to change how we approach it to get more results. I don't know that they're clever, but they're definitely [inaudible].

Mr. ISSA. Fair enough. Mr. Browder, what does it cost to buy a Chelsea soccer team, would you say? Less than what you were taken for?

Mr. BROWDER. No, more. They had to run a couple of these schemes.

Mr. ISSA [continuing]. A couple of these in order to get it, so—and would you say that's likely what happens, is these scams lead to large purchases outside of Russia of that sort—not specifically that one, but of that sort?

Mr. BROWDER. Well, the interesting thing about Russian crime is that the Russian criminals are just as scared of the property rights in their own country as everybody else is, so once they get away with the loot, it's not safe to keep it in the country because some-

one else will come after them, next thing. It's just an unstable place for even the criminals.

Mr. ISSA. And you chose to go there and invest a tremendous amount—and I know there's not time to look at the whole history of that—but you know, when the Berlin Wall fell and particularly when the Soviet Union fell apart, I was a private citizen making, of all things, car alarms. And Europeans experienced an amazing event, which was that people from Russia bought one-way tickets to Western Europe sightseeing and they left with European cars.

My business went through the roof with Russians wanting to buy car security systems to protect what they'd stolen. [Laughter.] You know, this would be even funnier if it weren't actually true. This has obviously been going on from before you came to Russia and through the entire period, but apparently, you had a period of success. Did that sort of lull you into believing that as long as you played by Russian rules and were extra careful and had personal bodyguard, I'm sure, the whole time you were there, that somehow, you could win in this environment?

Mr. BROWDER. My premise, when I arrived there and started investing in sort of my business in 1996—

Mr. ISSA. I know you had a full head of hair and none of it was gray. [Laughter.]

Mr. BROWDER. Well, the premise was that Russia was horrible, but that it was on the transition to bad, and that you could make a lot of money from horrible to bad, and that we could actually help the transition by shining some bright light on some of the bad practices, which is what we do very, very visibly with exposing corruption in some of the Russian companies.

And interestingly, it appeared as if the government, from about 1999 to 2003, was on our side, because we would expose some major theft of Gazprom and all of a sudden, the guys that were responsible for the theft would be fired or the scam would get shut down, naming and shaming through the public media.

And then, all of a sudden, things changed. I think they changed after the arrest of Mikhail Khodorkovsky. When you take the richest guy out and you stick him behind bars and you put him in a cage so that everybody can see him, then what does the 17th-richest guy do? He says well, maybe I shouldn't be making these types of noises. Basically, after Khodorkovsky's arrest, then everybody got scared, and then we were no longer getting any support from the government.

And so, I mean, it's a complicated story, but we were on the transition from horrible to bad and I think we'd made a lot of progress. And then, all of a sudden, progress stopped and now we're on the transition from bad back to horrible, and that's why I find this situation so upsetting. It's not just upsetting for me, but it's upsetting for, you know, 139 million anonymous Russians. I think the country's occupied by two dishonest people in positions of power, but there's a lot of good people here.

Mr. ISSA. But Gazprom was not at the local, provincial level; it was at the level of the President. I mean, this was a chief executive decision, supported by the trappings of the judicial system. I mean, there wasn't any doubt, at least here, on that, was there?

Mr. BROWDER. Basically, all of the major companies—all the strategic companies—have high-level involvement from the decisionmakers, because it's different than America, where the businesses are separate from that. And so whatever goes on in those companies goes on with the knowledge and one could say blessing of the people—

Mr. ISSA. So sort of General Motors and Chrysler, but not the same.

Mr. BROWDER. Well, in those cases, what's good for those companies is good for America, or whatever, but in Russia, what's good for some of those companies is good for certain, specific individuals who are sitting in positions of power.

Mr. ISSA. They had the brass ring and then they slipped away. The theory has always been, you know, you help them join all the clubs, and if they join the clubs, then they'll behave better because they're inside. China, of course, is a WTO member. It may not be in your portfolio, but I assume you're at least familiar. From the standpoint of our policy, do you think the president should be cautioned to give no carrots except those which are later earned, or do you support the idea that some of these organizational memberships could, in fact, make a difference?

Mr. BROWDER. My personal opinion is that the Russians are very zero-sum negotiators, and there's no such thing as doing a favor and then getting a favor back. You want something, you say here's what I'm going to give you, and here's what you give me.

Mr. ISSA. They want to see the money across the table simultaneously.

Mr. BROWDER. Exactly, in escrow at the same time.

Mr. ISSA. Very good. Thank you all for coming here. I don't know whether—how to place the personal persecution of a tragic murder or your financial loss on the appropriate planes. They're all pretty terrible, and it does appear as though, as you said very well, we're going from bad to horrible again. And that may be the challenge for the president when he goes to Moscow, it is getting from horrible back in the other direction, at least moving. Thank you.

Mr. CARDIN. Thank you very much for your comments and your questions, and it's clear to all of us that Russia's potential will be very much impacted by failure to deal with these issues. It's going to affect international participation of Russia and development of its economy and its potential and its people, and that's one of the reasons—history has taught us that this is one of the reasons why this is of interest to all of us.

We're very much interested in improving relationships between Russia and the United States; we have a lot of common areas of interest. But these matters need to be brought up, and we certainly expect that President Obama will raise these types of issues, if not your specific issue, during the summit here. So thank you all for your testimony—extremely helpful.

Mr. BROWDER. Thank you.

Mr. CARDIN. Our next witness is on to Sarah Mendelson, Director of the Human Rights and Security Initiative at the Washington-based Center for Strategic and International Studies. As I understand, Dr. Mendelson has been involved in President Obama's upcoming trip to Moscow, and she was certainly present during the

former panel, so she may have some comments that will be very helpful to us in trying to sort out how we move forward with the meeting between President Obama and the President of Russia. Dr. Mendelson, it's a pleasure to have you here.

SARAH E. MENDELSON, DIRECTOR, HUMAN RIGHTS AND SECURITY INITIATIVE, AND SENIOR FELLOW, RUSSIA AND EURASIA PROGRAM, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES (CSIS)

Dr. MENDELSON. Thank you so much. Good to see you. Thank you. Chairman Cardin, members of the Commission, thank you for inviting me to participate in this hearing on current developments in Russia. It's an honor to be here. My comments today address the important question of whether we're seeing something of a thaw in Russia today.

Below, I suggest some metrics for assessing change in Russia, and I argue that, no matter what, we need a new U.S. approach for engaging Russia civil society, both from the governmental and nongovernmental perspective. I'll explain why I think a new approach is timely and needed and how I think it might relate to the upcoming summit.

First, is there change? Russia has experienced a rather stark democracy and rule of law deficit in recent years. You've just heard from other panelists about this. I've testified before you many times, drawing on survey work that I've done with colleagues in Russia about the way in which Russians experience this rule of law and democracy deficit.

At the same time, I've also discussed with you how the ability of the United States to lead on issues relating to democracy and human rights has been negatively affected by specific policies having to do with torture, indefinite detention and Guantanamo. These policies limited the effectiveness of American decisionmakers to push back on authoritarian regimes.

In fact, each time I've had the privilege to appear before you in recent years, it seemed that the news grew worse. Political conditions inside Russia were declining and U.S. soft power was diminishing. Today, on many different levels, I believe we are in a new era, and I come before you slightly more optimistic, although still cautious. At home, while still very early in the new administration and with progress slower and more uneven than some of us would like, the Obama administration has begun to get our house in order.

I hope that Congress facilitates, and does not impede that progress, especially in terms of closing Guantanamo, repairing the damage to U.S. soft power and reversing the departure from human rights norms that characterized previous counterterrorism authorities will provide the Obama administration strategic and moral authority and it will, I believe, have positive consequences for their Russia policy.

Meanwhile, in Russia in recent weeks, we've seen some small changes in how the authorities relate to civil society. These have been mainly rhetorical in nature, but changes nevertheless. Specifically, President Dmitry Medvedev has taken several symbolic steps. His first interview in a newspaper was to Novaya Gazeta.

This, of course, is the newspaper where four journalists have been killed since 1999.

He reconvened and met with his council on human rights that is populated by genuine rights defenders, and he launched a review of the NGO law that has been so vilified since its adoption in 2006. While the results—the changes to the NGO law—are by no means as comprehensive as they might have been, on June 17, 2009, Medvedev submitted a revised law to the Duma for consideration.

These actions contrast with starkly negative rhetoric, articulated since 1999—summer 1999—by numerous senior Russian officials concerning human rights, foreign assistance and the nongovernmental community. I want to argue that it was long before the arrest of Mikhail Khodorkovsky that the situation for human rights defenders in Russia became tenuous. That rhetoric, in fact, generated the hostile and often dangerous—sometimes lethal—atmosphere in which activists and journalists live and work in Russia. So the current changes in rhetoric are, in my mind, noteworthy.

But the question is, were these steps simply the, “week of democracy,” as Russia’s Newsweek has suggested? I was in Moscow in April, and consulted with lots of folks and in dozens of subsequent e-mails with human rights colleagues, we’ve been puzzling through this. I will tell you that among key civil society actors—and I think within the Obama administration—there’s a growing consensus that the best response, for now, is to act as if these gestures do signal a shift; the “as-if” stance is practiced even by those who have previously experienced very severe pressure by the Russian authorities.

The reality is, we don’t know, until more time has passed and more research has been done, whether we’re experiencing a thaw, and why it’s occurring. In the meantime, let me offer this working hypothesis: It is possible that we’re at a rare, critical juncture—the political equivalent of a perfect storm—where we have a new administration in the United States that has said it’s focused on President Medvedev, not Putin, offering a possible reset of the relationship.

Coupled with that, we all find ourselves in an economic crisis, and that, in turn, has possibly frightened some criminal officials as they realize that they’ve been overly controlling of that civil society and that civil society will need to play a role in tackling some of the social problems that confront Russia, just as we need, in the United States, a robust civil society. We need, therefore, I think going forward, to develop of very specific set of metrics to gauge the opening or continued closing of politics in Russia, and I offer just a few.

Is there serious movement to bring the murderers of Paul Klebnikov, Anna Politkovskaya, Stanislav Markelov, Anastasia Baburova, among others, to justice? Is the number of journalists and lawyers killed decreasing or increasing? Is the judiciary increasingly independent, or not? Are Kremlin critics allowed to return to national television? An empirically based assessment of these and other relevant questions will help the Obama administration officials identify opportunities, as well as monitor continued challenges.

So the answer to most of these questions, at the moment, I fear, is still no. So we don't want to exaggerate what we're seeing happen in Russia. On the list of small, promising signs of change we've seen in recent weeks, I very much hope we will be able to add the neutral, and even positive, engagement by Russian authorities at the United States-Russian civil society summit, to be held during the July visit of President Obama to Moscow. I am one of the co-conveners of this meeting, along with Horton Beebe-Center, President of the Eurasia Foundation, and Andrei Kortunov, President of the New Eurasia Foundation in Moscow.

How that meeting unfolds will provide an additional metric concerning the opening or closing of political space in Russia, although I should be clear that's not its primary purpose. I want to also recommend my colleagues from Human Right First—their written testimony—who are also signaling to the Obama administration that we'll all be looking to see whether or not senior Obama administration officials meet with and support human rights and civil society. We think that will be an important indicator of their interest, as well as looking at internal conditions inside Russia.

So why are we organizing this civil society summit in Moscow, a question I ask myself as we are struggling, just 10 days out from leaving, gathering passports and tickets and visas. This has been a truly complicated endeavor. Speaking for myself and not for Mr. Beebe-Center and Mr. Kortunov, I felt that it was very important that the summit not only be about government-to-government relations and that it not only be about arms control and arms reduction, however important.

I thought it was very important that there be an element of civil society and, absolutely, human rights, inserted, and it's not the kind of thing that we could expect or wanted the governments to arrange. It was really—the onus was on us, in civil society, to organize this summit and then to be there and hope that the governments will come and engage with us. But there's another, longer-term reason: For nearly 20 years, with some important exceptions, the primary way in which American and Russian civil society have engaged one another, often with very welcome support from USAID, has been bringing Americans to Russia to train and teach.

I've been a part of this democracy-assistance industry, working in the mid-1990s for the National Democratic Institute. I've studied this approach extensively, and in the past, I've been a strong advocate for it. I believe, however, by 2009, the era of American trainers going to Russia and regarding Russia as a problem to be fixed by the United States should come to an end. Certainly, inequalities in institutional development in our societies do exist, and civil society uneasily coexists in Russia, as I've noted and others have noted, with pressure from the authorities.

But all that said, the approach that we have taken over the last 20 years does not appear to be helping create more space for our colleagues in Russia. It does not appear to be helping our colleagues increase their capacity to address problems in their society. Instead, it appears to be ineffective, inefficient and increasingly unwelcome. The era of assistance, I argue, ought to give way to one of engagement. So we're looking to July as an opportunity, but it's also an experiment. We have about 60 civil society leaders, all from

the nongovernmental sector, coming together over 2 days to explore what sorts of activities might make United States-Russian nongovernmental cooperation more meaningful, and how best to engage our governments on a variety of issues.

And what makes our July meeting different from previous gatherings is that the majority of the Americans that are participating in this work on issues and problems here in the United States are coming together with colleagues and peers in Russia to discuss joint problems. These include practitioners and experts who work on non-infectious disease and maternity health in the United States and Russia, work on community development and affordable housing. We have human rights activists who've led efforts in the United States to end torture, detention without charge, and close Guantanamo, and they're going to be engaging with their counterparts from the very robust Russian human rights community.

We have working journalists discussing new media and possibly sharing content. We have experts on higher education exploring how to make sure that the next generations in both countries are knowledgeable about one another. And we have environmentalists meeting together with environmentalists. We're by no means the only ones who thought the Obama-Medvedev summit in Moscow would be a promising time to explore the possibility of a new approach. Various Russian colleagues, apart and separate from my co-conveners in Moscow, have been circulating ideas of how to make United States-Russian civil society relations more robust.

There was a Washington Post op-ed by Ludmilla Alexeeva and Gregory Shvedov at the end of March, just before President Obama met President Medvedev in London. Those and other ideas are ones that we want to explore. We expect to discuss specific recommendations, and we hope to share our findings in Moscow with both governments. The breadth of civil society in the United States and in Russia will not be represented fully at our July summit. We had something like 70 days to put this together, and very few resources.

We see this as a modest first step. We hope it is a catalyst for future projects. We hope that when the presidents come together sometime in the next couple of months or in the next year, that there will be, again, a civil society summit. We think that scaling up this effort—that is, expanding it so that it moves from a more elite audience to a more public one is one of the challenges, among many, that we need to address in short order. Thank you.

Mr. CARDIN. Well, Dr. Mendelson, thank you very much, and we certainly wish you well with the summit for civil societies. I think it's an extremely important effort. Let me first start with agreeing with your observation about the United States, and taking the OSCE commitments and taking human rights seriously ourselves, and doing self-evaluation and action which is credible internationally so that the United States can, again, be a stronger leader on these issues in the international forum, and certainly, be in stronger position on summit meetings with world leaders. I agree completely with you.

I want to just as a fundamental question to start off, and that is, you went through a list of questions and answered them no at the end. And the question is, the administration's trying to reset

the button with Russia; can human rights be part of that discussion, or is that a distraction to what the administration is trying to achieve in developing a closer working relationship with Russia on the most pressing international security issues?

Dr. MENDELSON. My sense of what the Obama administration is trying to do is to, if you will, walk and chew gum at the same time. I think that the organizing principle that is guiding a lot of what administration officials are doing as they engage with the Russian government is to do two things at once. They can, on the one hand, engage in strategic arms reduction discussions; at the same time, they can discuss and prioritize human rights; it's not one or the other.

And I think that there are a couple of different ways that we might look to see the Obama administration do this when he goes to Moscow, or even before. For example, I very much hope that he speaks about our own journey, about what's been going on here in the last couple months. Obviously, this last election was a historic one, but I don't think the Russian population has a very good sense of who he is or what his personal story is or what's been going on.

This country's been in the throes of a debate about torture, about whether we should have an independent commission look at what's happened over the last couple years that's not been well covered inside Russia, with some important exceptions. But I think it's also important that President Obama raises, certainly privately with President Medvedev, human rights concerns. As I understand it, he did when he met in April.

On April 1, you'll recall that Lev Ponomarev, a human rights defender in Moscow, was badly beaten just before the Presidents met. And President Obama did bring this up. And it was actually through that exchange that I realized that Lev Ponomarev is essentially two degrees of separation away from President Obama—and for that matter, so are a lot of us who worked with Mike McFaul in the past on democracy and human rights issues in Russia.

So you know, we're trying to, at some level, do our part. We're expecting the Obama administration to do their part, both by helping senior administration officials meet with human rights defenders, when they come, but also with other parts of civil society, and discuss how—you know, a message that was very common in the campaign—governments can't do it by themselves. There are ways in which civil society is absolutely critical for creating the world in which we want to live in. And we need, on some level, Russian authorities to allow the space for human rights defenders—it's a very huge moment, or decision, for the Russian Government—where they want to be—and we don't know the answer yet.

Mr. CARDIN. I strongly agree with your, I guess, objective or hope—we'll put it that way at this point—that the United States can very much engage in a much more constructive relationship with Russia on strategic issues concerning national security, arms control, and dealing, I hope, with a better relationship on isolating Iran as it continues its path toward becoming a nuclear weapons power.

I think we can certainly focus on that issue, and at the same time, engage Russia on its commitments in regard to human rights. And I think that manner in which you presented that President

Obama hadn't taken on his own personal life story, as well as the changes from the Bush administration and the manner in which he went about those changes—not in a destructive way for our country, but in an evolutionary way to say, look, we went off track and we got back on track, and it may have been under the best motivations, but it was wrong and we needed to make these changes.

I think he can tell that story as effectively as any person in the world and he can motivate change and hope around the world. Now, having said that, I am concerned about the strategy of this administration as it relates to human rights. The President has made some very important national visits, but the human rights agenda has not been, at least, in the headlines. And to many of us, that has been disappointing; we thought there should have been a stronger emphasis in Cairo, a stronger emphasis in Turkey on human rights issues, and that when you're silent on it, it can be interpreted as agreeing with the policies of the government where change needs to take place.

So strategies from the civil society groups—strategies for the Helsinki Commission—how do we encourage this administration what strategies they should use to make it clear we strongly support a reset with Russia as it relates to a better relationship, a more effective relationship, on security initiatives. But we also believe that you cannot ignore and must set a climate for better action by Russia on the human rights front, as evidenced by the three witnesses we had today.

Dr. MENDELSON. Just a few points. I will tell you that I think the overly personalized relationship that we saw between President Bush and President Putin was destructive. I don't know that it was real, but it was done at the exclusion, too often, of engaging, in a robust manner, civil society. So I think that the Obama administration, and President Obama himself, has the opportunity to make this relationship not just about government-to-government, not just about White House-to-Kremlin, but to really reach out to larger aspects of the Russian population, and particularly civil society leaders.

And it's in their interests to do so. I agree with you that, like a lot of administrations when they first come in, this isn't the first one that's been a bit uneven or wobbly in their commitment to human rights. What makes it so different, of course, is that we are coming off a time when the most robust norms of human rights—the hardest law in human rights, for example, on torture—has been undermined.

And it is absolutely, I think, incumbent—and I think the human rights community in the United States, and I know worldwide is very anxious to see particularly this administration and the president himself take a very strong stance. We're waiting to see senior government officials be appointed—you know, legal advisor to the State Department, the head of the bureau for democracy, human rights and labor. I'd like to see a director in the OSCE.

Mr. CARDIN. An Ambassador to the OSCE would be good, also.

Dr. MENDELSON. Yes, an Ambassador to the OSCE. A directorship in the embassy that looked at human rights an international law, that was thinking about every bilateral relationship and how human rights plays a role, again, because it helps create the world

that we want to live in. So I think your points about Turkey and Cairo—and I might add the Secretary of State's visit to Asia—that this is a reset for them.

They can offer a very different narrative on going and speaking about human rights and engaging. And I think that if you could encourage senior White House officials on the political side, because it's right now—it's right this minute, today, tomorrow, Monday, you know, through the next week—that they're trying to figure out what their steps should be in Moscow. So I think kind of encouragement from you, Mr. Chairman, I think would be really, very welcome.

Mr. CARDIN. I can assure you that is being done, has been done, will continue to be done during the next couple days leading up to the summit, to encourage this administration to include the human rights issues in a very visible, open way, during this summit. I think it's that important. Let me just ask you about the civil society summit. Now, what response are you getting from the Government of the United States on that?

Dr. MENDELSON. Well, we've had tremendous support from embassy staff and from the Embassy in Moscow. I really cannot emphasize enough how helpful everybody's been. I think that, from their side, you know, the Ambassador on down, at the Embassy in Moscow, and Senior Director Mike McFaul has been hugely encouraging.

I mean, they very much want to see this happen. They've been hands-off; it has been our initiative. There've been occasionally moments where they've said, have you thought about this, or maybe this person, but the discussion has been with colleagues in Moscow who work at the New Eurasia Foundation, the Eurasia Foundation and myself.

And for me, it was very important, for example, to have—a lot of this you have to create a scene in your head, right? And so the scene in my head is that we've got people who I worked with on trying to close Guantanamo—Americans—and President Obama comes into the room and he's seeing all these human rights activists, he's seeing people who work on the environment, and he sees people that he knows who have been working with him on Guantanamo. And it's not just people who are either coming to bash Russia; it's, this is how civil society works, you know.

We engage our President in encouraging different kinds of policies, and that's what a robust democracy is about. So there's no reason to either hide or ignore or walk away from—we will be joined by colleagues, I think, who worked with President Obama in his previous life as a community organizer—some people from Chicago who've worked on affordable housing.

And I expect that he might say something like, their work is as important as the job I've got going—sometimes, it may be harder, sometimes easier—but I want my Russia colleagues to see the richness of our approach, but also to be trying to give some space and time for their concerns. So we hope that, mostly, our Russian colleagues will be speaking to the president.

Mr. CARDIN. Let me ask [inaudible] obviously, issues such as public health or energy and global climate change are extremely important issues to civil society [inaudible] I think you mentioned

that are common. And I would encourage you because we need better help in dealing with the health issues and dealing with the—well, energy is a health issue—but global climate change.

And even bringing up issues such as how Guantanamo Bay should be closed would be an interesting subject, I think, just to talk about in Moscow. But I hope you're also dealing with issues that are controversial to the Russians. Three were mentioned here today by the witnesses who've testified. Because I think if you don't bring those issues up, it will be historic in its absence.

Dr. MENDELSON. No, I completely agree with you, and I would say part of the way—when I talk about moving from assistance to engagement, there's another aspect to it, which I had spoken about previously with you, which is, if you use the survey data that we've collected and amassed, we have a very good understanding of the issues Russians care about.

So for example, in talking about health, for years, the U.S. Government has funded work on health in Russia, but they've mostly focused on HIV/AIDS. Not to say that that isn't important, but when you actually survey Russian doctors, all of whom had treated HIV-infected patients, and you say, what are the most important healthcare crises before Russia, they list non-infectious disease, cardiovascular, cancer, tobacco, alcoholism—they want engagement on that as well.

So what I'm suggesting is that we can use public opinion in Russia. Oftentimes, people say, well, Russians don't care about democracy. Well, let me tell you, they care about freedom from torture, they care about freedom from arbitrary arrest; they care that their husbands or children or nephews are not abused in the army. There are all sorts of ways in which the Russian population is open to engagement on issues having to do with human rights, health, the environment, and most likely, lots of issues that we haven't surveyed on.

So we don't need to be either embarrassed or cowed about addressing issues that are of tremendous importance to the Russian population, even if they seem to be difficult for the Russian Government. If we're speaking with the voice of those people, then we can speak that much louder.

Mr. CARDIN. Well, we look forward to the results of your summit. Obviously, you probably won't get the same public attention as the president will receive, but we do know that the work you're doing is extremely important to our goal, and we look forward to what you have learned from that summit.

I really do think the jury's out on Russia. I think the leadership is trying to struggle with some of these issues in a positive way. I think they had a long, long way to go. It's difficult to understand, at times, why they act the way that they do. But we have to understand them better without compromising our principles and our mission to adherence to international obligations. So we're not going to compromise that, but we want to establish better understanding. And with the election of new administrations in Russia and the United States, that gives us new opportunities.

I think we're all very anxious to see how the summit goes in Moscow and we will encourage our President to bring up these issues. We look forward to your report when you've completed the

civil society summit. Thank you very much for adding to this hearing, I thank everyone for their attendance, and with that, the Commission will stand adjourned.

[Whereupon, at 11:37 a.m., the hearing was adjourned.]

APPENDICES

PREPARED STATEMENT OF HON. ALCEE L. HASTINGS, CO-CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. Chairman, I appreciate your convening this hearing. With next month's summit rapidly approaching, this is a most opportune moment to examine whether U.S.-Russian relations have changed for the better.

When President Bush met Vladimir Putin for the first time, he claimed to have gotten "a sense of his soul." President Obama has already met President Medvedev and reportedly came away impressed, although I suspect he used different metrics in forming a judgment. I hope these two leaders establish a strong bond based on mutual respect. But a more reliable and stable basis for good inter-state relations is a meeting of the minds based on common interests. Russia and the United States have many of these, even while certain issues divide us. For instance, we will never recognize the independence of Abkhazia and South Ossetia and we insist on the right of countries to join any alliance they wish. But the range of concerns where Moscow and Washington see eye to eye or can hope to reach accord is broad and promising.

To some degree, the prospects for improved U.S.-Russian relations hinge on who is making decisions in Moscow. Like everyone else, I wonder whether President Medvedev is really in charge or whether former President and now Prime Minister Putin is running the show. There are also questions about whether there are really any differences of opinion between them, appearances to the contrary notwithstanding.

But I take heart from certain statements and gestures President Medvedev has made. These included giving an interview to the newspaper *Novaya Gazeta*, which has lost a shocking number of courageous reporters to contract killers. Among our witnesses today is the widow of an American journalist who was gunned down in Moscow; she will give us a personal perspective on the dangers of pursuing the truth in Russia. On another important front, President Medvedev last month convened a working group to begin reforming the laws that regulate some nongovernmental organizations.

These actions indicate to me a realization on his part that tight centralized state control is stifling Russian society, which is ultimately the source of that country's strength. If such gestures actually translate into trends, there will be more solid grounds for optimism about the prospects for better ties between our countries.

I would like to conclude by mentioning a news report that came out this week. Apparently, the Kremlin has created a new body to improve Russia's image in the world. Let me suggest that the best way to better one's reputation is by doing good. President Obama is attempting to do precisely that, changing many of the policies of the previous administration; I would hope the President Medvedev would see that as an example worthy of emulation.

**PREPARED STATEMENT OF HON. CHRISTOPHER H. SMITH,
RANKING MEMBER, COMMISSION ON SECURITY AND CO-
OPERATION IN EUROPE**

Mr. Chairman, I appreciate the opportunity to participate in today's timely hearing on Russia in advance of the President's upcoming summit meeting with his Russian counterpart in early July. While many are focused on the pursuit of arms control agreements with Moscow, the human rights situation in the Russian Federation continues to deteriorate across the boards. Whether we are speaking about freedom of expression and the media; the rights of all believers to freely profess and practice their faith; or the ability of human rights defenders, NGOs, independent journalists and political parties to operate without fear of government harassment, the space for such activity is shrinking. Compounding this reality is the near absence of an independent judiciary to which victims can appeal, receive a fair hearing and stand a chance of prevailing.

The troubling trends in Russia since the rise of Vladimir Putin from relative obscurity nearly a decade ago have largely continued unabated. In the 1990 Copenhagen Document all participating States reaffirmed that democracy is an inherent element of the rule of law and recognized the importance of pluralism. The Kremlin's pursuit of "managed democracy" is nothing more than euphemism for creeping authoritarianism.

As President Reagan once observed, "concentrated power has always been the enemy of liberty." Regrettably, there is nothing to suggest that the current Russian leadership is about to shift course.

Not surprisingly, at the OSCE the Russians have teamed up with a motley crew of likeminded countries seeking to strip the human dimension of any meaning. Among their specific targets are the OSCE's democracy promotion activities, particularly the framework for election observation. Similarly, they are looking to severely limit the involvement of NGOs within the OSCE. This ongoing campaign is of particular concern in light of Kazakhstan's upcoming chairmanship of OSCE beginning in January.

Mr. Chairman, from my experience as a member of this Commission since 1983 as well as human rights work elsewhere, I have found that the American people can be moved when they see the human face of rights violations. Today's witnesses bring to the table deeply personal experiences that remind us that there are very real victims of the policies and practices pursued by Russia's current leaders.

In anticipation of Secretary Clinton's travel to Corfu later this month for an OSCE discussion about the future of European security and the President's summit meetings in Moscow next month, I urge them not to lose sight of the fact that, at its root, genuine security is inextricably linked to democracy, human rights and the rule of law—the very foundations of the Helsinki Process.

PREPARED STATEMENT OF HON. JOSEPH R. PITTS, COMMISSIONER, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. Chairman and Commission Members, I would like to add my voice to the rule of law concerns raised during the Commission's June 23, 2009 hearing entitled "The Medvedev Thaw: Is it real? Will it last?" In my view, Russia in many ways, continues to lack a fundamental respect for the religious, political and economic freedoms inherent in the Helsinki Process and the Organization for Security and Cooperation in Europe. The Commission's hearing is a testament to my concerns.

Beyond my strong concerns about these Russia's behavior in these individual areas, I also have broader concerns about U.S. national interests concerning rule of law. The lack of support for democratic principles inside Russia has implications for its external behavior as well.

In this regard, one key strategic area for the United States and Europe is energy policy. Russia's inability to consistently respect and honor international commercial and political rules has had, and will continue to have, a substantial impact on the United States and our allies. Rather than becoming more integrated into the global economy and its rules, Russia has chosen a path where it sets its own rules on matters of energy policy, largely because Russia controls much of Europe's energy supply.

However, there currently exists a mechanism for holding Russia accountable on rule of law commitments in energy—The Energy Charter Treaty (ECT)—a 1990's treaty signed by Russia and 50 other nations, most in Europe. Russia is bound by the treaty, having signed it, and is bound by the requirements of the New York convention on international arbitrations that would be used to enforce claims under the ECT.

I raise this issue because the Russian government is engaged in the largest arbitration ever under the ECT—a \$33 billion arbitration dispute with GML, the majority shareholder of Yukos, formerly Russia largest private oil company. How the initial phase of this case is decided later this year and Russia's reaction could provide the U.S. with clues on rule of law issues.

With these thoughts in mind, I would like to submit for the record and for my colleagues a recent Wall Street Journal article on Russian energy policy and the Energy Charter Treaty.

**PREPARED STATEMENT OF SERGEY CHEREPANOV, RUSSIA
COORDINATOR, WATCH TOWER BIBLE AND TRACT SOCIETY
OF PENNSYLVANIA**

I would like to take this opportunity to thank the members of the United States Commission on Security and Cooperation in Europe for allowing me to testify on behalf of the more than 153,000 Jehovah's Witnesses in Russia.

First, I would like to describe to you the challenges that Jehovah's Witnesses are facing with the present Russian administration. Then, I will summarize the goals that have been recently declared by the Russian administration that could result in a "thaw" for our organization.

The precious fundamental freedoms Jehovah's Witnesses gained following the collapse of the Soviet Union have never been more threatened. We are experiencing a deep freeze—not a thaw—in the Russian government's treatment of our organization. During the 1960's and 1970's, the KGB considered Jehovah's Witnesses to be a foreign religion and a threat to Russia's national security. The persecution of Jehovah's Witnesses and other religious minorities during that time is well documented. After the fall of the Soviet Union, we experienced considerable relief and obtained national registration in 1991. Up to now, we have also been able to register 409 Local Religious Organizations in 73 regions of Russia. However, the Russian government is sadly reverting to dealing with us as it did during the Soviet era.

Events began to escalate in 2007 after all prosecutors' offices in Russia received a letter on methods for preventing religious extremism signed by Deputy Prosecutor V. Ya. Grin. Jehovah's Witnesses were specifically mentioned as a religion that the Russian authorities suspect of being guilty of so-called "extremist activity." In essence, the letter declared "open season" on our faith with the mandate for local prosecutors to find some pretext to ban our religious activities.

Days after this letter was sent out, 45 warnings were issued to our Local Religious Organizations across Russia. Individual Witnesses were searched, detained, and forcibly photographed. Individual rights were violated as private information was being gathered on the religious beliefs of school children, school teachers, and other professionals who are Jehovah's Witnesses.

In June 2007, the St. Petersburg Prosecutor's Office wrote to the Public Health Committee of the St. Petersburg Government and required them to provide medical information on Witness patients. Without their knowledge or consent, three Witnesses who at the time were hospitalized, had their confidential medical information unlawfully disclosed by the doctors to public authorities. One of the patients was subsequently refused treatment and discharged from the hospital where she was to undergo major surgery.

Local prosecutors are working together with FSB offices to file claims of extremist activity against Jehovah's Witnesses throughout Russia. By misapplying the revised 2007 "Law on Counteracting Extremist Activity", they are trying to ban our religious literature and liquidate our Local Religious Organizations. We are already defending eight lawsuits filed by local prosecutors across Russia on the extremist issue alone. They are also seeking any pre-

text to close our national office near St. Petersburg with the overall goal of banning our worship throughout Russia. This was the initial goal of the Golovinsky trial which liquidated our legal entity in Moscow in 2004.

Local prosecutors are specifically targeting our religious literature. They have hired their own so-called “experts” to study our religious literature knowing that these so-called “experts” will support their claims that our religious literature promotes extremist activity. The conclusions of these so-called “experts” would be laughable if they were not so serious. If just one regional court judge anywhere in Russia rules that an item of our literature promotes extremist activity, it will be posted on a federal list of extremist literature and banned throughout the country. Once literature is placed on this list, it is nearly impossible to have it removed.

This year, events have escalated further. In February 2009, the Russian Federation General Prosecutor’s Office ordered local prosecutors’ offices throughout Russia to gather any negative information they could find on Jehovah’s Witnesses. They were authorized to involve agencies of the FSB, police, public health agencies, local departments of justice, and military commissariats to try and find such negative information. As a result, over 500 investigations have been initiated against individual Witnesses and our Local Religious Organizations. Thus, the General Prosecutor’s Office is orchestrating a witch hunt on Jehovah’s Witnesses that will lead to the criminal prosecution of individuals simply because of their religious convictions.

For instance, on May 24, police in the city of Asbest raided a religious meeting of Jehovah’s Witnesses, without a warrant or legal basis, and unlawfully detained 50 Witnesses. A female congregation member who was present was subjected to police interrogations that were so coercive that shortly afterward she was hospitalized and suffered a miscarriage.

On April 23, Mr. Yuriy Panov and his companion were discussing the Bible with local residents in the town of Ramon, in the Voronezh Region when they were stopped by three police officers. The police stated that there were burglaries reported in the neighborhood and falsely accused them as suspects. Both men were then taken to the police station, and the police singled out Mr. Panov for torture. Because Mr. Panov refused to admit to the false accusations, the police handcuffed and beat him. They also forced him to wear a gas mask and cut off the oxygen supply so that he could not breathe. After they also threatened to administer electric shocks and sexually assault him, Mr. Panov was so intimidated that he admitted to the burglary he did not commit in order to avoid further torture. The police then abruptly ended his torture and one of the police officers stated that they had made a mistake in stating that Mr. Panov had committed any crime.

In addition to these negative developments, our Administrative Center near St. Petersburg has been subjected to repeated intrusive investigations by the local prosecutor’s office and numerous other state authorities, with the apparent intent of unlawfully closing it. Although the prosecutor’s office has repeatedly stated that no violations have been found, it refuses to end the investigation

which has continued since November 2004. Our appeals to the Russian courts to stop this prosecutorial abuse have been denied and our domestic legal remedies have been exhausted. In March of this year we filed an application with the European Court of Human Rights concerning this matter.

In recent months, Russian authorities have also attempted to obstruct the legal representation and support that we receive from Russian, U.S. and Canadian attorneys in defending our rights in Russian courts. For example, in September 2008, the FSB initiated a disciplinary case against our Russian attorney, Yegiazar Chernikov, who is defending Witnesses in Asbest and Yekaterinburg. On April 5 of this year, two Canadian attorneys who are Jehovah's Witnesses were deported over an alleged minor travel restriction offense they unknowingly committed and that would normally result in a small fine. And just last month, James Andrik, an attorney with our Office of General Counsel in New York, was deported on charges that were completely false. These actions by Russian authorities have made it more difficult for us to defend ourselves against the growing number of orchestrated claims filed against us by local prosecutors.

In his November 11, 2008, Address To The Federal Assembly Of The Russian Federation, President Medvedev highlighted all the changes that must be made to the present system in Russia so as to promote such worthy values as "honest courts and responsible leaders," "freedom of religion," and "dignity of human life." The President stated that "Any infringements of civic freedoms" would be pronounced "not only amoral but also illegal." He also stated: "The worst thing that could happen in the current situation is to descend into settling scores and dishonest competition, including through use of the administrative resources." Likewise, the new Strategy of Russia National Security Until 2020 connects religious tolerance to national security. President Medvedev's pronouncements of the need for freedom of religion and religious tolerance are commendable. If these words become reality, then there is hope that the "thaw" will be felt by us. Sadly though, the current reality is that Jehovah's Witnesses are being harassed, deprived of their freedom to assemble peacefully together in worship, slandered, coerced, physically abused, and charged as extremist by the Russian authorities.

Once again, I would like to thank the Commission on Security and Cooperation in Europe for allowing me to testify about the current situation facing Jehovah's Witnesses in Russia.

**PREPARED STATEMENT OF MUSA KLEBNIKOV, EXECUTIVE
DIRECTOR, THE PAUL KLEBNIKOV FUND**

Good morning and thank you for inviting me to speak before you. My name is Musa Klebnikov and I am here to discuss the assassination of my husband Paul Klebnikov, and the subsequent experiences with press freedom and Rule of Law in Russia.

All his professional life Paul was interested in Russia and pursued the truth as a journalist and author. He was highly respected for his bold investigative pieces on oligarchs during the Yeltsin years, and for his books, and many business articles. 5 1/5 years ago Paul was appointed the first editor of Forbes Russia. While this was an enormous challenge, it was exhilarating for Paul as he believed Putin was bringing needed change from the Yeltsin era and that Russian society could be encouraged to find its own roots of civil consciousness and individual responsibility. He did, however, say in his last interview the morning he was killed:

“It (government) is meddling in absolutely everything it thinks should be meddled in. All too soon, we may begin talking of another danger. Instead of [this danger] being posed by oligarchs, it will be posed by the bureaucratic machinery applying the law as it sees fit.”

Paul's PhD was on Prime Minister Stolypin, a much-admired reformist before the Russian Revolution. With Stolypin and small town American civic responsibility as his inspirations, he wanted to enter public debate in Russia through Forbes and bring those values to the forefront. He also wanted to bring American style journalism to Russia and spent a great deal of time mentoring and training people in: fact checking, source development, style, ethics, and all the other standards we are used to. Journalism is not highly respected in Russia because so often truth is ignored and indeed false articles planted. There are of course many distinguished news publications, which do adhere to our standards, like Vedomosti, Novaya Gazeta, Forbes, and Newsweek.

Six months into the job, and one day after I was sitting with him and our son in a playground in Moscow enjoying a summer afternoon, Paul was repeatedly shot by a group of hired Chechen hit men. He died stuck in a hospital elevator that broke down. There was much speculation about who ordered the assassination. We do not believe that it was someone from the Forbes 100 list necessarily, nor a rogue government official, but we cannot be sure. What we do know is that the hit men were hired, they are Chechen, they were apprehended, and after a long and expensive case, were released.

In a meeting in September 2005, President Putin informed us that Nukhaev, a Chechen business partner of various oligarchs and a professional criminal, was the one who had ordered the killing. Paul had written a book about Nukhaev called Conversations with a Barbarian. Others speculated that Boris Berezovsky, an oligarch now living in England and also the subject of Paul's book, Godfather of the Kremlin, was also involved. Investigative reporters in Russia believe that government agents, Chechens and Berezovsky could all be involved.

President Putin was greatly disturbed by the assassination and said so publicly several times. He also asked Foreign Minister Lavrov to send me a letter in which he said:

“that he attaches utmost importance to resolving this crime that we consider to be a direct challenge to the society and its democratic foundations, to such holy values as people’s belief in justice, freedom of mind and speech. You may be confident that everything will be done to ensure that those who have ordered, organized and committed this crime are brought to justice.”

The investigative branches apprehended the shooters (but to my knowledge did not pursue the mastermind). The prosecutorial branch brought a case against the hit men. I committed to having a lawyer follow the case in order to be in the courtroom as the trial was closed to the public. This was expensive and emotionally exhausting for my whole family. The trial had many irregularities and was even appealed to the Supreme Court, but ultimately the defendants were released, with the jury furious with the process. Some have bravely spoken publicly about what exactly transpired. We are trying to find out if there has been any further activity since Medvedev has become president but do not have any information yet. The State Department has taken this case very much to heart and Secretary Clinton and Ambassadors Burns and Beyrle have brought up the question with appropriate officials in the Russian government. I have submitted a summary of the trial for your information.

This brings up the issue of jury trials in Russia. Over the course of the trial we became acquainted with many admirable Russians working in law, and with US DOJ staff working to provide them more skills. The uncertain outcome of jury trials reflects a general reluctance of jurors to accept incomplete evidence. Their dissatisfaction with the irregular proceedings and misrepresentations leads to a high level of acquittals. We experienced a very high level of irregularities and episodes of undue influence from the defendants, as well as undue political influence, which ultimately doomed the trial. Nonetheless, I do believe that it is better to encourage the improvement of Russia’s justice system through corrections of its procedural problems than to cynically give up. The general population has to be invested in the rule of law and experience the power of dispensing justice. I have submitted an excellent editorial by Ambassador Bill Burns.

The relationship between Rule of Law and journalism is now absolutely critical to the survival of civil society. Since Paul’s assassination an additional 9 journalists have been killed. None of the murders have been solved, and they might have not happened if a different legal climate had been created.

Government control over society has increased. Self-censorship is high in the respectable papers, and TV is no longer considered independent. So while professional ability in the media overall has improved, investigative journalism is highly limited, especially regarding upper echelons of government. Without stronger rule of law there will just be more and more dead journalists. This winter the Paul Klebnikov Fund, with DOJ invited a group of jurors to visit the US and examine our courts and meet our judges. I spent

time with their organizer, an investigative journalist from Novya Gazeta called Nikitinsky. He claims that thuggish brute force often establishes how law is enforced in the provinces, be it by criminals, local rogue military or the official legal establishment. Legal power is not vertical, it is local. Nikitinsky investigates, he writes the truth, many of his colleagues have been murdered. But he continues exposing, organizing jury groups and hoping for a better system.

Journalism needs rule of law supporting it, and vice versa. I believe once the political will is there the Russian legal establishment could attain much better results from its courts. I also believe we should encourage President Medvedev in his Rule of Law initiatives as they really are the greatest hope for reversing the situation.

We are also convinced that supporting moral and courageous members of the Russian judiciary is crucial at this time. The Paul Klebnikov Fund is launching a legal scholar exchange between U.S. and Russian law schools. Scholars will visit each others universities, give lectures, attend classes and do research. The purpose is to provide respect and encouragement for the legal establishment in Russia, and offer scholarly contacts and opportunity for both sides.

A desire to assist in the evolution of rule of law in Russia is not contradicted by the demand for its application in the case of Paul's assassination. Rather, this presents a perfect opportunity for the Russian government to demonstrate that the law is supreme and can work.

I will be in Moscow during the upcoming summit, which happens to coincide with the 5 year anniversary of Paul's death. The family is holding a memorial service and has been told of the possible attendance by Prime Minister Putin and Secretary Clinton. This level of attention is appropriate during a summit because all should be able to agree that seeking justice in this case could lead to a turning point in Russia.

My own experience is that whenever there has been a Congressional resolution or Committee letter regarding Paul's assassination the Russian government officials pay attention and question me about it.

My request today is that you consider the people of moral conscience in Russia as needing your encouragement and support. One way of showing that support is demanding justice in the case of Paul's assassination, and all the other assassinated journalists. Please send a strong signal to all those who support truth, rule of law and freedom of the press.

Thank you.

PREPARED STATEMENT OF WILLIAM BROWDER, CHIEF EXECUTIVE OFFICER, HERMITAGE CAPITAL MANAGEMENT LIMITED

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

I have been asked to share my thoughts on the rule of law in Russia. Unfortunately, my own personal experience shaped by fifteen years of investing in that country confirms to me that the situation in Russia is not a pretty picture, and it is getting worse.

When I first started Hermitage in the mid-1990's, my clients would ask me about the Russian horror stories they had heard of shareholders getting wiped off corporate registries, having assets stolen by crooked management or being the targets of corrupt government officials seeking bribes. What I was able to tell my investors back then is that while corporate governance was terrible, valuations were cheap, and investors would make money as Russia evolved from "horrible" to just "bad." I am here today to tell you that Russia is reverting. The investor horror stories that were largely fantastic in the 1990's are now commonplace. The situation in Russia is going from "bad" back to "horrible"—and it will be more than just investors who lose out in this process.

If there is one image I want to leave you with today, it is this. In most countries of the world, the spheres of business executives, government officials and criminals don't typically overlap. In Russia, these three groups have become essentially indistinguishable. All too often in today's Russia, there is no contradiction in someone being a business executive, senior government official and crime boss all at the same time.

HERMITAGE CAPITAL AND SHAREHOLDER ACTIVISM

Speaking before you today carries on a family tradition of sorts. My grandfather, Earl Browder, was the head of the American Communist Party and appeared before his fair share of Congressional committees over the course of his lifetime. He had met my grandmother during his travels in the Soviet Union, so you could say that Russia and populist politics were in my blood. As the family rebel, however, I decided to go to an American business school and ultimately went back to Russia following the collapse of the Soviet Union to build a business.

I founded Hermitage in 1996 in partnership with the late Edmond Safra as a way for western investors to invest in the Russian stock market. The firm ultimately grew to become the single largest foreign portfolio investor in Russia, with some \$4 billion under management in 2006, a substantial portion of which came from U.S. institutional and individual investors. One of the big reasons for the firm's success was our strategy of investing in the stocks of companies that were out of favor due to bad management, corruption, shareholder rights abuses or outright theft. We would then work to change management, stop fraud and defend the interests of minority shareholders through shareholder activism. If we were successful in improving corporate governance, the market would ultimately recognize this. As the company came back into favor, its stock price would rise, our investors would profit and the Russian

economy would be better off for having a more productive, transparent economy. For several years it was a win-win situation for everyone except corrupt corporate management and their partners in government.

Due to weak courts and legal protections, our biggest leverage was often the bully pulpit of the press. Since 1996 we waged dozens of high-profile public activist campaigns targeting mismanagement and corruption at some of the largest companies in Russia. These included Gazprom (the state-controlled natural gas monopoly), Unified Energy Systems (the national electricity utility), Sberbank (the largest bank in Russia) and Surgutneftegas (the fourth-largest oil company in Russia).

Most of the companies we sought to reform were controlled by the Russian government, and in the course of our anti-corruption work, Hermitage stepped on many high-placed toes. In November 2005, I was suddenly denied entry at Moscow's Sheremetyevo Airport and despite prominent intervention and support both here in the US and in Europe, my visa has not been restored. Regardless of my being the single largest stock investor in the country, and despite having attracted billions of dollars of capital into the Russian economy over the past decade, the Russian Government banned me from entering the country in the interests of "national security, public order or public health."

While working to regain my Russian visa, I had the opportunity to approach then First Deputy Prime Minister—and now President—Dmitry Medvedev at the World Economic Forum in Davos, Switzerland in January 2007. I asked him for help in restoring my visa. He asked for my documentation and said he would look into it. Unfortunately, what happened next was worse than losing my visa in the first place.

COMPANY THEFT: THE FRAUD AGAINST HERMITAGE

While it was shocking to be effectively deported from Russia, the visa denial was only the prelude to a story that sheds light on the shocking state of the rule of law in modern Russia. Shortly after Davos, a colleague received a call from a Lieutenant Colonel in the Russian Interior Ministry, Artem Kuznetsov. He said he understood that I was seeking to return to the country and suggested to my colleague that they have an informal meeting. Kuznetsov further explained that the status of my visa application would "depend upon how we behaved and what we provided." We considered this request very suspicious because one never had "informal meetings" with policemen, and his reference to us "providing" him things appeared to us to be an outright extortion attempt. When we asked for his questions in writing, he refused to provide them, and we never agreed to meet.

Soon thereafter, on June 4, 2007, Lieutenant Colonel Kuznetsov led a team of 25 Interior Ministry officers on a raid of our Moscow offices. They seized all of our computers, network servers and documents—in total two van-loads of materials. Kuznetsov left the Hermitage raid mid-way through to join another raid that was taking place simultaneously at the offices of Firestone Duncan, an American-owned Moscow law firm that advised on Russian legal and accounting affairs for the Hermitage Fund. In this raid the Interior

Ministry removed files that contained the stamps, seals, original articles of association and other statutory documents for the Fund's Russian investment companies. One of our lawyers protested to the Interior Ministry officers that the raid and the seizure of these materials violated Russian law. He was taken into a conference room, beaten viciously by the officers and arrested. After being hospitalized for two weeks, he was forced to pay a 15,000 ruble fine.

Shortly after the raid, Kuznetsov went on a "fishing expedition" to try to find where the Hermitage Fund held its assets in Russia. He visited the Moscow offices of Citibank, Credit Suisse, HSBC and ING with a list of Hermitage entities, both foreign and Russian, and demanded that these banks release all of their records relating to them.

As this was happening, the ownership of three Russian investment companies of the Hermitage Fund was fraudulently transferred from HSBC, as trustee of the Hermitage Fund, to an unknown company called Pluton based in the Republic of Tatarstan, Russia. The owner of Pluton was a man named Viktor Markelov, a criminal convicted of manslaughter who had recently served time in Russian prison. In addition to himself, Markelov appointed two other men, Vlyacheslav Khlebnikov and Valery Kurochkin, a convicted burglar and a convicted thief, respectively, to be the directors of the stolen Hermitage companies.

So the implausible horror story of being "wiped off the corporate registry" that had been on the minds of my early investors more than 12 years ago was now coming to fruition. A scenario that had never occurred during the "lawless chaos" and "Wild East" of the Yeltsin years was now taking place under the "law and order" regime of Vladimir Putin.

In order to change ownership of a Russian company, one needs to have the original charter, corporate seal and certificate of registration of that company. All of these documents and seals had been taken by the Moscow Interior Ministry during the raid on our lawyers' offices in June 2007, and they were in the Interior Ministry's possession when this fraudulent transfer took place.

Even before they were illegally installed, the new "owners" of the Hermitage companies drafted several fake and back-dated contracts with a Russian shell company called LogosPlus that we had never heard of and never done any business with. On the basis of these new "unfulfilled" contracts, LogosPlus alleged that the Hermitage companies now owed it hundreds of millions of dollars. LogosPlus then sued our companies in St. Petersburg Arbitration Court, claiming huge damages. Neither we nor HSBC were notified of these claims since the registered addresses for the companies had been fraudulently changed along with the other ownership details. A team of lawyers we had never met appeared in St. Petersburg claiming to represent the (former) Hermitage companies in the proceedings. These lawyers pleaded guilty, "fully accepting" all of the claims and consented to the court's judgment of \$380 million in damages against the Hermitage companies.

The court proceedings themselves were riddled with peculiarities. We later discovered that the LogosPlus claims were filed by an individual using a stolen passport. In its complaint, LogosPlus was claiming to be the counterparty to a \$500 million stock trade de-

spite having a charter capital of only \$350. Moreover, the unknown lawyers who materialized in court to act on behalf of our stolen companies were relying on forged powers of attorney and other documents that bore an uncanny resemblance to the materials seized by the Interior Ministry in its June 2007 office raids.

At first, the perpetrators' plan appeared to be to get bogus court judgments and then use these judgments to seize any assets they found. Their hope appeared to be that the asset searches carried out by Lieutenant Colonel Kuznetsov at Citigroup, Credit Suisse, HSBC and ING between June and August 2007 would yield a jackpot of assets. Unfortunately for them, all our assets had been moved out of Russia into safe and lawful jurisdictions after my Russian visa was revoked, and the perpetrators got nothing from us.

\$230 MILLION TAX REBATE: THE FRAUD AGAINST THE RUSSIAN STATE

That seemed like it should have been the end of our troubles in Russia, but it wasn't. In late March last year we discovered that two new cases identical to those in St. Petersburg had been filed against our Russian companies in Moscow and Kazan. Unknown lawyers appeared on our behalf and admitted full liability to unknown claims arising out of contracts we never signed with companies we had never heard of. In total, together with St. Petersburg, judgments totaling \$973 million were issued against the Hermitage Fund companies in this manner. What was particularly disturbing about this new discovery were the dates when the cases were filed. They had been filed on October 19, 2007 in Moscow and October 22, 2007 in Kazan—more than a month after Kuznetsov's asset search had yielded no results. It seemed strange and worrying that the perpetrators would continue to be so active filing fake cases against our companies when it was clear at this point that they would not be able to seize any assets since these companies were empty. We did further investigations to try to understand what their motivation was.

The whole story started to make sense in June 2008 when we received information regarding our three stolen companies from the Russian company registration database. We learned that the perpetrators had opened new Russian bank accounts for the three stolen companies in December 2007. Two of the companies set up accounts at Universal Savings Bank ("USB"), and the third company opened an account at Intercommerz Bank. Both banks were tiny by any measure. USB had total capital of \$1.5 million, and Intercommerz had capital of \$12 million. Looking more closely at the banks' disclosure statements on the Russian Central Bank's website, we learned that the aggregate customer deposits increased by 623% at USB and 273% at Intercommerz shortly after our stolen companies had opened their accounts. What was truly chilling were the amounts by which the banks' deposits had increased. USB's deposits had grown by \$97 million and Intercommerz's by \$143 million—roughly the same amounts that the Fund companies paid in capital gains tax to the Russian government in 2006.

In light of this disturbing coincidence, we dug deeper to see if there was any more detailed information about the spike in depos-

its at the two banks. We learned that two of our stolen investment companies were the largest and second largest depositors at USB with a combined \$91 million in their accounts, and our other stolen company was the largest depositor at Intercommerz with \$139 million in its account. The size of each of our stolen companies' deposits was exactly equal to the amount of tax it had paid in 2006 to the Russian budget.

The whole story now fell into place. In short, after the straightforward asset seizure failed because our companies were empty, the perpetrators set out to steal the Russian income taxes the Hermitage Fund had paid in 2006. How did they do this? They had obtained the above-mentioned sham court claims that were exactly equal to the 2006 profits of the Hermitage companies. Our three companies had combined profits of \$973 million that year, and the fake court claims from Moscow, Kazan and St. Petersburg totaled \$973 million. By burdening our companies with these new "claims," the perpetrators went back to the tax authorities and filed amended tax returns with additional "losses" that reduced the companies' profits to zero. On the basis of the restated results, the perpetrators filed for a refund of the income taxes that the Hermitage Fund paid in 2006 (\$230 million). The tax authorities approved the refund on the same day and paid it out to the perpetrators in a record two days via the newly opened accounts in these tiny Russian banks where there were further channeled abroad via correspondent dollar accounts with U.S. banks. With the refund money deposited in the banks, the perpetrators could wire it wherever needed, complete the fraud and then cover their tracks. Indeed, one of the banks—USB—has since been liquidated and has effectively ceased to exist.

THE RUSSIAN GOVERNMENT'S RESPONSE

So the two-pronged scam worked in one area and failed in another. The perpetrators weren't able to steal the assets from us based on the fake court claims, but they were able to steal \$230 million from the Russian government by filing amended tax returns on behalf of our stolen companies. What makes this story even more shocking is that we filed six 255-page criminal complaints with the Russian authorities in early December 2007, several weeks before the tax fraud took place, and they did nothing to stop it. Two complaints were sent to the Russian General Prosecutor, two to the Russian State Investigative Committee and two to the Internal Affairs Department of the Interior Ministry. There was enough information to prevent the fraud and indict a number of people behind it if the Russian government had acted.

Instead of doing anything to save the Russian state from this highly sophisticated and organized looting, two of our complaints were thrown out immediately; two were returned to the same Interior Ministry officials we were complaining about (essentially, they were being asked to "investigate themselves"); and one was thrown out for "lack of any crime committed." Only one complaint was taken seriously. It was taken up by the Russian State Investigative Committee in early February 2008, but before it could get any traction, the case was transferred to the Southern region of the Moscow district of the State Investigative Committee (the lowest possible

level of the Committee) and by June 2008, a senior Interior Ministry official who had been named in the complaint, Lieutenant Colonel Kuznetsov, had joined the “investigation” team (again, essentially to “investigate himself”). We were later not surprised to learn that this investigation was closed in October 2008 due to the “absence of a crime.”

The reactions from other “interested” arms of the Russian government have been equally perplexing. As for the Tax Ministry, the authorities in Moscow who approved the fraudulent \$230 million refund have stated they were misled and supposedly only learned about the fraud in February 2009, despite the complaints we had filed with them in 2008 requesting that they investigate the fraud. We wrote about the \$230 million fraud to the Russian Audit Chamber (the body responsible for overseeing the proper disbursement and safekeeping of state funds), but they responded it was outside the scope of their official responsibilities. We alerted all nineteen members of President Medvedev’s Anti-Corruption Commission about it, but we received no substantive response. We wrote to the Russian General Prosecutor, the Russian State Investigative Committee, the Minister of Finance, the Minister of the Interior, the Head of the Federal Tax Authority, the Head of the Federal Security Service (FSB) and the President’s office in the Kremlin. Again, we received no substantive response. It appeared that not a single Russian official was interested in looking into how \$230 million had disappeared from the Russian treasury.

RETALIATION BY THE INTERIOR MINISTRY

Incredibly, the only serious response by the Russian authorities to this massive fraud against the Russian state has been to attack Hermitage executives and the lawyers in Russia who are defending the Hermitage Fund and ultimately to blame some of the victims—HSBC and Hermitage—for the fraud itself. These cases appear for all intents to be a crude form of retaliation against Hermitage for shining light on the \$230 million fraud against the Russian government.

Once HSBC and Hermitage began to file complaints spelling out the fraud and identifying some of the key perpetrators to the Russian authorities, the Interior Ministry began to retaliate—first, against myself and my colleagues at Hermitage. Shortly after complaints were filed in December 2007 alerting the authorities to the massive fraud underway, representatives of the Moscow Interior Ministry travelled to Kalmykia, a region in southern Russia, where the Hermitage Fund had investment companies in 2001 and where I had served as a director. These Interior Ministry officers called a senior investigator of the Kalmyk Interior Affairs Department back home from vacation and instructed him to open two cases alleging tax offences in 2001 (this is despite the fact that there was no legal basis for these claims and the applicable statute of limitations had expired in 2004).

The cases were opened on February 27, 2008, and my name was added to the National Search List in Russia. The legal process of opening an official investigation that can typically take up to two months transpired in a single day. The local investigator later confirmed to my Russian lawyer that the reason he was asked to open

the investigation was to enable the Interior Ministry to place me on the national and international search lists, including the Interpol 'Red Notice' search system.

Similar steps were taken against my Hermitage colleague, Ivan Cherkasov, who served as the general director of a local investment company on behalf of a Hermitage client. Here, the Interior Ministry has sanctioned an investigation alleging that this company underpaid dividend withholding tax, despite the fact that the company had conducted regular quarterly audits and the Russian tax authorities had confirmed in writing that the taxes were paid in full. Indeed, in the course of a subsequent statutory tax audit, the tax authorities discovered the company had actually overpaid its taxes and was owed a refund of 3.8 million rubles. Nonetheless, this Interior Ministry investigation remains "ongoing," and Cherkasov also is on the Russian National Search List. Interior Ministry investigators have issued public statements to the Russian press that their objective is to issue arrest warrants for us and to do so in absentia.

The retaliatory attacks were not isolated simply to Hermitage executives but were also targeted against the lawyers in Russia acting on behalf of the Hermitage Fund. The intimidation and harassment began last year, when on the night of August 20, 2008, the Moscow offices of four law firms representing HSBC and the Hermitage Fund were raided by Interior Ministry officers. In addition to confidential client files, the officers seized original powers of attorney that our lawyers were going to use in court the following day.

The additional experiences of two of our Russian lawyers, Sergey Magnitskiy and Eduard Khayretdinov, are particularly illustrative. Shortly after Magnitskiy testified about the role of Interior Ministry officers in the fraud, he was arrested. Shortly after Khayretdinov filed complaints on behalf of HSBC and the Hermitage Fund implicating Interior Ministry officers, a retaliatory criminal case was opened against him.

Sergey Magnitskiy is a legal and accounting adviser with Firestone Duncan. In the course of his work defending the Hermitage Fund, Magnitskiy uncovered the information about the theft of the Hermitage Fund companies and the fraudulent tax refund that formed the foundation of criminal complaints filed by HSBC with the Russian authorities on December 3, 2007, July 23, 2008 and October 27, 2008. Magnitskiy also gave three formal witness statements to the Russian authorities detailing the fraud against the Russian government and demonstrating how it was possible only with the documents seized by the Moscow Interior Ministry during its office raids. In particular he highlighted the involvement of Interior Ministry Lieutenant Colonel Artem Kuznetsov who had led the raids. Six weeks after giving his last statement to the authorities, in the early morning hours of November 24, 2008, Interior Ministry officers raided Magnitskiy's home and arrested him. He has since been transferred to Matrosskaya Tishina detention facility, where more than six months later his case still has not been brought to trial. At a hearing in Moscow on June 15, 2009, Magnitskiy's detention was further extended until September 15, 2009, and he has been refused bail. Lieutenant Colonel Kuznetsov,

implicated in witness statements by Magnitskiy, has been assigned to the Interior Ministry team investigating Magnitskiy's case. Simply put, Magnitskiy is now the Interior Ministry's hostage.

Eduard Khayretdinov, a former judge and now a lawyer in private practice, has been a member of the Moscow City Bar since 1992. Following his retention by HSBC to act on behalf of the Hermitage Fund companies, Khayretdinov filed more than 30 complaints on their behalf setting forth the theft of the Hermitage Fund companies and the fraud against them, questioning the legitimacy of actions taken by law enforcement officials including Lieutenant Colonel Kuznetsov. Shortly after these complaints were filed, Lieutenant Colonel Kuznetsov authorized the opening of a criminal case against Khayretdinov, alleging that he had used a forged power of attorney from HSBC when filing the complaints, despite sworn affidavits from HSBC directors confirming to the court that Khayretdinov was their proper attorney-in-fact.

In a further act of intimidation, a Kazan-based Interior Ministry officer demanded Moscow-based lawyers acting for HSBC, including Khayretdinov and Vladimir Pastukhov, appear for questioning as witnesses in Kazan. This summons violates Russian law (including Articles 23 and 48 of the Russian Constitution, and Article 8 of the Russian Law on Lawyers) which prohibits questioning of lawyers regarding details of cases to which they provide legal assistance. Moreover, they constitute a breach of the Basic Principles on the Role of Lawyers adopted by the United Nations.

These recent acts of intimidation against our lawyers underscore the degree to which legal nihilism has now overwhelmed the last vestiges of the rule of law in Russia. Lawyers in Russia now fear for their personal safety due to the attacks and harassment they will face in the normal course of representing clients. Being a lawyer in Russia is one of the most dangerous jobs in the world, and the experiences of our lawyers—in particular, Sergey Magnitskiy, Eduard Khayretdinov and Vladimir Pastukhov—demonstrate why this is truer now than ever before. These men have been targeted because they had the courage to speak out against corrupt Interior Ministry officers without whose complicity it would have been impossible to carry out a massive fraud against the Russian government.

IMPLICATIONS FOR U.S. POLICY

While this story of official corruption may sound completely unbelievable, it is unfortunately not unusual in modern Russia. The theft of companies via these tactics (office raids, forgery, false contracts, fraudulent court judgments, attachment orders) has become so common that those who perpetrate these frauds are now known in the Russian vernacular as simply "raiders." Every day small businessmen, landowners and even large Russian companies are the targets of raiders, and the problem has become so endemic that President Medvedev specifically referred to it in a speech in February 2008, calling for "real instruments to prevent raider activity." In this case, raiders have taken this problem to a new and absurd extreme by "raiding" the Russian state itself and so far getting away with it.

HOW SHOULD THE U.S. GOVERNMENT REACT TO THIS?

Understand the Nature of the Russian State. The United States needs to recognize that Russia is not a functioning state as we understand it here in the West. Too often, the corridors of power in Russia are populated by individuals who wear the uniform or have the title of a public official, but who in fact pursue private interests by criminal means. As a result, the decisions of the Russian government are not made with the same interests or considerations as the United States. The United States should not rely on the “good will” of the Russian government or trust that diplomacy as practiced between civilized nations will be effective in dealing with Russia.

Recognize Russian Interests. The Russian leadership has repeatedly stated its desire to be treated as an equal by the United States. Furthermore, influential Russian businessmen and government officials covet their ability to access the West and the privileges their wealth and power can obtain here. U.S. policy should be to deny access to the West to any member of the Russian government or business community whom it suspects of corruption or organized crime. Furthermore, the full arsenal of the U.S. Treasury’s anti-money laundering powers should be brought to bear to ensure the proceeds from Russian organized crime and public corruption do not enter the U.S., and in the instances where such funds are already here, such assets should be seized and frozen.

Russia Presses “Reset” Before the West Does. Russia needs to demonstrate a true commitment to fighting corruption and purging its public bureaucracy of criminals before the United States presses the reset button.

Continuously Emphasize Rule of Law via Individual Cases. The United States can emphasize the importance of the rule of law by continuously bringing individual cases, such as Hermitage’s—where corrupt government officials are working in league with organized crime—to the attention of the Russian government. While many unpleasant things can happen in the Russian legal system when the world is not watching, the Russian authorities are much more sensitive when under the scrutiny of their Western partners.

Uphold and Protect International Law Enforcement Institutions. Requests for international arrest warrants submitted to Interpol and other international law enforcement bodies by countries such as Russia, where the rule of law is deficient, should be subject to a more rigorous review process and a possible veto before being implemented. The effectiveness of Interpol as a crime-fighting organization should not be compromised by Russian or other officials who may attempt to use its resources to harass and retaliate against their opponents—political, commercial or otherwise.

Protect Lawyers. In countries where the law works, lawyers are not imprisoned for defending their clients and for speaking out against police corruption. The United States should insist Russia abide by the United Nations Basic Principles on the Role of Lawyers, ensuring that lawyers are able to conduct their work without government interference or political persecution.

PREPARED STATEMENT OF SARAH E. MENDELSON, DIRECTOR, HUMAN RIGHTS AND SECURITY INITIATIVE, AND SENIOR FELLOW, RUSSIA AND EURASIA PROGRAM, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES (CSIS)

Chairman Cardin and Members of the Commission:

Thank you for inviting me to participate in this hearing on current developments in Russia, just two weeks before the Obama-Medvedev summit in Moscow. My name is Sarah Mendelson. I direct the Human Rights and Security Initiative at the Center for Strategic and International Studies, where I am also a senior fellow in the Russia and Eurasia Program. It is an honor to be here.

My comments today address the important question of whether we are seeing something of a thaw in Russia today, and if so, whether it is likely to last. Below, I suggest some metrics for assessing change in Russia and argue that no matter what, we need a new U.S. approach to engaging Russian civil society. I will explain why I think a new approach is timely and needed, and how it might relate to the upcoming summit.¹

I. IS THERE CHANGE?

Russia has experienced a rather stark democracy and rule of law deficit in recent years.² American and European political strategy dating back to the early 1990s of integrating Russia into the Euro-Atlantic community and thus encouraging democratic development has largely failed. In Russia, by 2009, Vladimir Putin's policies have systematically closed off nearly all legitimate structures for voicing opposition. Many nongovernmental organizations are under daily pressure from the authorities.³ The parliament is dominated by a government-run party, United Russia, and outcomes of local and national elections are controlled. The government also controls aspects of national television. The few critically minded journalists that exist routinely are threatened or are under constant surveillance, and twenty murders of journalists since 2000 have gone unsolved.⁴ One small newspaper, *Novaya gazeta*, known for its criticism of Kremlin policies has seen four of its journalists killed in recent years. At a minimum, the authorities have presided over an era of impunity, and at worst, some fear government authorities may have been involved in these deaths.⁵

At the same time, over the last several years, the ability of the United States to lead on issues relating to democracy and human rights has been negatively affected by specific policies having to do

¹This testimony draws on Sarah E. Mendelson, "U.S.-Russian Relations and the Democracy-Rule of Law Deficit," The Century Foundation, June 2009; and Sarah E. Mendelson, "From Assistance to Engagement: A New Era in U.S.-Russian Civil Society Relations?" presented May 18, 2009 to the Ed. A. Hewett Forum on Former Soviet Affairs, Brookings Institution.

²Results from nearly a dozen large, random sample surveys in Russia since 2001 that examine the views and experiences of literally thousands of Russians, combined with other research and newspaper reporting, all point to this deficit. The surveys were conducted by the author together with the Levada Analytic Center and Professor Theodore P. Gerber (University of Wisconsin-Madison). The research was supported by grants from numerous sources including the Ford Foundation and the Charles Stewart Mott Foundation.

³Nikolaus von Twickel, "Tough Times Are Getting Worse for NGOs," *Moscow Times*, January 13, 2009, available online at <http://www.themoscowtimes.com/article/600/42/373483.htm>.

⁴Author's discussions with prominent Russian journalists, December 2008, Washington, D.C. See also David Remnick, "Echo in the Dark," *New Yorker*, September 22, 2008, pp. 36-43.

⁵Mike Eckel, "Fear and Mourning at *Novaya Gazeta*," *Moscow Times*, February 2, 2009, available at <http://www.themoscowtimes.com/article/1010/42/374119.htm>.

with torture, indefinite detention and Guantánamo. These policies limited the effectiveness of American decision-makers to push back on authoritarian regimes. At its worst, American departures from the rule of law may have enabled abuse. These departures certainly left human rights defenders around the world isolated.⁶

In fact, each time I have had the privilege to appear before you in recent years it seemed the news grew worse; political conditions inside Russia were declining, and U.S. soft power was diminishing. Today, on many different levels, I believe we are in a new era, and I come before you slightly more optimistic, although still cautious.

At home, while still very early in the new administration, and with progress slower and more uneven than some of us would like, the Obama administration has begun to get our house in order in terms of torture, indefinite detention and Guantánamo. I know I share the hope of many colleagues here and abroad that Congress facilitates—and not impedes—that progress. Repairing the damage to U.S. soft power and reversing the departure from human rights norms that characterized the Bush administration’s counterterrorism policies will provide the Obama administration strategic and moral authority and improve the ability of the United States to work with allies. It also can have positive consequences for Obama’s Russia policy.

Meanwhile, in Russia in recent weeks we have seen some small changes in how the Russian authorities relate to civil society. These have been mainly rhetorical in nature, but changes nevertheless. Specifically, President Dmitri Medvedev has taken several symbolic steps. His first interview in a newspaper was to *Novaya gazeta*. He reconvened and met with his council on human rights that is populated by genuine human rights defenders, and he launched a review of the NGO law that has been so vilified since its adoption in 2006. While the results are by no means as comprehensive as they could have been, on June 17, 2009, Medvedev submitted a revised law to the Duma.⁷

These actions contrast with the starkly negative rhetoric articulated since 1999 by numerous senior Russian officials concerning human rights, foreign assistance, and the nongovernmental community. That rhetoric generated the hostile and often dangerous, sometimes lethal, atmosphere in which activists and journalists live and work in Russia. The current changes in rhetoric are, therefore, noteworthy.⁸

⁶Report of the Eminent Jurists Panel on Terrorism, Counter-terrorism and Human Rights, *Assessing Damage, Urging Action* (Geneva: International Commission of Jurists, February 2009); Kenneth Roth, “Taking Back the Initiative from the Human Rights Spoilers,” *World Report 2009* (New York: Seven Stories Press, 2009), pp. 1–31; Mikhail Fishman, “Obama’s Election Could Send an Ironic and Unexpected Signal to Russians about Their Own Leaders,” *Newsweek International*, November 2008.

⁷For text of Medvedev’s comments when he met with the President’s Council see <http://en.sovetpamfilova.ru/17139.php>; Reuters, “Russia’s Medvedev Acts To Relax NGO Laws,” June 17, 2009.

⁸Recall the statement by Vladimir Putin in summer 1999 during an interview with *Komsomolskaya pravda* on the “problem” of foreign assistance for environmental groups and linking that somehow with employment in foreign intelligence services; that rhetoric then resulted in many environmental groups being investigated and harassed by the security services. Aleksandr Gamov and Yevgenia Uspenskogo, “Vladimir Putin: Gosudarstvennii perevorot Rossii ne grozit” (Russia is not in danger of a coup d’état), *Komsomolskaya Pravda*, July 8, 1999, pp. 8–9. For details see Sarah E. Mendelson, “Russians’ Rights Imperiled: Has Anybody Noticed?” *International Security*, Vol. 26, No. 4 (Spring 2002), pp. 39–69.

But were these steps simply “the week of democracy” as Russia’s Newsweek suggested? Will those who do not want to see an opening in Russia succeed in thwarting whatever change appears to be afoot? During a recent trip to Moscow and in dozens of subsequent emails and conversations with human rights colleagues, we have considered this possibility. Among key civil society actors and within the Obama administration, there is, however, a growing consensus that the best response for now is to act as if these gestures do signal a shift.⁹ The “as if” stance is practiced even by those who have previously experienced pressure by the Russian authorities.¹⁰ Moreover, this view has been embraced even as we continue to see mixed signals from the authorities, such as another trial of Mikhail Khodorkovsky that many view as rigged, and Medvedev’s endorsement of a “historical commission” that is populated by intelligence officers.¹¹ Taken together, these all suggest that either the thaw is selective or possibly even illusive.

In fact, we won’t know until more time has passed and research has been conducted whether we are experiencing a thaw and why it is occurring. In the meantime, I offer a working hypothesis: we may be at a rare critical juncture—the political equivalent of a perfect storm—where we have a new administration in the United States that set its focus on Medvedev, not Putin, offering a possible “reset” of the relationship. Coupled with that, we all find ourselves in an economic crisis. That, in turn, has possibly frightened some Kremlin officials as they realize they have been overly controlling of civil society, and that civil society will need to play a role in tackling some of the social problems confronting Russia, just as we need a robust civil society in the United States.

II. HOW DO WE MEASURE CHANGE?

We need, therefore, going forward to develop a specific set of metrics to gauge the opening or continued closing of politics in Russia. For example, is there serious movement to bring the murderers of Paul Klebnikov, Anna Politkovskaya, Stanislav Markelov, and Anastasia Baburova, among others, to justice? Is the number of journalists and lawyers killed decreasing or increasing? Is the judiciary increasingly independent or not? Are Kremlin critics allowed to return to television? Can lawful opponents gather freely without arrest? Is the number of political opponents seeking asylum abroad increasing? Are foreign nongovernmental organizations being shut down? Is the law on nongovernmental organizations reformed? An empirically based assessment of these and other relevant questions will help Obama administration officials identify opportunities as well as monitor continued challenges. The answer to most of these

⁹For a different perspective see Nikolai Petrov who argues “I do not see any liberal actions from the president. I see liberal sayings, but these are not at all turning into actions,” as cited in Albina Kovalyova, “Who Is to Judge? Experts See Medvedev’s New Initiative as a Step Toward Tighter Presidential Control of the Judiciary,” *Russian Profile*, May 13, 2009.

¹⁰Fred Hiatt, “Dangerous Work in Moscow,” *Washington Post*, May 11, 2009, quoting Tanya Lokshina, deputy director of the Moscow office of Human Rights Watch.

¹¹“New Trial for Jailed Khodorkovsky,” *BBC*, March 3, 2009 available at <http://news.bbc.co.uk/2/hi/europe/7920572.stm>; Andrew Osborn, “Medvedev Creates Historical Commission,” *Wall Street Journal*, May 21, 2009, available at <http://online.wsj.com/article/SB124277297306236553.html>; see also Masha Lipman, “Russia, Again Evading History,” *The Washington Post*, June 20, 2009 available at <http://www.washingtonpost.com/wp-dyn/content/article/2009/06/19/AR2009061902062.html>.

questions I believe at the moment is still no, so we must not exaggerate what we see happening in Russia.

Let me offer, however, one more metric. In December 2007, the last time I appeared before the Commission, I argued that “contacts between the United States and Russia need to be multiplied and diversified, rather than relying mainly on high-level meetings, as the Bush administration has done with the encouragement of the Kremlin. . . . The new approach should . . . support concrete cooperation between different parts of societies . . . on a range of issues of common concern, for example, public health . . . youth alienation or even urban decay, where stakeholders may share best practices. . . . Will the Kremlin allow, support or be neutral about diversifying or multiplying contacts? The answers to these questions offer a metric to gauge the Russian government’s desire for hostile or neutral relations with the United States. I suggest we pursue these programs and track how the Russian authorities respond.”¹²

On the list of small promising signs of change we have seen in recent weeks I hope we will be able to add the neutral and even positive engagement by Russian authorities with the U.S.-Russian “Civil Society Summit” to be held during the July visit of President Obama to Moscow. I am one of the co-conveners of this meeting, along with Horton Beebe-Center, President of the Eurasia Foundation, and Andrey Kortunov, President of the New Eurasia Foundation. How that meeting unfolds will provide an additional metric concerning the opening or closing of political space in Russia today, although I should be clear, that is not its primary purpose.¹³

III. WHAT WOULD BE A NEW APPROACH TO ENGAGING CIVIL SOCIETY?

My colleagues and I come to this meeting with different backgrounds and motivations. My motivation derives from a belief that we, inside and outside government, need to reassess how best to engage with Russian civil society, both in our nongovernmental interactions and as a matter of U.S. policy. For nearly twenty years, with important exceptions, the primary way in which American and Russian civil society have engaged one another, often with support from USAID, has been to bring Americans to Russia to train and teach. I have been part of this democracy assistance industry, working in the mid-1990s for the National Democratic Institute in Moscow. I have studied this approach extensively, and in the past, I have been an advocate for it.¹⁴ I believe, however, the era of American trainers going to Russia and regarding Russia as a problem to be fixed by the United States should come to an end.

¹²Sarah E. Mendelson, Testimony before the U.S. Commission on Security and Cooperation in Europe, “The Duma Elections, Politics and Putin: Where is Russia Headed?” December 6, 2007, available at http://www.csis.org/media/csis/congress/ts071206_mendelson.pdf.

¹³The meeting is being organized by the Eurasia Foundation, the New Eurasia Foundation, and CSIS with support from those organizations and the Charles Stewart Mott Foundation and in coordination with the U.S. and Russian governments.

¹⁴Sarah E. Mendelson and John Glenn, co-editors, *The Power and Limits of NGOs: Transnational Networks and Post-Communist Societies* (Columbia University Press, 2002); Sarah E. Mendelson, “Unfinished Business: Democracy Assistance and Political Transition in Eastern Europe and Eurasia,” *Problems of Post-Communism*, Vol. 48, No. 3 (May/June 2001), pp. 19–27; Sarah E. Mendelson, “Democracy Assistance and Russia’s Transition: Between Success and Failure,” *International Security*, Vol. 25, No. 4 (Spring 2001), pp. 69–103.

Inequalities in institutional development in our societies do exist, and civil society uneasily co-exists in Russia, as I have noted at the outset today, with pressure from the authorities. That said, the approach that we have taken over the last twenty years does not appear to be helping to create more space for our colleagues or increase their capacity to address problems in their society. Increasingly, it appears ineffective, inefficient and unwelcome.¹⁵ The era of “assistance” ought to give way to one of engagement.

Two years ago at CSIS, we engaged in a center-wide effort to assess what a new, smarter U.S. foreign policy ought to look like. In terms of the larger issue of “promoting democracy,” several CSIS colleagues and I separately came to the conclusion that in general, the American tendency to teach and talk ought to give way to more listening, more engagement, more responding in particular to local demand. Getting our own house in order—the need for new policies moving away from torture and detention without charge, the need to opt back in to the larger international legal framework that had emerged since World War II—were also seen as critical components to advancing democracy and human rights globally.¹⁶ More specifically, a smarter approach would likely involve a new policy that accurately understood the needs and desires of local populations and was able to respond to them.¹⁷

IV. AN OPPORTUNITY IN JULY?

In July 2009, we have a relatively small group, about 60 civil society leaders and a few analysts, all from the nongovernmental sector, coming together over two days to explore what sort of activities might make U.S.-Russian nongovernmental cooperation more meaningful to ordinary citizens, more diverse, more reciprocal and more sustainable and how best to engage our governments on a series of issues. What makes our July meeting different from previous gatherings is that the majority of the American participants work on issues and problems here at home, and they are coming together with Russians who work on issues and problems in Russia. These include:

- Practitioners who work on non-infectious disease and maternity health coming to meet with counterparts;
- Experts from the community development and affordable housing field exploring possible common challenges;
- Human rights activists who have led efforts in the United States to end torture, detention without charge and close Guantánamo engaging their counterparts from the robust Russian human rights community;

¹⁵ Lev Gudkov, Igor Kylamkin, Georgy Satarov, and Lilia Shevtsova, “False Choice For Russia,” *Washington Post*, June 9, 2009 available at <http://www.washingtonpost.com/wp-dyn/content/article/2009/06/08/AR2009060803496.html>.

¹⁶ For the final report, see Richard L. Armitage and Joseph S. Nye Jr., coauthors, *A Smarter, More Secure America: Report of the CSIS Commission on Smart Power* (Washington, DC: CSIS, November 6, 2007), available at http://www.csis.org/component/option,com_csis_pubs/task,view/id,4156/type,0/.

¹⁷ Sarah E. Mendelson, Testimony before the U.S. Commission on Security and Cooperation in Europe, “Russia Today: In Transition or Intransigent,” May 24, 2007, available at <http://www.csis.org/media/csis/congress/ts070524mendelson.pdf>; Sarah E. Mendelson, “A New Approach to a New Russia,” CSIS Commission on Smart Power, October 2007, available at http://www.csis.org/images/stories/hrs/071001_new_approach_russia_mendelson.pdf.

- Working journalists discussing new media and possibly sharing content;
- Experts on higher education exploring how to make sure next generations in both countries are knowledgeable about one another and how to integrate universities better into local communities;
- Environmentalists coming together with environmentalists tackling issues that do not obey boundaries.

Most important, we are by no means the only ones who thought the Obama-Medvedev summit in Moscow in July would be a promising time to explore the possibility of a new approach concerning U.S. and Russian civil society. Various Russian colleagues, apart and separate from our co-conveners in Moscow, have been circulating ideas of how to make U.S.-Russian civil society relations more robust.¹⁸ We expect to discuss in-depth recommendations for how we might go forward, whether through future joint work, additional civil society summits, establishing or nurturing networks and creating peer-to-peer dialogues. We also hope to share our findings in Moscow with both governments.

We are aware that the breadth of activity among civil societies in both countries will not be represented at our July meeting. Our ability to tap into that richness was limited by time and resources. As conveners of this modest first effort, we hope to be catalysts for future projects that might develop and carry forward from this meeting. Indeed, for this effort to grow, it must be driven by demand within communities of organizations, and be able to bring Americans and Russians together around issues that they genuinely want to address and do so cooperatively. Scaling up this effort so that it moves from an elite audience to a public one is one challenge, among many, we will need to address in short order.

Thank you.

¹⁸ See for example Ludmila Alexeeva and Grigory Shvedov, "Mapping a New Strategy," Washington Post, March 30, 2009 available at <http://www.washingtonpost.com/wp-dyn/content/article/2009/03/29/AR2009032901772.html>.

**MATERIAL SUBMITTED FOR THE RECORD BY THE RUSSIAN
FEDERATION**

For ten years the Commission has reported on the status of freedom of religion or belief in Russia. Although the Commission has never recommended that Russia be named a “country of particular concern,” or CPC, for the most severe violations of religious freedom, this year the Commission decided to add Russia to its Watch List. The decision to place Russia on the Commission’s Watch List is based on several negative new policies and trends, particularly the establishment in early 2009 of a new body in the Ministry of Justice with unprecedented powers to control religious groups. There also are increasing violations of religious freedom by government officials, particularly against allegedly “non-traditional” religious groups and Muslims, based on the government’s interpretation and application of various Russian laws including the laws on religious organizations, non-governmental organizations, and extremism. The Russian government also uses laws against incitement of hatred to suppress or punish critical or humorous portrayals of religion in publications or visual art. Russian officials continue to describe certain religious and other groups as alien to Russian culture and society, and there has been a sharp rise in the country in xenophobia and intolerance, including anti-Semitism, which has resulted in numerous violent attacks and other hate crimes. The Russian government has chronically failed to address these serious problems adequately, consistently or effectively.

In recent years, Russia has steadily retreated from democratic reform, endangering post-Soviet human rights gains, including in regard to freedom of religion or belief. Evidence of this retreat includes further limitations on media freedom and on political parties; tighter controls on non-governmental organizations (NGOs) and religious communities; concerted harassment of human rights activists and organizations;¹ legal restrictions on freedom of assembly; and constraints on popular referenda. Increasingly, Russian journalists, lawyers and others who have defended human rights have been subjected to brazen killings and attacks, and the perpetrators usually act with impunity.² Moreover, Moscow has rallied other countries with dubious human rights practices to oppose

¹For example, in late 2008, on the eve of a major conference on Stalinism, masked men from the Russian Procurator’s Office raided the St. Petersburg office of the human rights NGO “Memorial” and confiscated its huge database on Stalinist repression. After an appeal from the St. Petersburg procuracy, a lower court ruling that the materials should be returned to “Memorial” was overturned in February 2008. As of this writing, the thousands of documents have not been returned to “Memorial.”

²The most frequent targets of such attacks seem to be those who bring Russian human rights violations to international attention, particularly to the European Court of Human Rights (ECtHR), as well as government critics, particularly of Chechen President Ramzan Kadyrov. For example, in January 2009, Moscow human rights lawyer Stanislav Merkelov was shot dead and Anastasiya Baburova, an intern for Novaya Gazeta, was mortally wounded near the Kremlin. President Medvedev did not issue an official statement denouncing these killings; instead, he held a private Kremlin meeting with the Novaya Gazeta editor and former President Mikhail Gorbachev nine days after the attacks, to express his sympathy. In February 2009, four ethnic Chechen suspects on trial for the 2006 murder of journalist Anna Politkovskaya were acquitted for lack of evidence. In March 2009, the Ingush Prosecutor’s Office launched an official 4-day probe into the 2008 killing of Ingush human rights activist Magomed Yevloyev, “accidentally” shot while in police custody. Also in March 2009, human rights activist Lev Ponomaryov was beaten in Moscow; his passport had been revoked one month earlier and he was charged with slander for his statements on Russian human-rights abuses. Moreover, at least six Chechen opposition leaders have been killed in the past six months, including Umar Izrailov, who had filed a case against Russia at the ECtHR and was shot dead in Vienna in January 2009.

international efforts to draw attention to these serious problems by terming such inquiries “meddling” or “interference in internal affairs.” This sharp deterioration in the human rights climate appears to be a direct consequence of the authoritarian stance of the Russian government, as well as the growing influence of chauvinistic groups in Russian society, which seem to be tolerated by the government.

In February 2009, the Justice Ministry established the Expert Religious Studies Council, which was given extremely wide powers to investigate religious organizations, including their activities and literature, for a broad array of reasons, including extremism. While governments have a duty to combat acts of violent extremism as part of their obligation to protect citizens, there have been expressions of serious concern over the establishment, as well as the composition and expansive mandate, of this new council. The Expert Religious Studies Council’s powers enable it to investigate religious organizations during the registration procedure; to assess whether the activity of a registered group accords with its charter; to ascertain if an organization, one of its members, or the literature it produces or distributes is extremist; and to conduct investigations in “other cases requiring specialist knowledge” which might arise when the Russian Justice Ministry is monitoring the activity of religious organizations.

The Expert Religious Studies Council’s new chairman, Aleksandr Dvorkin, is Russia’s most prominent “anti-cult” activist and he lacks academic credentials as a religion specialist. Furthermore, Dvorkin’s deputy, Roman Silantyev, is noted for intolerant articles on so-called radical Islam. Observers are concerned that under Dvorkin’s leadership, the council may call for the closure of registered as well as unregistered minority religious communities. This concern is based on Dvorkin’s previous positions on independent Muslims, Jehovah’s Witnesses, Hare Krishnas, “neo-Pentecostals,” and other new religious movements. Concerns have also been expressed that the new council’s members include five individuals reported to be close to the Moscow Patriarchate Russian Orthodox Church who are known for “anti-sect” activities.

Many of the problems faced by Russia’s diverse minority religious communities stem from the notion set forth in the preface to the 1997 religion law that four religions—Russian Orthodoxy, Islam, Judaism, and Buddhism—have “traditional” status in that country. The de facto favored status of the Moscow Patriarchate Russian Orthodox Church (MPROC) results in restrictions and discrimination against other religious groups. Officials of the MPROC also sometimes use their influence with regional authorities to restrict the activities of other religious groups. There are frequent reports, particularly on the local level, that minority religious communities must secure MPROC permission before officials grant access to houses of worship and that local authorities sometimes deny them registration at the behest of local MPROC officials. According to the State Department, Russian government officials and police often make public negative comments about Protestant churches and other allegedly new religious movements, referring to them as “totalitarian sects,” stressing their alien character and foreign funding, and making implications of espionage.

The MPROC, the world's largest Orthodox church which claims adherents among 60 percent of Russians, has played a special role in Russian history and culture; it receives the bulk of state support for religious groups, including subsidies for church maintenance and construction. The three other so-called "traditional" religious communities, Islam, Buddhism and Judaism, also sometimes benefit from government funding. In addition, the Moscow city government has funded extensive renovations of Old Believer buildings. The MPROC also has agreements with government ministries on guidelines for public education, religious training for military personnel and on law enforcement decisions. The authorities permit MPROC chapels and priests on army bases, but provide some Protestant groups limited access to military facilities. In late 2007, the Russian military appointed its first Jewish chaplain since 1917, according to the State Department. Authorities largely ban Islamic services in the military and usually fail to give Muslim conscripts time for daily prayers or alternatives to pork-based meals. According to the SOVA Center, a leading Russian NGO monitoring group, some Muslim army recruits reported that their fellow servicemen insulted and abused them on the basis of their religion.

Other systemic problems result from Russia's weak judicial system, inconsistent adherence to the rule of law, and local officials' arbitrary interpretations regarding the status of the so-called "traditional" religions. These problems include denials of registration (status of legal person) requests; refusals to allot land or to grant construction permits for places of worship; restrictions on rental space for religious activities; lengthy delays in the return of religious property; and attacks in the state-controlled media that incite intolerance. Official respect for freedom of religion or belief varies widely from region to region. In Chechnya, for example, President Ramzan Kadyrov announced in 2006 that his republic "would be better off" if it were ruled by sharia law, and he has also justified polygamy and honor killings. In many parts of Russia, however, a given religious community's relationship with individual state officials is frequently the key to determining government respect for its rights.

In October 2007, a Russian law came into effect setting out the conditions and procedures for state-owned land appropriation that permits religious organizations to retain their current land plots for unlimited use until January 1, 2010. Prior to this amendment, there had been no legal mechanism for religious organizations to privatize land plots. In early 2009, Russia was considering a draft law on the transfer of property of religious significance to religious organizations and which would define the procedure for allocating such property. The draft law also grants religious organizations ownership of all historical property currently in their use. Currently, religious organizations have the right to use such property indefinitely, but it remains in the possession of the Russian state. If this draft law were to be passed, the MPROC would become one of the largest property holders in Russia.

In 2008, Russian regional and local officials continued to confiscate buildings already in use by religious communities. The mayor of St. Petersburg ordered that a Lutheran church be given to the MPROC, according to the SOVA Center. A Baptist congrega-

tion in the city of Lipetsk lost its rented prayer house in 2008 because the local MPROC had filed suit for the building, the State Department reported. Another case involved properties of the Russian Orthodox Autonomous Church (ROAC), which is not affiliated with the Moscow Patriarchate, in the town of Suzdal. In February 2009, a regional court ordered that the 11 historic churches and 2 bell towers must be returned to the state, although the ROAC has used these properties since the 1990s.

The 1997 religion law requires registration at both federal and local levels, thereby creating difficulties for previously unregistered as well as new religious groups. At the federal level, most religious organizations have been registered by federal officials and the Russian Constitutional Court. Religious groups that have gone to court to overturn denials of registration have often been successful, but administrative authorities have sometimes been unwilling or slow to implement court decisions. The Salvation Army was finally re-registered in the city of Moscow in April 2009, as required by a 2002 Russian Constitutional Court ruling and a 2006 European Court for Human Rights (ECtHR) ruling. In cases when the ECtHR has ruled against Russia, the state has later paid full compensation, for example, to the Jehovah's Witnesses in the city of Chelyabinsk and to an evangelical church in Chekhov. The Salvation Army case marks the first known instance involving a religious community in which the Russian state has taken remedial action as required by the ECtHR.

Moreover, Russian authorities have denied registration to certain religious communities based on the allegedly insufficient time they have existed. Such denials continue, even though the Russian Constitutional Court ruled in 2002 that an active religious organization registered before the 1997 law could not be deprived of legal status for failing to re-register. Local officials sometimes simply refuse to register groups or create prohibitive obstacles to registration.

The 1997 religion law gives 10 citizens the right to form a religious association, which, in turn, provides them the legal right to a house of worship. Yet, despite this legal guarantee, building or renting worship space remains difficult for a number of religious communities. Jehovah's Witnesses, the Church of Jesus Christ of Latter-day Saints (Mormons), and Pentecostal congregations face particular problems, as do Orthodox groups that do not recognize the Moscow Patriarchate, Molokans, and Old Believer communities. Protestant, Catholic, Muslim and some Orthodox congregations allege inordinate official interest in fire safety and other details in regard to their worship buildings, which may result in court-ordered fines, temporary closures or official demolition threats, Forum 18 reported in February 2009.

Russian authorities also continue to deny registration to certain religious communities, particularly those deemed by Russian officials to be "non-traditional." A local religious organization was even banned in June 2004, when the Russian Supreme Court upheld a Moscow court decision banning the Jehovah's Witnesses in that city, making them the first national religious organization to have a local branch banned under the 1997 religion law. According to Forum 18, Jehovah's Witnesses viewed the 500 coordinated and centrally directed investigations by procuracy officials in March

2009 as “trawling” for grounds to shut down their St. Petersburg headquarters and over 400 dependent organizations. In 2008, two Baptist congregations in the city of Lipetsk lost their legal status due to alleged tax violations, the State Department reported.

Under the 1997 religion law, religious organizations encounter confusing definitions over what type of religious activity requires an education license: “educational” activity might require a license, while “teaching” does not. In March 2008, the Smolensk Regional Court dissolved a local Methodist church for running a Sunday school with only four pupils without an education license. In June 2008, Russia’s Supreme Court overturned that ruling, holding that a license is needed only if it is “accompanied by confirmation that the student has attained levels of education prescribed by the state.” A Pentecostal Bible center in the Volga republic of Chuvashia lost its registration for allegedly conducting unlicensed educational activity in August 2007; in April 2008 the Pentecostal center appealed to the ECtHR, Forum 18 reported.

In September 2008, the Russian Justice Ministry published a list of 22 religious organizations for which it was seeking to liquidate their registration status through the courts for the alleged conduct of unlicensed educational activities. Four of these organizations (the Russian Union of Independent Churches of Evangelical Christian Baptists in Rostov-on-Don, the Theological Seminary of the Siberian Association of Evangelical-Lutheran Missions in Novosibirsk, and two Moscow yeshivas) have successfully challenged immediate liquidation. Two others, the Presbyterian Christian Theological Academy and the Institute of Contemporary Judaism, liquidated their own registration status, while five of the groups were no longer functioning, according to Forum 18. In March 2009, the Russian media reported that the Ministry of Justice recently had been granted the right to conduct state inspections of theological institutions and that it planned to establish an expert council for that purpose.

In January 2006, then-President Putin signed a restrictive law on non-governmental organizations (NGOs) that also affects the country’s 23,000 registered religious communities and granted the Ministry of Justice’s Federal Registration Service (FRS) extensive oversight functions. The law enables the FRS to interfere with the activities of NGOs, examine their documents, attend their meetings with advance notice, and initiate court proceedings which may result in denials of the registration of groups that do not meet numerous legal requirements, including minor or trivial ones. NGOs are required to submit detailed annual reports on their activities, governing bodies, and funding, including from foreign sources. (The FRS was eliminated as a separate unit in the Ministry of Justice in July 2008 and its functions transferred to another office. It is too early to ascertain what impact, if any, this change will have in regard to religious freedom and related human rights in Russia.)

The provisions of the NGO law which are applicable to religious organizations went into effect in mid-2007. Several months later, however, after lobbying by many religious groups, including the Russian Orthodox Church, the government reduced their reporting requirements. Russian religious organizations are no longer required to report income from Russian individuals or the Russian

state, but they must document foreign donations. Each religious group must still report the full names, addresses, and passport details of its governing body members, although requirements were dropped that they provide details of religious congresses, conferences, or meetings of governing bodies. In addition, accounting procedures for such organizations were simplified, though financial documents must also be supplied to the Russian tax authorities.

In October 2008, the Justice Ministry published a list of 56 centralized religious organizations throughout Russia for which it planned to request the deprivation of legal status for alleged violations of reporting requirements under the NGO law. The list includes Old Believer, Armenian Apostolic, Catholic, Protestant, Nestorian, Muslim and Buddhist organizations. Fifteen groups on that list had not received any prior warning from the Ministry on alleged violations, Forum 18 reported. The Coordinating Center of North Caucasus Muslims publicly noted that it had neglected to file a minor financial report. Although 309 of Russia's 562 centralized religious organizations belong to the MPROC, no MPROC groups appeared on the Justice Ministry's list. Some groups have alleged that the Justice Ministry provided the MPROC advance notice on how to file reports.

In March 2009, Russian President Medvedev chaired the Presidential Council on Cooperation with Religious Associations, an official advisory body previously headed by a Presidential Administration official. Medvedev also announced that he planned to convene the group more regularly and give it decision-making power. In April 2009, President Medvedev named Ivan Demidov the head of the Presidential Administration's department for humanitarian policy and social relations, which includes responsibility for relations with Russia's religious communities. Reportedly, Demidov has close connections to the MPROC Patriarch and is a proponent of Russian nationalist causes, including in his previous role as coordinator of "Young Guard," the youth branch of the ruling political party "United Russia."

A voluntary course on the "Foundations of Russian Orthodox Culture" in the national school curriculum, proposed by the MPROC and adopted in at least nine regions of Russia, reportedly will be dropped as of the 2009 academic year. Instead, students reportedly will be able to choose an ethics course or a course on world religions for which the Russian Ministry of Education is drafting a 300-page text "The Basis of Moral Culture." Religious figures allegedly will be barred from teaching courses on religion in state schools. Informed observers note, however, that these alleged curriculum changes are part of a general educational reform that will likely take many years. In this context, a recent legal case in the Voronezh oblast is relevant. A Protestant pastor brought suit after his son was beaten by schoolmates because the boy refused to participate in MPROC prayers in his local public school. In December 2008, the court refused to rule that MPROC prayers in a public school had violated the religious freedom of the pastor's son or that the pastor had been denied the right to educate his child in accordance with his religious principles, the SOVA Center reported. In a case that caused numerous protests, university instructor Svetlana Shestakova in the Siberian city of Tyumen was charged in August

2008 for criminal incitement of hatred for her public insults of Jews, Muslims, Catholics and Protestants during her training sessions for instructors for the “Foundations” course.

Over the past several years, a serious threat to religious freedom has emerged in the Russian government’s amendment and application of the country’s anti-extremism laws. The June 2002 Extremism Law defines extremist activity in a religious context, by referring to “propaganda of the exclusivity, superiority or inferiority of citizens according to their attitude towards religion or religious affiliation; incitement of religious hatred; obstruction of the lawful activity of religious associations accompanied by violence or the threat of violence; committing a crime motivated by religious hatred.” In 2006, the legal definition of extremism was expanded to encompass “violation of the rights and freedoms of the person and citizen” and “harm to the health or property of citizens in connection with their beliefs.” In 2007, the definition was further broadened to include “obstruction of the lawful activity (...) of social, religious or other organizations” without requiring the threat or application of actual violence. In addition, those alleged to have defended or even expressed sympathy with individuals charged with extremism were also made liable to charges of extremism. Indeed, according to Forum 18, the “gravest current threat to freedom of religion or belief in Russia comes from the federal government’s approach to combating religious extremism.”

Even a low-level court may rule literature extremist, with the result that the literature is automatically added to the Justice Ministry’s Federal List of Extremist Materials and thereby banned throughout Russia. This list, established in July 2007 with 14 titles and updated four times a year, by April 2009 had expanded to 365 items, according to the SOVA Center. While the list of banned texts includes some extreme nationalist and virulently anti-Semitic materials, Islamic materials, such as the works of Said Nursi and “The Personality of a Muslim” (see below), constitute the majority of theological entries. According to Forum 18, local courts have also banned some Jehovah’s Witness and Russian Orthodox literature even though one senior Russian official recently admitted that some titles were blacklisted “by mistake.”

In November 2008, the chair of Russia’s Council of Muftis, Ravil Gainutdin, accused some local courts of “poor understanding of religious and theological issues” in their bans of Islamic texts. He noted that courts had even banned books recommended by his own Council, such as “The Personality of a Muslim” by Muhammad ali Al-Hashimi, a Koran-based life guide which advocates kindness and generosity, including towards non-Muslims. In May 2008, a criminal case for “incitement to religious hatred” was brought against Aslambek Ezhayev, the Moscow publisher of “The Personality of a Muslim.” In October 2008, Ezhayev’s offices were subjected to a six-hour police search, but no further official action has been taken against him as of this date.

In 2007, a Russian court banned as extremist the Russian translations of the works of Said Nursi, a pacifist Turkish Islamic theologian with six million adherents in Turkey. According to Forum 18, regional public prosecutors’ offices and the secret police have searched homes of Nursi readers and confiscated his texts across

Russia, and students of Nursi's work in Tatarstan have been subjected to forced psychiatric examinations. In April 2008, Tatarstan officials issued warnings about extremist activity to its Tatar-Turkish secular secondary schools as part of a criminal investigation into Nursi's followers. Because of the ban, those who popularize Nursi's writings may receive a four-year prison sentence under Criminal Code Article 282. Reportedly, Nursi's Russian translator and his family were forced to flee Russia in 2008 as a result of police harassment. Russia's Human Rights Ombudsman has denounced the ban on Nursi's writings, warning that "it is very important that we do not allow interference in the convictions and beliefs of millions of citizens on the poorly grounded, unproven pretext of fighting against extremism."

As is the case in many other countries, the Russian government does face major challenges as it addresses extremism and acts of terrorism that claim a religious linkage, while also protecting freedom of religion or belief and other human rights. The rapid post-Soviet revival of Islam, along with the ongoing violence in Chechnya and growing instability throughout the North Caucasus, compound difficulties for the Russian government in dealing with its 20 million Muslims, the country's second largest religious community. Security threats from domestic terrorism, particularly those related to the conflict in Chechnya, are genuine. The North Caucasus region also faces chronic instability due to various other factors: severe economic dislocation, especially among young men; some radical foreign influences on indigenous Muslims; endemic corruption and local political grievances, particularly in Ingushetia and Kabardino-Balkaria. All these factors have combined to fuel volatile and increasingly widespread expressions of popular dissatisfaction by Muslims with the local and national Russian government.

Yet human rights groups are concerned that the methods used by the Russian government to address security threats could increase instability and exacerbate radicalism among Russia's Muslim community. NGOs and human rights activists have provided evidence of numerous cases of Muslims being prosecuted for extremism or terrorism although these individuals had no apparent relation to such activities. For example, there are dozens of cases of detentions for possession of religious literature, such as the Koran, or on the basis of evidence—including banned literature, drugs, or explosives—allegedly planted by the police. The Commission has been informed of at least 200 cases of Muslims imprisoned on reportedly fabricated criminal charges of possession of weapons and drugs. Moreover, according to human rights groups, a 2003 Russian Supreme Court decision to ban 15 Muslim groups for alleged ties to international terrorism has made it easier for officials arbitrarily to detain and courts to imprison hundreds of individuals on extremism charges for alleged ties to these groups. It was not until July 2006 that the official government newspaper *Rossiiskaya gazeta* published a list of terrorist-designated organizations drawn up by the Federal Security Service (FSB)—a necessary step to give the ruling legal force—and this list contained the names of two additional groups, without any supporting explanation for their inclusion.

The Russian human rights group “Memorial” reports that Muslims perceived as “overly devout” are now viewed with suspicion and may be arrested or “be disappeared” on vague official accusations of alleged Islamist extremism or for allegedly displaying Islamist sympathies, particularly in the volatile North Caucasus region. For example, Forum 18 reported in August 2008 that the government of the republic of Kabardino-Balkaria had brutally cracked down on young devout Muslims there. According to a February 2008 report by the Institute for War and Peace Reporting, more than 150 people were abducted in Ingushetia by Russian authorities or were “disappeared” in recent years, including many who have no proven relationship to Islamist militancy. In early 2008, outside Ingushetia’s largest city, Nazran, three men were shot without warning as alleged extremists by security forces. In November 2008, “Memorial” reported an operation by security forces against “religious residents” of a village in Dagestan that resulted in three deaths. Persons suspected of involvement in alleged Islamist extremism have also reportedly been subjected to torture and ill-treatment in pre-trial detention, prisons, and labor camps. Indeed, Muslim prisoners in the Murmansk oblast filed suit in 2008 with the ECtHR alleging official mistreatment on the basis of their religion, the SOVA Center reported in 2009.

This hostile atmosphere also affects Muslims’ ability to open and maintain mosques. Although local authorities in Kaliningrad and Kostomushki in 2008 finally granted Muslim communities land for mosque construction, there reportedly has been no official response to longstanding requests from Muslim communities in Sochi and St. Petersburg for permission to build mosques. In August 2006, the Russian Supreme Court upheld a lower court decision ordering that the local Muslim community in the city of Astrakhan pay for the demolition of its new mosque. In May 2007, the Supreme Court agreed to reconsider the case. Allegedly, the city’s Muslim community had not received all the required building permits, although construction of the mosque had been partly funded by the previous local government. In July 2007, the ECtHR prioritized the Astrakhan case application and, as of this writing, it is still under consideration.

Russian officials, especially on the local level, continue to respond inadequately to numerous violent hate crimes directed against members of various religious communities. For example, in April 2008 a group shouting “you must be destroyed!” burst into the Pentecostal Living Word Church in Kuznetsk, threatening parishioners with pistols and beating up the church’s pastor. Three weeks later, the pastor appealed to local police and two hours later seven men attacked the congregation. In response, the local prosecutor brought an administrative charge of petty hooliganism against the attack’s leader. Moreover, chauvinist groups have stepped up their campaign against individuals and groups who defend the rights of religious and ethnic minorities as well as migrants, including issuing death threats. While Russian police have offered some assistance to these defenders, their efforts remain ineffective and inconsistent. Due to such threats, Aleksandr Verkhovsky and Galina Kozhevnikov, co-directors of the SOVA Center, decided in March 2009 to take up temporary residence outside Russia.

Russian law includes several provisions that address crimes motivated by ethnic or religious hatred. For example, Article 282 of the Russian Criminal Code forbids the incitement of ethnic and religious hatred. Unfortunately, Russia's law enforcement agencies and the judicial system apply these provisions infrequently, inconsistently, and even arbitrarily and inappropriately. In all too many cases involving members of Russia's ethnic and religious minorities, Russian authorities, particularly on the local level, have not treated hate crimes in a serious and consistent manner. On November 7, 2008, the anniversary of the 1917 Bolshevik revolution, President Dmitri Medvedev instructed police officers to "pay particular attention to investigation of cases related to extremism and xenophobia" and called on law enforcement bodies at federal and regional levels to try to prevent such crimes and to develop "high-quality" legal materials, including the application of relevant criminal code articles.

Human rights groups have expressed concern that hate crimes, often the result of attacks by "skinhead" racist groups, are growing dramatically in Russia, particularly against people from Central Asia, who are predominately Muslim. The Office of the Russian Procurator reported in early 2009 that 460 extremism-related crimes were registered in the country in 2008, a 30 percent increase from 2007, although the official attributed this increase to amendments in the criminal code and not to increased violence. Russian NGOs assert that in 2008 there were 269 hate crimes in the country, resulting in the deaths of 114 people, more than twice as many as in 2007. The SOVA Center reported that in 2008, 33 guilty verdicts for hate crimes had been handed down in 19 regions of Russia.

In 2008, the SOVA Center documented 78 acts of vandalism of the property of religious and ethnic minorities; of the 36 affected houses of worship and cemeteries, 48 were Russian Orthodox, 13 were synagogues and Jewish cemeteries, 9 were Muslim mosques and cemeteries, 6 were Protestant churches, one was a Jehovah's Witness Kingdom Hall, one was a pagan site and one was an Armenian cemetery. While illegal activities motivated by religious hatred are usually investigated with appropriate charges by law enforcement officials, very few cases result in conviction. As a result, members of religious communities often feel that they lack protection even during religious services, and express concerns about the security of their organizations' property.

Most officials and NGOs agree that many of these attacks are motivated largely by ethnic intolerance, although religious and ethnic identities often overlap. Nevertheless, members of Muslim, Jewish, Protestant, and other religious communities have been subjected to attacks motivated by religious factors. Religious minority leaders are apprehensive that Russian government officials provide tacit or active support for a view held by many ethnic Russians that their country should be reserved for them and that Russian Orthodoxy is the country's so-called "true religion." Civil society leaders link this view to a perception that Russian identity is currently threatened due to a demographic crisis stemming from a declining birthrate and high mortality among ethnic Russians.

Russian officials also display an inconsistent—and often inadequate—record in responding to media attacks and violence associated with anti-Semitism. Kommersant reported that during a Moscow rally of several hundred nationalists in April 2008, in addition to expressions of hatred of Jews, there were calls for the murder of some Jewish government officials, but police reportedly did not react. Moreover, there are at least 80 Russia-based anti-Semitic Web sites and, in various regions of Russia, approximately 100 small, ultranationalist newspapers that regularly print anti-Semitic, anti-Muslim, and other religiously and ethnically-based intolerant content. The St. Petersburg Ministry of Internal Affairs (MVD) University, which trains future leaders of Russian police agencies, reportedly authored and published anti-Semitic materials twice in 2008. After protests from the Jewish community and human rights groups, the MVD recalled all 1,000 copies of a textbook that promoted Jewish conspiracy theories from the university.

Russian rights advocates say that senior Russian government officials should do more to publicly support the multi-ethnic and multi-confessional nature of the Russian state and society. In fact, some western and other observers have suggested that Russian authorities have manipulated xenophobia for political purposes. The Kremlin is believed, for example, to have supported the formation of the ultra-nationalist Rodina political party and the nationalist youth movement Nashi. Others have observed that the Kremlin, by issuing nationalistic statements as well as demonstrating a tendency to blame non-Russians for crime, has encouraged intolerant attitudes toward non-Russians and people who do not identify with the Russian Orthodox Church. In the Commission's view, more can and should be done to ensure that Russian law enforcement agencies do not dismiss hate crimes as "hooliganism," but recognize them for what they are—human rights abuses—and take steps to prevent and punish such crimes, including those involving ethnicity and religion.

Protestant groups in Russia are frequent victims of hostile media attacks. According to the SOVA Center, journalists often seek guidance from the Russian Orthodox Church when researching articles about Protestants, and as a result the media tend to portray Protestants as dangerous "sectarians." Moreover, pro-Kremlin nationalist youth movements have staged so-called "anti-sectarian," i.e., anti-Protestant, public protests. For several months in 2008, Nashi activists worked with the local government in Mordovia to prevent a planned Baptist conference. In Bryansk oblast, also in 2008, a Russian Orthodox branch of Nashi acted with local militia to break up a Baptist procession.

The National Security Concept of the Russian Federation, last updated in 2000, states that "ensuring national security includes countering the negative influence of foreign religious organizations and missionaries." As in previous years, the Russian authorities in 2008 denied a visa request from the Dalai Lama to visit Buddhist-majority regions, such as Kalmykia. Over 50 foreign religious workers, including Catholics, Protestants, Muslims, Buddhists and Jews, have been barred from Russia since 1998 and only a small number of those barred have since been allowed to return. New visa rules introduced in October 2007 for business or humanitarian

visas, including religious work, permit visa holders to spend only 90 out of every 180 days in Russia; procedures for visa arrangements to allow more extended stays are lengthy and complex. The new visa regulations have had a harsh impact on many religious organizations, particularly those which for historical reasons depend upon foreigners, such as the Catholic Church. An American rabbi who had been working in the Primorye region for over two years was expelled from Russia after a court ruled in February 2009 that he had violated his visa by serving as a religious leader. Two rabbis in Rostov-on-Don were also expelled recently on similar charges. In March 2009, the Justice Ministry told the Russian media that by December 2009 it planned to introduce amendments to the religion law setting out new conditions of activity by foreign religious workers as well as administrative liability for unlawful activity.

Also in March 2009, the Ministry of Justice replaced a 1998 law governing representations of foreign religious organizations operating in Russia. The new law reportedly established new and complex procedures for registration of such representations, as well as rules for their opening and closing. The law also defined requirements for the proof of registration for foreign religious organizations and set up an official register. It is too early to assess the impact of this new law.

Free speech concerns also arise in connection to several recent law suits brought under Russia's law against "insulting religious feelings." For example, two cases, allegedly instigated by elements within the Moscow Patriarchate of the Russian Orthodox Church, were brought against Yuri Samodurov for art shows he organized in the Sakharov Museum; Samodurov faces a trial in May 2009. A Pentecostal leader also brought suit against the "2x2" television channel for airing a particular episode of the program "South Park." In addition, Russia's official Muslim community pressured the Russian version of "Newsweek" magazine to issue a public apology for reprinting one of the Danish cartoons of Muhammed in a special issue on Islam in Europe.

RECOMMENDATIONS FOR U.S. POLICY

I. ENSURING THE EQUAL LEGAL STATUS AND TREATMENT OF THE MEMBERS OF RUSSIA'S RELIGIOUS COMMUNITIES

The U.S. government should encourage the Russian government to:

- dissolve the Ministry of Justice's Expert Religious Studies Council, established in February 2009;
- ensure that law enforcement officials vigorously investigate and prosecute acts of violence, arson, and desecration perpetrated against members of any religious community, their property, or houses of worship; and set up a credible, impartial and effective review mechanism outside the procuracy to ensure that government authorities and law enforcement personnel are investigated and sanctioned, as appropriate, if they are found to have encouraged or condoned such incidents;

- affirm publicly on a high political level the positive significance of the multi-ethnic and multi-confessional nature of Russian society;
- affirm publicly that all religious communities in Russia are equal under the law and entitled to equal treatment, whether registered or unregistered, “traditional” or other; publicly express opposition to any legislation that would grant preferences to the purported “traditional” religions over other groups; and direct national government agencies to address and resolve continuing violations of religious freedom at the regional and local levels, including by:
 - issuing instructions to local law enforcement, prosecutors, and registration officials as well as publicly affirming that members of all religious communities are to be treated equally under the law;
 - enforcing non-discriminatory, generally applicable zoning and building codes, and ordering an end to the practice of using local public opinion surveys that serve as a basis to deny land and building permits to minority religious communities; and
 - deleting from the preface to the 1997 Law on “Freedom of Conscience and Religious Organizations” the reference to the four “traditional” religions—Russian Orthodoxy, Islam, Judaism, and Buddhism—as that reference, although it does not have legal standing, implicitly contradicts the Russian constitutional provision that “religious associations are separate from the state and are equal before the law” and has led Russian officials to establish inappropriate limits or demands against members of Russia’s other religious communities;
- refrain from media attacks on any religious community and adopt administrative measures against government officials who fuel them;
- cease all forms of interference in the internal affairs of religious communities, unless stipulated by law and in conformity with international human rights standards;
- avoid taking steps that could exacerbate religious extremism by 1) developing policies and strategies to protect the religious freedom and other human rights of the members of Russia’s Muslim community and 2) reviewing and remedying past cases of alleged arbitrary detention or arrest of members of this community;
- distribute on a regular basis updated information on freedom of religion or belief, as well as on Russian constitutional provisions and jurisprudence on separation of church and state and the equal status of religious denominations, to the Russian judiciary, religious affairs officials at all levels of government, the FRS, the procuracy, and all law enforcement bodies;
- extend the current annual training program for regional and local religious affairs officials to include their counterparts in the judiciary, procuracy, law enforcement agencies, and to the FRS;
- direct the Russian Federation Human Rights Ombudsman to set up a nationwide monitoring system on the status of freedom of religion or belief in the 84 regions of Russia; and
- accept a site visit to Russia from the UN Special Rapporteur on Freedom of Religion or Belief and grant her unrestricted access

to religious communities and regions where religious freedom abuses are reported.

II. COMBATING XENOPHOBIA, INTOLERANCE, AND HATE CRIMES

The U.S. government should urge the Russian government to:

- condemn specific acts of xenophobia, anti-Semitism, and intolerance, as well as incidents of hate crimes, and to make clear that such crimes are to be treated by officials as human rights abuses, not “hooliganism,” and that they will be fully and promptly investigated and prosecuted;
- while vigorously promoting freedom of expression, publicly condemn rhetoric that promotes xenophobia or intolerance, including religious intolerance;
- provide special training and other programs for law enforcement officers and other officials to address ethnic hatred and promote tolerance;
- establish a special nationwide anti-discrimination body, as recommended by the Council of Europe’s European Commission Against Racism and Intolerance, that provides regular reports to the public, press and parliament about its findings;
- implement the numerous specific recommendations made by Russia’s Presidential Council on Human Rights, the official Russian Human Rights Ombudsman, and the Council of Europe’s Commission against Racism and Intolerance to address anti-Semitism and xenophobia and prevent and punish hate crimes, including full implementation by regional and local law enforcement personnel of criminal code provisions prohibiting incitement and violence motivated by ethnic or religious hatred, in accordance with standards established by the European Court of Human Rights (ECtHR); and
- report, as required, to the Organization for Security and Cooperation in Europe (OSCE) on the specific measures that have been undertaken on a national level to address hate crimes, including maintaining statistics on these crimes, and strengthening legislative initiatives to combat them, and to take advantage of relevant OSCE training programs for Russian law enforcement and judicial officials.

III. REFORMING OR WITHDRAWING THE 2006 RUSSIAN LAW ON NON-COMMERCIAL ORGANIZATIONS

The U.S. government should:

- establish a program to monitor implementation of Russia’s law on NGOs, including its impact on religious organizations; and
- encourage the Russian government to withdraw or substantially amend the NGO law; failing that, the government should be urged to develop regulations that clarify and sharply limit the state’s discretion to interfere with the activities of NGOs, including religious organizations. These regulations should be developed in accordance with international standards and in conformance with international best practices.

IV. STRENGTHENING ATTENTION TO THE ISSUE OF FREEDOM OF RELIGION OR BELIEF IN U.S. DIPLOMACY

The U.S. government should:

- ensure that the U.S. Congress maintains a mechanism to monitor publicly the status of human rights in Russia, including freedom of religion or belief, particularly in the case of any repeal of the Jackson-Vanik amendment with respect to Russia, and maintain the Smith Amendment as U.S. law;
- urge the government of the Russian Federation to invite each of the three OSCE Personal Representatives on combating intolerance as well as the UN Special Rapporteur on Freedom of Religion or Belief to visit the Russian Federation during 2009–2010, without this being made contingent on other visits to other countries;
- ensure that U.S. Embassy officials and programs 1) engage with regional and local officials throughout the Russian Federation, especially when violations of freedom of religion occur, and 2) disseminate information to local officials concerning international legal norms on freedom of religion or belief, including the rights of unregistered religious communities;
- ensure that the issue of human rights, including freedom of religion or belief, be raised within the context of negotiations on Russian accession to the World Trade Organization; and
- work with the other members of the G–8 to ensure that the issue of human rights, including the human rights aspects of migration and protecting human rights in the context of counter-terrorism, are raised at all bilateral and multilateral meetings.

V. STRENGTHENING U.S. PROGRAMS ON PROMOTING RELIGIOUS FREEDOM AND COMBATING RELIGIOUS INTOLERANCE

The U.S. government should:

- ensure that U.S. government-funded grants to NGOs and other sectors in Russian society include the promotion of legal protections and respect for religious freedom as well as methods to combat xenophobia, including intolerance based on religion, ensure that solicitations and requests for proposals should include these objectives and monitor the effectiveness of such grants;
- support programs developed by Russian institutions, including universities, libraries, NGOs, and associations of journalists, particularly those who have engaged in the activities described in the above recommendation, to organize conferences and training programs on issues relating to freedom of religion or belief, as well as on promoting inter-religious cooperation, encouraging pluralism, and combating hate crimes and xenophobia;
- support programs to train lawyers to contest violations of the rights to freedom of religion or belief as guaranteed in Russian law and under its international obligations both in Russian courts and before the ECtHR;
- translate where necessary into Russian and print or otherwise make available to Russian citizens relevant documents and materials, including:
 - hate crimes guidelines developed by the U.S. Federal Bureau of Investigation, as well as U.S. Department of Justice materials on combating hate crimes and religiously-motivated attacks; and
 - international documents and materials generated by Russian institutions relating to freedom of religion or belief, xenophobia, and hate crimes, as well as relevant U.S. Department

of State and Commission reports, posting such documents on the U.S. Embassy Web site;

- ensure that Russia's citizens continue to have access to alternative sources of information through U.S.-government-funded radio and TV broadcasts, as well as Internet communications, and that these broadcasts include information about freedom of religion or belief and the need to combat xenophobia and hate crimes; in particular by:

- restoring the broadcast hours of Russian-language radio broadcasts of Voice of America and Radio Free Europe/Radio Liberty (RFE/RL) that have been cut, restoring staffing levels, and considering new vehicles for delivery of broadcasts; and

- increasing funding for radio broadcast programs in minority languages spoken in Russia, including the RFE/RL Tatar and North Caucasus services, which are often the primary source of independent broadcast media in regions of Russia with majority Muslim populations;

- include in U.S.-funded exchange programs a wider ethnic and religious cross section of the Russian population, with particular focus on educational and leadership development programs for students from the North Caucasus, Tatarstan, and other regions of Russia with sizeable Muslim and other religious and ethnic minority populations; and

- initiate International Visitor's Programs relating to the prevention and prosecution of hate crimes for Russian officials and other relevant figures.

VI. ADDRESSING THE CRISIS IN CHECHNYA AND THE NORTH CAUCASUS

The U.S. government should:

- ensure that the continued humanitarian crisis in Chechnya and allegations of human rights abuses perpetrated by the Russian federal military and local security and police forces there and in other North Caucasus republics remain a key issue in U.S. bilateral relations with Russia;

- urge the Russian government to end and vigorously prosecute all alleged acts of involuntary detention, torture, rape, and other human rights abuses perpetrated by members of the Russian security services in Chechnya, including those by pro-Kremlin Chechen forces;

- urge the Russian government to address the conclusions and recommendations of the UN Universal Periodic Review and relevant treaty bodies in regard to Chechnya and

- urge the Russian government to accept a site visit to Chechnya from the UN Special Rapporteur on Extrajudicial Executions, to reconsider the October 2006 decision to deny access to the UN Special Rapporteur on Torture and to extend full cooperation in accordance with the standard mandates of those special procedures;

- work with other OSCE Member States to ensure that issues related to human rights abuses in the North Caucasus play a more prominent role in OSCE deliberations, and encourage the OSCE to raise humanitarian and other forms of assistance to the civilian populations affected by the decade-long conflict in Chechnya; and

- ensure that U.S.-funded conflict resolution and post-conflict reconstruction programs for the North Caucasus also fund credible local partners in Chechnya, Ingushetia, and Daghestan.

**MATERIAL SUBMITTED FOR THE RECORD BY THE EUROPEAN
ASSOCIATION OF JEHOVAH'S CHRISTIAN WITNESSES**

**JEHOVAH'S WITNESSES VICTIMS OF A NEW HARASSMENT CAMPAIGN
IN RUSSIA**



SUMMARY OF EVENTS

This report, compiled by Jehovah's Witnesses in Russia, presents facts to demonstrate that certain government authorities in that country are sponsoring mass violations of the rights of this religious group to enjoy freedom of worship. By way of an introduction, the following background summary of events shows that there exists a relentless campaign of harassment aimed at banning their activities throughout the country.

In 1991 Jehovah's Witnesses received official recognition in the USSR. In the same year in accordance with the Law on Rehabilitation of Victims of Political Repression, and in 1996 by Presidential order, they were fully rehabilitated as victims of political repression. This enabled hundreds of thousands of citizens of the former Soviet Union to enjoy exoneration and freedom of worship and expression.

Unfortunately, since 1995 they have again experienced surveillance by the law-enforcement organs. Jehovah's Witnesses fully recognize the right of the authorities to inspect their activity and to ensure that they adhere to the law. It is noteworthy, however, that the many inspections and investigations that have been conducted on individual Witnesses and on the organization as a whole throughout the last 14 years have not uncovered a single violation

of the law. Nevertheless, inspections and investigations continue unabated and are becoming ever more intense and intrusive.

In 2004, the Moscow City Court, after six years of hearings, upheld the decision to liquidate the legal entity of Jehovah's Witnesses in Moscow despite its not having established that a single one of Jehovah's Witnesses was guilty of any unlawful actions. Rather, the Moscow ban was based on a tendentious examination of religious belief and is currently being used to justify a campaign of harassment, discrimination and religious intolerance throughout Russia. The Moscow ban has been appealed to the European Court of Human Rights as it flies in the face of Russia's obligations, noted in Resolution 1277 adopted by the Parliamentary Assembly of the Council of Europe on 23 April 2002. The Resolution states in part:

"The Assembly regrets the problems of . . . Jehovah's Witnesses in Moscow, but welcomes the decision of the Russian authorities to ensure that the problem of local discrimination and harassment of these religious communities be brought to an end."

Between 2007 and 2009 prosecutor's offices have served local religious associations of Jehovah's Witnesses in various regions of Russia with over 45 similar warnings "on the impermissibility of carrying out extremist activity." And once again not a single individual Jehovah's Witness or registered association has been charged with specific violations of the law. All the accusations are built around biased interpretations of the religious literature of Jehovah's Witnesses, often prepared by prejudiced self-styled experts. In the opinion of Russian defenders of human rights this is a shocking example of how the Law on Counteracting Extremist Activity is, in fact, being used to counteract legitimate freedom of thought.

In February 2009, all prosecutor's offices in Russia received a letter from the Prosecutor General's Office demanding that they gather any negative information whatsoever on Jehovah's Witnesses, with a view to banning their activity. They were authorized to involve agencies of the FSB, the police, the public health agencies, local departments of justice, and military commissariats in the quest for such information.

Taking these events to their logical conclusion, conditions are being created for the criminal prosecution of individuals simply for holding religious convictions; and the advances in democracy achieved since 1991 are again under threat. The prosecutor's office, recently assigned to rehabilitate victims of religious persecution, is once again gearing up to take the lead in their persecution. Mass violations of the rights of Jehovah's Witnesses in Russia are already evident. Therefore, Jehovah's Witnesses appeal to the authorities to protect their rights as guaranteed by the Russian Constitution and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

SHOCKING EXAMPLES OF INTOLERANCE

During 2008 and continuing into 2009 Jehovah's Witnesses in Russia have been facing shocking demonstrations of religious intolerance and violations of their right to freedom of worship. There is good reason to believe that this is the result of the policies of certain government structures, pursued over several years.

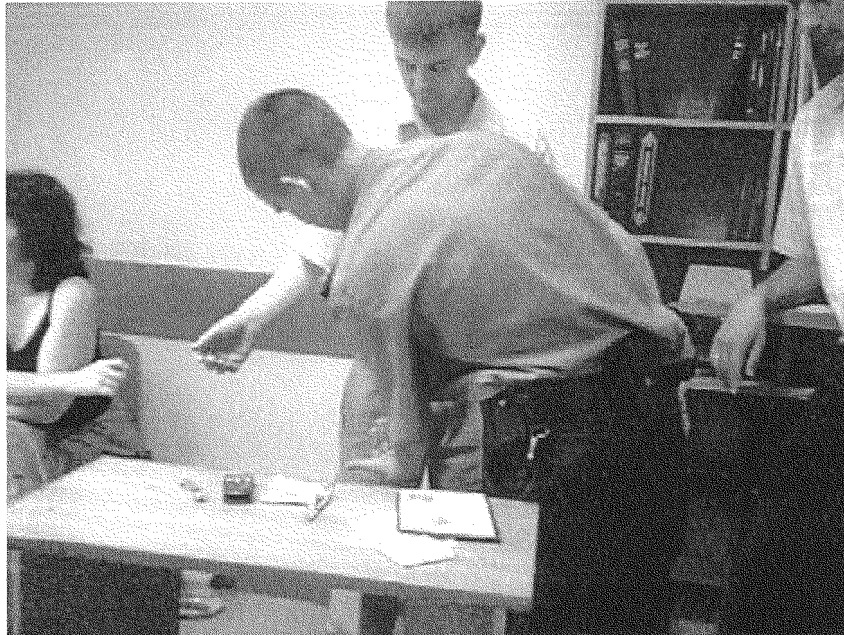
In the photographs on this page:



- A picket sanctioned by the local authorities at the venue of a religious meeting of Jehovah's Witnesses. The banners feature abusive slogans such as "Sectarians—Out!!!" At the rear police officers observe but fail to take any action (Novoshakhtinsk, Rostov Region, 2008).



- A burned down Kingdom Hall of Jehovah's Witnesses. Despite obvious arson, a proper criminal investigation has not yet been conducted (Chekhov, Moscow Region, 2008).



- Officers from the FSB carry out a search and seize literature in a Kingdom Hall of Jehovah's Witnesses (Yekaterinburg, 2008).

Regrettably, instead of protecting the rights of religious worshippers, the law-enforcement agencies themselves are taking the initiative in encouraging religious intolerance. As events develop, it becomes more and more apparent that their ultimate aim is to liquidate the Administrative Center of Jehovah's Witnesses in Russia, along with all other registered legal entities of Jehovah's Witnesses, and to achieve a total ban on the activity of this religion by finding a pretext for a criminal prosecution.

HUMAN RIGHTS VIOLATIONS IN YEKATERINBURG AND SVERDLOSK REGION

On 19 June 2008, in Asbest, Sverdlovsk Region, a criminal case was instigated in connection with the distribution of the religious literature of Jehovah's Witnesses. To this day, no charges have been brought against a single one of Jehovah's Witnesses. However, the fact that a criminal investigation is under way is being used to intimidate and pressurize Jehovah's Witnesses, as well as to arouse public enmity and mistrust towards the organization.

- Between 5 June and 20 August 2008, Valentina Bykova, Yulia Andreyeva, Maria Kilina, Maria Aleskerova, minor Darya Golovko, Igor Ananyin and others were detained by the police while lawfully engaging in religious activity, some on more than one occasion. They were escorted to the police station where they were searched,

forcibly fingerprinted and photographed, and their religious literature was confiscated.

- On 16 July 2008, a search was conducted of a Kingdom Hall of Jehovah's Witnesses in Yekaterinburg, and religious literature was seized. The raid was carried out by a division of the FSB. Eighteen individuals were unlawfully detained for up to nine hours in violation of their right to personal integrity (as guaranteed by Article 22 of the Russian Federation Constitution). The FSB agents in particular psychologically and physically abused Anastasia Lelikova, pinning her to the wall and twisting her arms. The lawfulness of the raid, the seizing of literature and the actions of the law-enforcement agencies were contested by all 18 individuals using both civil and criminal procedures, but the complainants were refused access to court (see the section on violations of Article 6 of the European Convention by the Russian Federation).

- On 23 February 2009, in Bogdanovich, deaf Jehovah's Witnesses Vera Ivanova, Yulia Strokun and Yelena Plotnikova, were escorted to the police station (Vera Ivanova late at night), where they were treated roughly and ridiculed for their religious beliefs by the local police chief V.G. Telepov.

- On the initiative of the FSB and the prosecutor's office, over 80 unsubstantiated reports have been posted on internet sites and in other media sources characterizing the literature of Jehovah's Witnesses as extremist. Moreover, the prosecutor has used the media to encourage the public to testify against Jehovah's Witnesses, in violation of Article 4.4 of the Federal Law on Freedom of Conscience and Religious Associations, according to which officials of State agencies must not use their official status to influence the public perception of any religion.

ATTEMPTS TO OBSTRUCT ACCESS TO JUSTICE

- By placing bureaucratic obstacles in their path, the authorities have effectively blocked the road to justice for Jehovah's Witnesses. Their complaints filed to the Asbest City Court under the criminal procedure were rejected on the grounds that it should have been filed under the civil procedure. At the same time, their complaint filed to the Ordzhonikidzevskiy District Court of Yekaterinburg under the civil procedure was rejected on the grounds that it should have been filed under the criminal procedure!

- Lawyer Yegiazar (Igor) Chernikov, who is assisting Jehovah's Witnesses in Yekaterinburg and Asbest, was subjected to severe pressure from the law-enforcement agencies. Following a complaint filed by B.N. Kozinenko, the head of the Sverdlovsk Region Directorate of the FSB, the possibility of his being stripped of his license to practice was considered, and a disciplinary case was initiated. At the same time, on the initiative of the Investigation Committee of the Sverdlovsk Region Directorate of the RF Prosecutor General's Office an investigation was conducted with the aim of instigating a criminal case against him. Eventually, no criminal case was instigated, and the disciplinary case was dropped. However, this is still considered by the European Court of Human Rights as a violation of the rights of religious worshippers. The Court has stated that "moves made by the authorities to institute criminal proceedings against the applicant's lawyer, even though they were not followed

up, must be considered an interference with the exercise of the applicant's right of individual petition and incompatible with the respondent State's obligation" (Judgment in the case of Kurt v. Turkey, 25 May 1998, paragraph 165).

RELIGION ON TRIAL

On 11 February 2009, the Appeal Court of the Republic of Altay upheld the decision of the lower court and, as a preventive measure, put a ban on the distribution of the religious literature of Jehovah's Witnesses in the territory of the republic.

Jehovah's Witnesses have been publishing religious literature for over 130 years. Today it is published in over 500 languages and distributed in 235 lands throughout the world. Tens of thousands of responses from all over the globe show how both religious believers and non-believers value the literature. Reading and studying Bible literature is an integral part of the religious worship of Jehovah's Witnesses.

However, beginning in 2007 the Russian Federation Prosecutor General's Office initiated a massive campaign throughout the country to have the literature of Jehovah's Witnesses pronounced extremist with the aim of having its import, distribution and use proscribed. Between 2007 and 2009 over 40 summonses have been served by the prosecutor's office on religious associations of Jehovah's Witnesses referring to "the impermissibility of carrying out extremist activity."

This has occurred in spite of the fact that, according to the conclusions of a State religious expert study ordered by the Russian Federation Ministry of Justice and dated 15 April 1999, "The . . . literature of the religious organization of Jehovah's Witnesses . . . does not contain calls for . . . incitement of social, racial, national, and religious discord".

If the prosecutor's office succeeds in achieving its aims, the right to freedom of worship of over 280,000 Russian citizens who profess the religion of Jehovah's Witnesses or associate with them at their meetings will be violated.

LEGAL CLASHES AND PREFABRICATED EXPERT STUDIES

- In 2006 the Federal Law on Counteracting Extremist Activity was amended, resulting in the removal of the words "in connection with violence or calls for violence" from the definition of extremism, which originally read "incitement to racial, nationalistic, or religious enmity, and also social enmity, in connection with violence or calls for violence." As a result of such a vague definition of extremism, the law is now being freely interpreted by the authorities to indicate that any faith which contradicts the teachings of the Russian Orthodox Church can be classed as "inciting to religious enmity."

- In Salsk, Rostov Region, an administrative case was instigated against Jehovah's Witness Yemelyan Lakashia on the grounds that a certain citizen M considered himself offended by the fact that in the publications of Jehovah's Witnesses Christ is pictured as impaled on a stake rather than on a cross.

- On 25 February 2009, the Republic of North Ossetia-Alaniya, on the basis of the same pre-ordered expert study used in the case in Salsk, Rostov Region, and in other cities, filed a claim to liquidate all four (!) local religious organizations of Jehovah's Witnesses registered in the republic. Moreover, Jehovah's Witnesses have been registered in North Ossetia since 1993, during which time not a single complaint has been registered against their activity!

- In Asbest a criminal case was instigated on the basis of complaints from citizens whose religious feelings were allegedly insulted by the fact that the publications of Jehovah's Witnesses capitalize the word "Devil," and claim that the teachings of the Trinity and the immortality of the soul are unbiblical.

- According to information published by the Asbest City Prosecutor, in court cases against Jehovah's Witnesses five expert studies of their literature prepared by specialists from the FSB will be used.

- At the heart of the claim filed by the Gorno-Altaysk City Prosecutor to pronounce the literature of Jehovah's Witnesses extremist lies a pre-ordered religious analysis prepared by Yu.V. Khvastunova of the Gorno-Altaysk State University, who does not hide her prejudice toward religious minorities. She has actively participated in events conducted by the Russian Orthodox Church and was the author of an essay entitled Cooperation Between the Church and the State in Politics of Counteracting Destructive Cults in the Russian Federation.

When prosecutor's offices apply for such prefabricated expert studies, and when courts admit them as reliable evidence, the principle of the secularity of the State, enshrined in the Russian Constitution, is violated, and judgments of the European Court of Human Rights are ignored, in which it has been stressed that "the right to freedom of religion as guaranteed under the Convention excludes any discretion on the part of the State to determine whether religious beliefs or the means used to express such beliefs are legitimate." (Manoussakis and Others v. Greece, 26 September 1996, paragraph 47; Moscow Branch of the Salvation Army v. Russia, 5 October 2006, paragraph 58).

DISRUPTIONS OF RELIGIOUS SERVICES

- Of the 57 district conventions of Jehovah's Witnesses planned for 2008 in Russia, 14 were disrupted, despite the existence of valid rental contracts (three in Saint Petersburg, Kirov, Naberezhniye Chelny, Novosibirsk, Krasnoyarsk, Nizhniy Novgorod, Omsk, Perm, Tolyatti, Ufa, and one in Yekaterinburg).



Jehovah's Witnesses at a religious service in the forest, similar to the time when under ban in the Soviet Union. Is history repeating itself?

- The majority of the remainder of the conventions were conducted only with difficulty (including a gathering convened in a forest, a solution alarmingly similar to the religious situation in the Soviet Union up to 20 years ago).

- According to the managers of stadiums and other premises, in many places officers from the FSB ordered them to cancel the contracts with Jehovah's Witnesses or to find other means of stopping the district conventions from going ahead.

- On 21 February 2009, in Naberezhniye Chelny (Republic of Tatarstan), a religious service being conducted by Jehovah's Witnesses in rented premises was interrupted by officers from the FSB and the police. Carrying out orders received from the prosecutor's office, these officers halted the meeting and went around the hall questioning children and checking the identity documents of their parents.

- On 26 February 2009, in Novouralsk, Sverdlovsk Region, officers from the police and FSB entered the private home of Nikolay Parshukov where a religious meeting was taking place and wrote down the names and addresses of all in attendance.



A congregation meeting of Jehovah's Witnesses in Naberezhniye Chelny was interrupted by police officers and the FSB.

The European Court of Human Rights has stressed that disruption of the religious meetings of Jehovah's Witnesses is a violation of the Convention, stating "The Court further reiterates that Article 9 of the Convention protects acts of worship and devotion which are aspects of the practice of a religion or belief in a generally recognised form . . . It is undeniable that the collective study and discussion of religious texts by the members of the religious group of Jehovah's Witnesses was a recognised form of manifestation of their religion in worship and teaching. Thus, the applicants' meeting on 16 April 2000 attracted the protection of Article 9 of the Convention." (Judgment in the case of Kuznetsov and Others v. Russia, 11 January 2007, paragraph 57).

INTERFERENCE IN THE PRIVATE LIVES OF RELIGIOUS BELIEVERS

- Since 2004, on the orders of the Prosecutor General's Office, an apparently interminable investigation of the Administrative Center of Jehovah's Witnesses in Russia has been in progress. The grounds for the investigation are once again identical complaints filed by 'anti-cult' organizations such as the Center for Victims of Non-Traditional Religions and the Committee for Salvation of Youth. During the now more than four-year-long investigation it has been established on numerous occasions that the Administrative Center has not committed a single violation of the law requiring prosecution. However, the investigation continues.
- In 2007 information was sent by the prosecutor's office to medical institutions in Saint Petersburg painting Jehovah's Witnesses

as fanatics who do not value their life or health. On the basis of the information several Jehovah's Witnesses have been refused medical treatment for no valid reason.

THE GATHERING OF PRIVATE INFORMATION

- In February 2009 in Izobilniy, Stavropol Territory, the administration of a high school conducted a survey to discover whether any of their pupils were Jehovah's Witnesses and subsequently produced reports on them.

- In Mostovskiy District, Krasnodar Territory, the director and teachers of School No. 18 threatened parents with being stripped of parental rights merely because their 14-year-old daughter does not attend the Fundamentals of Orthodox Culture lessons and events connected with the 23 February and 8 March celebrations. This rides roughshod over parental rights including their constitutional freedom of thought, conscience and religion.

- On Sakhalin island disciplinary measures were brought against a child psychologist on trumped-up charges purely because she was one of Jehovah's Witnesses.

- Lev Ponomaryov, a journalist and human rights activist, stated: "I saw for myself back in 2006 a list of organizations that are considered extremist and subject to special control that was sent by the Ministry of Internal Affairs to a district police station (just think—the list was in all probability sent to all police departments throughout Russia!). I saw Jehovah's Witnesses on it . . ." (Daily Journal, article entitled "Hotline. In favor of Human Rights in Russia". www.ej.ru. 6 March 2009). Apparently such lists were received by all the police stations in Russia!

PICKETS AND ARSON ATTACKS

- During the night of 4 April 2007, in Tsimlyansk, Rostov Region, a private home owned by one of Jehovah's Witnesses was set on fire and burned down.

- During the night of 11 July 2008, a Kingdom Hall of Jehovah's Witnesses (religious building, used for worship) was burned down in Chekhov, Moscow Region.

- On 15 June 2007, in Zvenigorod, Moscow Region, a private home belonging to Zhilyaeva, one of Jehovah's Witnesses, in which Christian meetings of her fellow believers were often held, was set on fire and burned to the ground. Prior to this, on 25 April 2007, in the neighbouring town of Ruza, an explosion and fire occurred at another home belonging to the Chursin family, Jehovah's Witnesses. No criminal case was ever instigated.



Religious intolerance towards Jehovah's Witnesses in Russia continues unabated

UNPRECEDENTED HARASSMENT OF JEHOVAH'S WITNESSES THROUGHOUT RUSSIA

- In February 2009, all prosecutor's offices throughout Russia received a letter from the Prosecutor General's Office demanding that they order their subordinate offices to gather any negative information whatsoever on Jehovah's Witnesses with a view to banning their activity. They were authorized to involve agencies of the FSB, the police, the public health agencies, local departments of justice, and military commissariats in the collection of information.

- This was accompanied by mass violations of the rights of religious believers and has paralyzed the activity of local religious communities, flouting the judgment of the European Court of Human Rights, which stated: "The right of believers to freedom of religion . . . encompasses the expectation that believers will be allowed to associate freely, without arbitrary State intervention." (*Moscow Branch of the Salvation Army v. Russia*, 5 October 2006, paragraph 58).

- The unprecedented scale of the harassment launched by the Prosecutor General's Office, along with the character of the accusations, leave no doubt as to the goal of liquidating the Administrative Center of Jehovah's Witnesses in Russia, opening the way for the criminal prosecution of religious believers.

THE PAST MUST NOT REPEAT ITSELF

- Jehovah's Witnesses (then known as International Bible Students) were first registered in the Russian Empire in 1913. However, during the Soviet era they faced intense persecution. In 1951 thousands of Jehovah's Witnesses from western regions of the USSR were exiled to Siberia. Between 1957 and 1967 many were

sent to labour camps in Mordovia where they were subjected to psychological pressure. Up until 1985 arrests, confiscation of religious literature and disruption of religious services continued. On frequent occasions the charges contained no more than vague accusations and unscientific religious expert studies. During that period the authorities actively used the media and even emotive fictional feature films to create a negative attitude towards Jehovah's Witnesses among the public.

- In 1991 Jehovah's Witnesses received official recognition in the USSR. In the same year in accordance with the Law on Rehabilitation of Victims of Political Repression, and in 1996 by Presidential order they were fully rehabilitated as victims of political repression, allowing for hundreds of thousands of citizens of the former Soviet Union to enjoy religious freedom and exoneration.

- Unfortunately many of the generation raised in the spirit of religious intolerance in the Soviet Union have not been prepared to surrender their position, and in the same year (1996), the prosecutor for the Northern Administrative Circuit of the City of Moscow began a campaign against Jehovah's Witnesses in Moscow. Their accusations were based solely on material furnished by 'anticult' organizations, which are known throughout the world for their religious intolerance. During the course of the investigation, accusations were constantly changed, as were investigators and prosecutors. The campaign began with a criminal investigation, and then continued by civil procedure. Concurrently a smear campaign was waged in the media, consisting of over 1000 defamatory, and in many cases slanderous, television and radio reports, newspaper articles and internet postings.

- In 1998 the case was heard by the Golovinskiy District Court and in 2001 all charges against Jehovah's Witnesses were dismissed. However, in 2004 the same court, with a different panel of judges, ruled to liquidate the Moscow community of Jehovah's Witnesses.

"I sincerely hope that in the future my children and grandchildren won't have to be rehabilitated as victims of groundless repression." VASILIIY KALIN

In line with the Bible's admonition, Jehovah's Witnesses worldwide continue to pray that their fellow-believers in Russia, who have undergone so much hardship in the past, will be able to "go on leading a calm and quiet life with full godly devotion". (1 Timothy 2:2) They hope that the Russian authorities, together with the international community, will not allow the repeat of a tragic chapter in Russia's history.



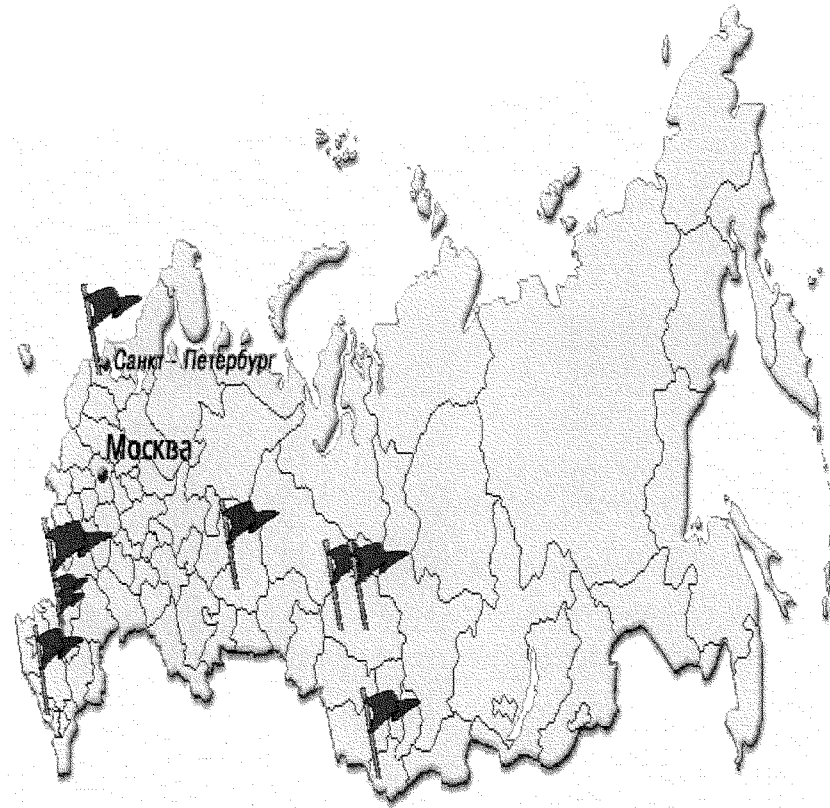
Vasily Kalin, Chairman of the Administrative Center of Jehovah's Witnesses in Russia: As a child with his family in exile in Siberia.



His certificate of rehabilitation as a victim of political repression.



Today, with his children and grandchildren.



The map pinpoints the regions in which heightened harassment of Jehovah's Witnesses is taking place.

**MATERIAL SUBMITTED FOR THE RECORD BY GERALDINE
FAGAN, FORUM 18 NEWS SERVICE**

RUSSIA: A NEW “INQUISITION”

The appointment of renowned “anti-cultists” and controversial scholars of Islam to a Russian government body allocated sweeping powers to investigate religious organisations may prove the heaviest blow to religious freedom in a decade. The newly-reconstituted Expert Council for Conducting State Religious-Studies Expert Analysis attached to the Justice Ministry now has wide-ranging powers to investigate the activity, doctrines, leadership decisions, literature and worship of any registered religious organisation and recommend action to the Ministry. If the Council is given free rein, it is likely to recommend harsh measures against certain religious organisations. However, the full impact of the body is not yet clear.

So far, those in Russia seeking to restrict certain religious minorities through the state apparatus have mainly done so by proposing laws. Even if successful—as in part with the 1997 Religion Law—restrictions depend upon the state’s willingness to implement laws in the way their lobbyists hoped. Now, for the first time on the federal level since the end of the Soviet period, such people have been directly appointed to a state religious-affairs body.

Justice Minister Aleksandr Kononov rebuffed criticism of the Council as “incompetent and improper” and “unacceptable pressure on the mechanism of partnership taking shape between state and society,” the Russian news agency Interfax reported on 21 April. He insisted his Ministry had created the Council in strict conformity with current laws, that adequate control mechanisms would limit its competency and that its decisions were only recommendatory.

Since Kononov’s appointment in May 2008—days after President Dmitry Medvedev took office—the Justice Ministry has stepped up administrative pressure on non-Orthodox centralised religious organisations. Kononov, who previously studied theology at St Tikhon’s Orthodox University in Moscow, has a strong personal loyalty to the Russian Orthodox Church (Moscow Patriarchate). He has maintained publicly that state officials should remain distant from their personal preferences, however.

NEW POWERS FOR THE EXPERT COUNCIL

The changes to the Expert Council for Conducting State Religious-Studies Expert Analysis are the result of two Justice Ministry orders: No. 61, signed 3 March 2009, creates the Council’s almost entirely new membership (all but one of the 24 members was new). No. 53, signed 18 February 2009, gives the Council apparently limitless scope for investigating a registered religious organisation. The only stipulated aim of its 3 June 1998 predecessor was evaluation of whether a community was indeed religious and functioning in line with its registration application.

In addition to open-ended “other questions which may arise” while conducting expert analysis or monitoring an already-registered religious organisation (Appendix 1, Article 4), the Council may now investigate other aspects of its activity. These are: a reli-

gious organisation's founding documents and leadership decisions; information concerning its doctrinal principles and corresponding practice; forms and methods of activity, worship services and other rites; internal documents reflecting its institutional structure; the religious literature, printed, audio and video material a religious organisation produces or distributes (Appendix 1, Article 3).

The Council now has the right to demand and receive documents necessary for such analysis from state bodies and any organisation (Appendix 2, Article 6). The Justice Ministry is to treat the Council's conclusions as recommendations (Appendix 1, Article 15).

The 1998 government decree made clear that such analysis could take place only when religious communities seek state registration. While it must still be commissioned by the Justice Ministry, it is now possible when the Ministry "monitors a religious organisation's conformity with its aims and activity as set out in its registered statutes", i.e. at any time. Analysis may also take place in other specific circumstances: if a religious organisation makes changes to its registered statutes; to check whether its activity corresponds with its registered statutes; if a member of the organisation is convicted of extremism; if materials it produces or distributes are ruled extremist (Appendix 1, Article 7).

An only recently exercised function, the 1997 Religion Law stipulates that the government organ which registers a religious organisation—now the Justice Ministry—is authorised to monitor compliance of its aims and activity with its registered statutes. (Article 25, Part 2)

Under a July 2008 law introducing minor amendments to numerous laws—including the 1997 Law—power to determine the procedure for conducting state religious-studies expert analysis was switched from the government to "the authorised federal organ of executive power".

The Expert Council first met in its newly-reconstituted state on 3 April and unanimously elected Aleksandr Dvorkin—Russia's most prominent "anti-cult" activist—as chair. Days later, he was interviewed about how it would operate by another new member, religious-affairs journalist Aleksandr Shchipkov, on Radonezh, a Moscow-based Orthodox radio station.

"For a long time we've been saying that very many organisations got the status of religious organisations in the reckless nineties, but in fact are either not religious or are not doing the activity stipulated in their statutes," remarked Dvorkin. Such organisations are engaged in political and commercial activity, making extremist statements and "persistent proselytism", he maintained. Now empowered to examine a registered organisation's compliance with its own statutes, the Expert Council will be passed citizens' complaints about religious organisations at the Justice Ministry's discretion, Dvorkin suggested, and will scrutinise their activity on receipt of sufficient material.

During the Radonezh interview, Dvorkin and Shchipkov agreed that as the Council's work is unpaid, they will continue in their previous employment.

BIBLE SOCIETY TO BE AGAIN INVESTIGATED?

At the Council's 3 April meeting, Dvorkin named the Russian Bible Society as one organisation for possible investigation, its executive director, Anatoli Rudenko, told Forum 18. The Society was subject to a Justice Ministry check-up of its documentation in October 2008, mainly on suspicion that it does not exhibit the characteristics of a religious organisation. After the Society complained, however, the Ministry confirmed in writing that the check-up had uncovered no grounds for corrective action.

The Bible Society has not experienced any problems since the 3 April Council meeting, Rudenko told Forum 18, and stressed that a Council investigation requires a commission from the Ministry, "but there isn't one".

ARE EXPERT COUNCIL MEMBERS IMPARTIAL?

Aleksandr Dvorkin heads the St Irenaeus of Lyons Religious-Studies Research Centre, which is also a missionary faculty department of St Tikhon's Orthodox University in Moscow. The Centre's website lists numerous "sects and cults", of which the most familiar and established in Russia include: charismatic Protestants (termed "neo-Pentecostals" by Dvorkin and his supporters), Hare Krishna devotees, Jehovah's Witnesses, Mormons and the New Apostolic Church.

Among Dvorkin's many attacks on such groups is his conclusion to a paper on "Neo-Pentecostalism in Russia", delivered at an April 2001 conference on "Totalitarian Sects—Threat of the 21st Century" in Nizhny Novgorod. He describes the faith of charismatic Protestants as, "a crude magical-occult system with elements of psychological manipulation (..) an anti-Biblical teaching furthering the personal enrichment of its pastors and the dissemination of false teachings originating in pagan cults."

As soon as Moscow's Golovinsky District Court pronounced its verdict banning the Jehovah's Witnesses' Moscow organisation in May 2004, Forum 18 observed Dvorkin warmly congratulate the Public Prosecutor's Office representative who had pressed for the ban.

Also known as the Russian Association of Centres for the Study of Religion and Sects, Dvorkin's Centre has branches in over a dozen Russian cities, some of which are missionary departments of Orthodox dioceses. The Saratov branch is headed by another new Council member, Aleksandr Kuzmin.

On 26 March 2009 Khabarovsk Central Municipal Court ruled a leaflet authored by Kuzmin extremist material. The leaflet alleged that "Krishnaites are involved in the drugs and arms trade in Russia and abroad. Krishnaites are prepared to murder on religious grounds (..) beatings and rapes of teenagers in closed children's homes are attributed to Krishnaites."

On 5 May Kuzmin's Saratov Centre issued an open letter—still on its website—to Saratov residents condemning "Feel the Force of Change", a campaign promoting Christian social activism organised by local Protestant Churches. The letter attacks one participant in particular, Word of Life Pentecostal Church, as "a horribly destruc-

tive sect. In Russia there were cases of beatings and murder of children in this sect in the guise of exorcism.”

Another new Council member, Yevgeny Mukhtarov heads the Yaroslavl branch of Dvorkin’s Association. In addition to groups identified by Dvorkin, its website lists Adventists, Baha’is, Baptists and the Salvation Army among “non-traditional cults” in Yaroslavl Region.

Other new Council members whose impartiality is particularly in doubt include Orthodox priest Fr Lev Semenov, who teaches at Dvorkin’s Centre, and Vladimir Belov, who heads the Centre of Orthodox Culture and Religious Anthropology at Saratov University.

The Council’s two vice-chairs, Roman Silantyev and Valiulla Yakupov—who were elected at its first meeting on 3 April—are of concern to many Russian Muslims. Silantyev’s book on Islam in modern Russia treats followers of the moderate Turkish theologian, Said Nursi, as dangerous extremists. Nursi’s books have already been banned through the courts as “extremist” and included on the Federal List of Extremist Materials. Anyone who then distributes them is liable to be fined. (Jehovah’s Witnesses too have faced investigations after their literature has been examined on allegations of “extremism”.)

At a hearing in Russia’s Public Chamber on 3 March which questioned bans on Islamic literature—including Nursi’s works—Silantyev countered that the state authorities were working in the right direction. He also remarked, “Let’s ban all books published in Saudi Arabia, everyone knows that Russia has bad relations with the USA, so we should ban books from countries that are in the American orbit.”

WIDESPREAD OPPOSITION TO THE COUNCIL

The appointment of renowned “anti-cultists” and controversial scholars of Islam to the Expert Council provoked an unprecedented outcry from many religious representatives and human rights defenders.

Particularly striking opposition came from the Union of Old Believer Theologians, a group not directly threatened. The developments are “a direct threat to the constitutional rights of the citizens of Russia to freedom of confession [which] could serve as a dangerous catalyst for inter-confessional strife, a prologue to the beginning of struggle against religious dissent, oppression of believers, the restoration of religious censorship and inquisition,” they state.

The Old Believers also go further than simply calling for the removal of some Council members; they suggest that the best course of action would be the complete abolition of the Council. “Otherwise, the religious life of Russia will always depend upon the subjective opinion of whichever people have ended up on this body,” they argue. “Questions of the existence of religious associations should be regulated by relevant civil law, without the interference of any ‘councils’ ‘committees’ or ‘departments’.”

However, the Russian Orthodox Church has expressed support for the Council. Fr Vsevolod Chaplin, who heads the Moscow Patriarchate’s Department for Relations between Church and Society,

has defended the new Council, claiming that it obviously now contains “specialists at a serious level, active, well-known in society.”

WILL THE AUTHORITIES RECONSIDER THE COUNCIL’S MEMBERS AND POWERS?

If the unprecedented indignation expressed by many leaders of Russia’s religious communities—Adventist, Baptist, Muslim, Old Believer and Pentecostal—and human rights defenders is heeded by the authorities, the protests may put a check on the Council’s activity.

The developments around the Council caused “a big shock” within the Presidential Administration, “as they have been trying to follow a balanced policy there, pressing for peace and co-existence between confessions,” Maksim Shevchenko, a member of the Public Chamber’s Commission on International Relations and Freedom of Conscience and well-known television journalist, told Forum 18. The initiative for the Council’s re-organisation originated with Justice Minister Konovalov, he believes.

The state’s position is not unanimously supportive of the Council. Andrei Sebentsov, head of the Russian government’s Department for Relations with Religious Associations, remarked to Portal-Credo religious-affairs website on 9 April that the appointments of Aleksandr Dvorkin—“not a religious-studies scholar and de facto representing the interests of the Russian Orthodox Church (Moscow Patriarchate)”—and Silantiev were “a very strange fact which could have far-reaching consequences.”

So far there has been no public move by a state representative to counter the changes to the Council. Shevchenko told Forum 18 that his Commission currently has no hearing planned to press the issue. “I can only suggest things to them—but we are following the situation closely,” he remarked. “As a Russian citizen, I don’t want this kind of justice.”

JUSTICE MINISTRY LEAVES QUESTIONS ABOUT THE COUNCIL UNANSWERED

Forum 18 submitted written questions about the Council to the Justice Ministry on 22 May. These included: approximately how many commissions the Ministry intended to give the newly re-established body per year; whether the Ministry will automatically accept its conclusions and, if not, who will decide; whether the Council’s new members have the right to make statements on behalf of the Ministry; whether Aleksandr Kuzmin will be excluded from the Council as the author of a leaflet ruled extremist by a court in the Russian Far East; whether the work is paid and whether Council members hold the status of government officials or private specialists; whether the two orders appointing new members to the Council and expanding its powers were the initiative of Minister Konovalov or the result of consultation with another state organ; and, perhaps most importantly, why the Council exists at all. However, the Ministry failed to respond to Forum 18’s questions.

For more background, see Forum 18’s Russia religious freedom survey at http://www.forum18.org/Archive.php?article_id=1196.

Forum 18's reports on freedom of thought, conscience and belief in Russia can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=10>.

MATERIAL SUBMITTED FOR THE RECORD BY JOSEPH K. GRIEBOSKI, FOUNDER AND PRESIDENT, INSTITUTE ON RELIGION AND PUBLIC POLICY

Mr. Chairman:

Thank you for the opportunity to submit this written testimony on the human rights and religious freedom conditions in Russia prior to President Barack Obama's visit there.

The state of religious liberty in the Russian Federation remains highly problematic. Far from the reforms of the 1980s and 1990s, recent years have seen a shift toward increasingly repressive government policy and implementation. Recently, local and regional authorities discriminated against new religious movements of all kinds as a result of widespread distrust of religious groups perceived to be foreign, popular pressure from Russian Orthodox communities, and several well-publicized controversies involving religious minority groups. The sheer number of these incidents, many of which are connected to restrictive national legislation, suggests that the restrictions placed on religious liberty in Russia are not simply a matter of local bias and implementation, but rather, a matter of federal policy. Furthermore, implementation of these religious based policies shows a strong bias in favor of the Russian Orthodox Church.

The recently expanded powers of the Justice Ministry's Expert Council for Conducting State Religious-Studies Analysis constitute one of the most significant barriers to full freedom of religion in Russia. As of February 2009, the Council is empowered to review the activities and contents of registered religions: their leadership, doctrines, literature, and worship rituals to determine whether the faith is extremist, and they may make recommendations to the Justice Ministry on a religious groups' legal status. The Council's composition is genuinely alarming, including a prominent "anticultist" and critic of Protestantism, Aleksandr Dvorkin, as well as people who have made statements accusing Hare Krishnas of systematic child abuse and urging the burning of Muslim literature. The Council's work is frequently referred to in the media as an inquisition. It is deeply troubling that the power to recommend the dissolution of religious groups lies with such a biased and venomous council.

Also of particular concern are discriminatory acts committed under the purview of the 2002 law "On Counteracting Extremist Activity". The law provides the Russian government with the authority to dissolve and ban religious organizations whose activities it deems to be extremist, as well as to ban religious and other literature so deemed, and to arrest individuals who produce or distribute such literature. The implementation of this law has been marked by discrimination and abuse targeting minority, non-Orthodox religious groups, especially Muslim and Christian groups. Unfortunately, discrimination under the 2002 law is only one piece of the total system of religious discrimination in the Russian federation. Minority religious groups also face discrimination in areas from land ownership to religious education, while the protection of religious freedom is, at best, ignored by the government. Mikhail I. Odintsov, a senior aide in the office of Russia's human rights commissioner, states, "In Russia there isn't any significant, influen-

tial political force, party or any form of organization that upholds and protects the principle of freedom of religion.”

THE INSTITUTE ON RELIGION AND PUBLIC POLICY

Twice nominated for the Nobel Peace Prize, the Institute on Religion and Public Policy is an international, inter-religious non-profit organization dedicated to ensuring freedom of religion as the foundation for security, stability, and democracy. The Institute works globally to promote fundamental rights and religious freedom in particular, with government policy-makers, religious leaders, business executives, academics, non-governmental organizations and others. The Institute encourages and assists in the effective and cooperative advancement of religious freedom throughout the world.

LEGAL FRAMEWORK FOR RELIGIOUS FREEDOM

Russia's principal law regarding religious freedom, enacted in 1997, is entitled “On freedom of conscience and religious associations.” While this law prohibits any privileges, limitations, and discriminatory actions that are carried out on a religious basis (2.ii), it allows freedom of religion to be restricted for the purposes of protecting the constitutional order, morality, health, citizens' rights and lawful interests, and state security (3.ii).

The restrictions imposed by this law are quite severe. Religious groups can be officially dissolved by the government if found to be harmful to Russians' morality or health, or to encroach upon citizens' rights, freedom, or individuality (14.ii). The potential for discriminatory abuse in the determining which religious acts are dangerous is significant. The law provides several examples of such dangerous practices, including the use of psychotropic drugs and hypnosis. Furthermore, it is forbidden to coerce a person to change his or her attitude to religion, profession or non-profession of faith, participation or non-participation in divine services or other activities of religious organizations, such as religious education (3.v). In addition, involving minors in religious associations or providing them with a religious education against their will and without the permission of their parents or guardians is prohibited.

Religious groups must register with the Federal Registrations Service (FRS) to publish literature, own property or monetary assets, invite foreign guests, or conduct religious services in hospitals, prisons, and other state properties. To register as a local religious group, the group must either be a branch of a nationally recognized religion or be able to prove that it has existed in the area for at least 15 years, placing an onerous burden on emerging religious groups. Additionally, the organization must present a list of all of the “persons creating” it, along with information on their citizenship, place of residence, and date of birth (11.v). It is not clear whether the “persons creating” the organization are its founders or all of its members. In either case, the information provided to government authorities during the registration process can easily be misused to track and persecute members of minority religious groups.

The 1997 law strictly limits the activities of missionaries and visiting religious leaders. According to Article 13, representatives of a

foreign religious organization may not carry out any religious activities (13.ii). This provision reflects the Russian Federation's suspicion of religious groups perceived as foreign, and is in direct contradiction with the provisions of Article 20 of the same law, which guarantees religious organizations the right to establish and maintain foreign religious contacts, as well as the right to invite foreign religious leaders (20.i-ii)

Even more restrictive than the 1997 law is the 2002 law "On counteracting extremist activity." Article 9 of this law prohibits the creation of religious organizations whose goals or actions are directed toward extremist activity, which is defined as a "violation of citizens' rights, freedoms, individuality, and health; harm to the environment, public order, security, property, and lawful economic interests." If a group carries or threatens activities falling under these broad restrictions, a public prosecutor, the Ministry of Justice, or the ministry's territorial organs may petition a court to liquidate the organization or ban its activity. Once accused of extremist activity, the group's activities, including public gathering, demonstration and use of media are suspended, and financial activities are severely curtailed. Not only does this suspension suppose the group's guilt before trial, it prevents the group from effectively defending itself, at trial or in the public eye. Furthermore, if the court rules in favor of the religion's dissolution, the group is prohibited from re-registering with the FRS, allowing for a permanent ban on religions, including those that may have been wrongfully persecuted. Additionally, the 2002 law permits both local and national courts to declare published materials extremist. Such a ruling results in a national-level prohibition on publication and distribution.

THE CURRENT STATUS OF RELIGIOUS FREEDOM

In the Russian Federation, barriers to registration are the first level of government discrimination against minority religious groups. In addition to the previously noted challenges, groups are commonly denied registration because of bureaucratic wrangling or false accusations. Furthermore, targeted groups are often later disbanded by the government on the grounds that they are conducting activities limited to registered groups without registration. For example, officials denied registration to a Methodist church in Stary Oskol twice. Initially, they claimed that the church's paperwork was deficient and late that the group was a front for an illegal business. The church continued to hold services, and was threatened and disbanded by the FSB. In October 2008, the Russian government released a list of 56 religious groups scheduled to be dissolved, ostensibly because they failed to submit adequate financial accountings. The list included a variety of Russian religious groups, including Catholic, Protestant, and other Christian churches, as well as Muslim and Buddhist groups. Orthodox groups were given the opportunity to revise their records before the compilation of the list, and thus, none appeared.

Even once registered, non-Orthodox groups face discrimination in attempting to make use of their religious rights, such as the right to own property. The governor of Kaluga Region, for instance, ordered officials to "find ways" of confiscating the land of the Word

of Life Pentecostal Church on November 9th, 2008. Meanwhile, Moscow's largest Pentecostal Church, the Emmanuel Church, met outdoors through the winter due to the government's lag in drawing up land rights for the church after its sanctuary was burned in 2007. Emmanuel was evicted from a rental space as a result of "state pressure." This is not the beginning of government discrimination against Emmanuel—the previous church building was constructed after a long struggle. Although the church received a plot of land in Moscow in 1996 and its construction plan was approved by all departments, the district assembly rejected the plan in a closed session in November 2000, claiming that public opinion was opposed to the project. Despite the fact that the church gathered over 6,000 signatures of support from 10,000 local households, it was ultimately forced to seek another plot. Unfortunately, such restrictions are commonplace.

Some organizations have also encountered obstacles in holding Sunday school classes. In March 2008, at the request of Orthodox Bishop Ignati Punin, prosecutors in the Smolensk region took away the legal personality status of a Methodist church for holding Sunday school without an educational license. Nonetheless, the 1997 law permits religious organizations to establish educational institutions (5.iii). Moreover, a law passed in 1992 defines educational activity as "a goal-oriented process of education and study accompanied by confirmation that the student has attained levels of education prescribed by the state." Recognizing that this definition does not apply to the Sunday school in question, the Supreme Court recently struck down the ruling of the Smolensk Regional Court. Moreover, it declared that the Smolensk Court had ignored government regulations approved on October 18, 2000, which stipulate that no license is required for "individual lectures, training sessions and other types of education not accompanied by final assessment and the issue of documentation certifying education and/or a qualification."

Other organizations encounter obstacles to publishing and distributing their literature. In June 2008, the Public Prosecutor of Asbest, a town in Sverdlovsk Region, attempted to prohibit the literature of the local Jehovah's Witness community, claiming that the literature violated the 2002 law on extremism. According to an examination of items confiscated by the FSB in February, the group's publications "pitch Jehovahists against other religions, particularly adherents of the traditional confessions on the territory of the Russian Federation. Such aggression causes people to react in kind, offended by the Jehovahist publications' blasphemous pronouncements on things they consider sacred." Yet the assessment cites no examples from the texts.

While the Asbest Town Court chose not to review the lawsuit because the FSB assessment did not qualify as evidence, courts in other regions have made rulings on the basis of reports that likewise refer to texts in general terms without citing them. For instance, the Buguruslan City Court in Orenburg Region recently made public a verdict reached in 2007 that declares 16 Islamic works to be extremist. However, the verdict's most specific description of the works is that they encourage "open aggression towards representatives of other philosophical trends," use rhythm to influ-

ence the reader emotionally, and describe “an enemy presence, the need to struggle for the sake of ideas and a concrete biographical example of an idealized personality.”

It is important to note the role that literary interpretation plays in such cases. The 2004 law on extremism prohibits only “propaganda of exclusivity, of the superiority or inferiority of citizens on the basis of their attitude to religion, their social, racial, national, religious, or linguistic affiliation” (I.1); it does not prohibit propaganda of ideological superiority. Nonetheless, according to Forum 18 News Service, officials tend to view proclamations of religious superiority as also implying the superiority of one religion’s members over those of others, and thus promoting interreligious discord.

Some groups also have trouble organizing meetings and demonstrations. Recently, authorities such as the FSB, local administrations, local police and the Prosecutor’s Office have been working to obstruct the annual congresses of the Jehovah’s Witnesses. 8 congresses have been banned altogether, while some 30 have gone ahead, but with difficulty. In some cases, such as that of Yekaterinburg, officials claim that the gathering would be a violation of the 2004 law on demonstrations. However, the law does not apply to meetings held on private property. Furthermore, the law states that the realization of religious rites and ceremonies will be regulated by the 1997 law, which declares that religious organizations have the right to hold religious events on property provided to them for such purposes (16.ii). Claims that Jehovah’s Witnesses should have informed local authorities of the congress 20 days prior to the event are also based on a false understanding of the 2004 law, which requires groups to inform the authorities within only 10-15 days of the event (7.i).

CONCLUSION

In order to improve the state of religious freedom within its borders, the Russian Federation must amend its current legislation regarding religious freedom so as to bring it into accord with international human rights standards.

The 1997 law “On freedom of conscience and religious associations” must be amended in such a way that it facilitates, rather than hinders, the registration process, for both local and centralized religious organizations, including liquidated organizations applying for re-registration (9, 10, 11, 27). Likewise, in order to resolve the contradiction between Articles 13 and 20, the law’s restrictions on representatives of foreign religious organizations (13) must be eased in accordance with religious organizations’ right to maintain foreign contacts and invite foreign visitors for religious purposes (20). The Russian government must also amend the 2002 law “On counteracting extremist activity” so that a religious organization facing the threat of liquidation is not presupposed as guilty (10). The law must not suspend the organization’s activity while the petition for liquidation is being reviewed, not restricting the organization’s financial activity, and allowing it to defend itself through the media and demonstrations (10). In addition, the law must require that the Ministry of Justice review a local court’s decision to ban a religious organization’s literature before placing the

materials in question on the Federal List of Extremist Materials (13).

However, some of the instances of official discrimination described in this report stem not from the laws themselves, but rather from official misinterpretations or discriminatory applications of the law. In this sense, it is necessary to educate local, regional, and national security forces, judges, and political representatives about how to implement the laws in a fair and unbiased manner. Furthermore, these officials must receive special training regarding relations with religious associations. Such training must incorporate not only specific information about the religious organizations in the officials' jurisdiction, but also general information regarding religious freedom.

Therefore, the Russian Federation must focus not only on improving its current legal standards regarding religious freedom, but also on ensuring that those standards are adhered to and enforced.

MATERIAL SUBMITTED FOR THE RECORD BY ILYA KATSNELSON, MANAGING DIRECTOR, VTMS IN COPENHAGEN, DENMARK

Mr. Chairman and Distinguished Members of the Commission, thank you for giving me the opportunity to present my testimony before the Commission.

I am a U.S. citizen residing with my wife and three children in Copenhagen, Denmark. For the past eight years, I have been the Managing Director of VTMS ApS, a Danish ship-management company working closely with the Russian company Volgotanker from 2001—2006.

ARREST IN GERMANY

On February 28th, 2008 while driving through Germany to my home in Denmark I was stopped several miles from the Danish border for a routine document check. After close scrutiny of my U.S. passport, the officer advised me that I was to be detained due to an Interpol Arrest Order, which I was allowed to see. The order was issued by the Russian authorities. The next day, four police special-forces troops, clad in balaclava hats, bulletproof vests and military fatigues entered my detention cell, handcuffed me, put a bag on my head and dragged me to a waiting car. I travelled in a five car cortege consisting of 3 armor-plated civilian BMW's with a police escort at the front and back. With blaring sirens we raced at 100- 120 mph to the court house. The guard next to me had his machine gun trained on me at all times.

It is perhaps noteworthy that up to that point, my encounters with the law were limited to 2 traffic citations in 26 years of driving. With apologies for lack of modesty, I would like to say that I have always perceived myself as a law abiding citizen and have tried to set this example for my children. To have found myself in the situation described above was antithetical to everything that I stand for and to the way I have tried to live my life.

IMPRISONMENT AND RELEASE

Immediately, after the court hearing, I was taken to a Maximum Security Prison in Lübeck, Germany. Based on the ominous sounding charges contained in the Russian Interpol Order, the Germans must have believed they had captured an international criminal of great renown and, befittingly, immediately placed me in solitary confinement. (It should be noted that the initial charges against Volgotanker were altered only three days after being issued: from simple "Tax Evasion" to "Fraud and Money Laundering" at the behest of the Russian General Prosecutor's office. This was a calculated move made for the sole purpose of triggering procedural mechanisms that were created in Western jurisdictions for the purpose of combating money laundering and terrorism, which offenses, without the slightest doubt or reservation, have absolutely nothing to do with me).

Based on existing laws, I could not receive any shelter in the United States and could only rely on the European legislature related to the Refugee Convention. After having spent almost two months in a foreign maximum-security prison, I was released, hav-

ing to face the challenge of explaining to my then three-year-old son why his father had been missing for so long.

My departure from prison was no less dramatic than my arrival. On the day of my release, I was escorted to the ferry at Puttgarden, Germany by a convoy of 3 armored police cars with sirens blaring, driving at break-neck speed. The police again wore bullet-proof vests and were armed with machine guns. At the ferry, three undercover German police officers accompanied me, and informed me, they had received orders to protect me from any provocation from the Russians. It is difficult to be grateful to the German Authorities for having incarcerated me for almost two months for the sake of my own “benefit and protection”.

Nevertheless, I have been advised that notwithstanding the “happy ending” to the German detention, if I were ever to be stopped in Germany again the same procedure as during my February arrest would apply. In fact, I am at risk of being arrested and subjected to the same treatment in every country which is a signatory of the Interpol Convention for as long as the Russians maintain their Interpol Order.

It is my understanding that Interpol was created to facilitate the apprehension of criminals hiding from justice. The fact that my whereabouts have never been secret to anyone, including the Russian Authorities, has not prevented Russia from abusing the Interpol system to harass me and limit my freedom of movement. It is hard to ignore the absurdity of this situation—a system intended to fight crime is being used to facilitate the political persecution of persons that were never meant to be (nor should they ever be) targets.

The arrest in Germany could have easily been avoided if I had received the requested information from the U.S. Justice Department in regards to the issued Interpol order. However, starting from June 2006 and still continuing today, I have been stopped more than a dozen times at the border whenever entering the United States. Each episode entails detailed questioning of my travel plans, my background and whatever other information the interrogating officer felt necessary to ask. The length of the detentions varies depending on the officer who is questioning me and availability of staff at the border. At no time have I ever been informed of the reason for this special attention.

These are only some of the multitude of episodes in the 5 year Defense saga of Volgotanker and its politically motivated persecution.

IRONY OF FATE

In spite of my own father’s misgivings, a man who fought the former Soviet system all his life and risked everything to bring his children to United States, I believed in the immutable democratic changes taking place in Russia after the fall of the Soviet Union. I felt it was my duty and calling to make a contribution to the reconstruction of the post-communist economy of my former homeland. To a certain extent, I felt a responsibility to share with those who were crippled by Soviet ideology my Western Democratic values and ideals, which I came to espouse while growing up in the

United States. I was eager to demonstrate in deed that Americans were not enemies, but actually friends of Russia.

I considered it a gift of fate to be presented with an opportunity in 2000 to join a team of Volgotanker managers, headed by Alexander Alexandrovich, who tasked us with the revitalization of a struggling shipping giant into a first-rate transport company for the purpose of increasing shareholder value. The management philosophy embraced by Volgotanker was modeled after the approach of Mikhail Khodorkovsky towards YUKOS, a large public oil company of which he was the CEO and major shareholder. At its core, Mr. Khodorkovsky's approach stressed transparency, application of the rule of law to the protection of property rights and shareholder value and independence from undue political influence. As this tendency began to gain adherents, it soon became obvious to "the Kremlin" that such a state of affairs posed a threat to those in the Kremlin who sought unlimited and unchecked power, particularly over assets deemed to be strategic. It was obvious to those in power that it would be impossible to manipulate as effectively prominent transparent business structures and that this would bring their actions under the greater scrutiny of the civilized world. Mr. Khodorkovsky was seen as a threat to President Putin's "power vertical" and a decision was made to erase him from the map, replacing him with businessmen loyal to the Kremlin, who would never dare to compete in the political arena.

Volgotanker, prior to its destruction and takeover by the Russian State was the world's largest River tanker company. It had almost 11,000 employees and over 1.5mln MT of deadweight tonnage comprised of tankers, barges and support vessels. It transported more than 9mln tons of cargo annually and its fleet counted more than 350 different vessels. Among its assets were 3 ship yards, forwarding, agency and ecological clean-up companies. It was considered by the Russian Government a strategic enterprise.

The task ahead of me was breathtaking and I approached it with an almost messianic zeal. I felt confident that all of the skills and knowledge I could bring to the table as a Western-educated businessman, with an understanding of the Russian culture and language, would give me the necessary resources to meet the challenge head-on. The period 2000–2003, while the "power vertical" was still being created and the government bureaucrats were too busy fighting amongst themselves, were the best of times for Russian business. Finally, market mechanisms were allowed to work freely and this showed tremendous results. Capital flight ceased and the Russian economy began to attract investments. Leading companies felt a need to modernize and invested in western equipment, specialists and capital. Volgotanker was not an exception to these trends. Volumes of cargo transported rose annually. Western business processes were introduced. Accounting was supervised by a Big Four Auditor. Investments in ship repair and renovation were tripled. Volgotanker invited a Vice-President of Kirby, the largest U.S. liquid barge transport company based in Houston, as an external consultant. With his assistance, Volgotanker developed a long-term program of strategic development.

THE EMPIRE STRIKES BACK

However by 2003, Russia embarked on a different path, largely abandoning democratic principles and instituting state control over “strategic” assets. The selection of YUKOS as a target was certainly not accidental. Mr. Khodorkovsky was perceived as the champion of the “wrong” political strategy and YUKOS was seen as not submissive to the will of the Russian State, and leaning toward the West. In essence, by shutting down Mr. Khodorkovsky and YUKOS, the Kremlin was able to shut down opposition and convey a message to the rest of the business leaders that the Kremlin will not tolerate any dissent or unsanctioned actions. Many in the business community were hoping for an outcry of international public opinion condemning the political prosecution, but, unfortunately, public dismay was restrained, and the calculations of the Kremlin proved correct. The West, it became apparent, was prepared to tolerate this obvious miscarriage of justice. As a result, the largest, most transparent and western-leaning oil company was dismantled, its assets expropriated, its management and owners jailed; and a loud message delivered to the business community that business will now only be conducted as dictated from above, else you will suffer a similar fate. Even though I graduated from the University of Wisconsin with majors in history and political science, I do not claim to be a political pundit. Still, in my humble judgment, it was at this juncture—when YUKOS came under attack and was mercilessly devoured with the rest of the world patiently watching—that the future of the Russian economic landscape and rules of the game fundamentally changed to the detriment of rightful interests.

One must give credit where it is due. The attack on YUKOS was well planned and organized according to the rules of total warfare. A course of action was determined in the Kremlin with assignment of roles and responsibilities to most government bodies. The main task fell to the FSB (the successor to the KGB), the Prosecutor General and the Tax Ministry. One of the tasks of the FSB was to determine the scope of the target—all enterprises comprising Khodorkovsky’s “empire”. Volgotanker was included on this list. This was a result of two unfortunate circumstances. The first was an illegal search of the offices of YUKOS lawyers, who mistakenly believed that the attorney-client privilege was still protected in Russia. This search produced documents related to the Management buy-out of Volgotanker from YUKOS. These legal documents comprise about 120 pages of English language text and were misrepresented as “evidence” to allege that YUKOS maintained control over Volgotanker. The second reason was Volgotanker’s role as an important oil transporter, a field designated by the Russian Government as an area of State strategic interest. This decision had a tragic consequence on the fate of the company, its employees, shareholders and me personally.

There was nothing in the hostile-takeover actions of Russian authorities in respect of Volgotanker that was novel or unique. Just as with YUKOS, the various state ministries acted consistently and unwaveringly. Tax claims, office raids, arrests, criminal persecution of key managers and shareholders were all part of their repertoire.

The company was paralyzed through freezing of accounts and the State initiated bankruptcy proceedings to gain full control of the company assets. Some of the managers in Russia were convicted in kangaroo courts and others, who managed to leave Russia in time, have been de facto convicted and persecuted through the abuse of International treaties, conventions and agreements.

As a result of these illegitimate government efforts today Volgotanker is controlled by the Russian State through the bankruptcy procedure and is transporting cargo for the Russian State Oil company ROSNEFT, not surprisingly, from refineries formerly belonging to YUKOS. This state of affairs is farcical but true.

ABUSE OF WESTERN LEGAL SYSTEM

It was with a heavy heart that I left Russia in August of 2004, when criminal charges were brought against Volgotanker. Unlike many of my colleagues who were hostages to their circumstances, I had the opportunity afforded by my status as an American to travel freely. At the time I felt perfectly safe. The charges were absurd and clearly artificial. I was convinced that this would be obvious to anyone in the Western justice system. Furthermore, even though the Russians often used such underhanded tactics against their own citizens, I did not think they would do so against a United States citizen. Unfortunately, I was mistaken on all counts. Not only did the Russians have no misgivings about abusing the Interpol, MLA and Extradition Agreements and treaties to pursue their own political agenda, but Western agencies, in the USA and Europe have, so far, been more than willing to cooperate, while turning a blind eye to the political motives of the Russian State.

The Russians know how to manipulate our system of justice and in their requests for MLA, extradition and Interpol orders use the right "passwords" to trigger the process. They laugh derisively at the West for our adherence to procedure. Previously I was frustrated at the measures taken by western authorities against me and my company. Later, however I understood that even though on a human level most were sympathetic to my plight, they were simply doing their job.

I can cite the words of the German prison warden who visited me in my cell and told me that she was well aware that I was not a criminal and had no business being in her prison, but she had no choice in the matter. Neither did the German prosecutor who had to follow his own rules and abide by the extradition treaty with Russia. There is also the example of a U.S. border policeman who, while briefly questioning me, said that he clearly saw the absurdity of having to stop me for the umpteenth time at the border and wished me luck in getting the matter resolved with the USDoJ or the US Congress.

The events in Germany and continued questioning in the United States forced me to seriously re-evaluate my views of the Western Justice System. A situation where representatives of our own police and justice agencies become blind executioners of a foreign power's illegitimate will indicates that there is something fundamentally wrong with the system. When the rights of citizens are abused and their interests harmed, while the people administering such abuse claim that they are simply doing their job and following proce-

—this should give rise to serious concern about whether existing laws are serving their designated purpose or infringing on fundamental rights.

MY APPEAL

Today I am grateful for the opportunity to present testimony before this honorable committee. My sincere hope is that my statement will persuade this esteemed body to act to prevent foreign governments from manipulating the American legal system to persecute U.S. citizens at U.S. taxpayer expense for the pursuit of their own illegitimate and political goals. My personal experience has been most difficult indeed, but I have been fortunate to have able representation and achieve some relief. At the same time, I am concerned that other U.S. citizens may become victims and face such abuse outside the United States without any justification. No family should have to go through what I and my family experienced, and if this requires that international treaties and agreements are amended to protect basic individual's rights against the transgressions of a foreign sovereign state, then this has to be done.

I have had the misfortune to experience firsthand the effect of being falsely categorized by the Russian State in 2004 as an “especially-dangerous criminal” by the political leadership of the Russian Federation. This designation was a direct result of the political decision to destroy Mr. Khodorkovsky and those perceived to be associated with him and expropriate the assets of YUKOS. It is now universally accepted that the YUKOS affair epitomizes the term “political attack” that has caused hundreds of people to flee their homeland and become refugees in foreign states. Nevertheless, the Russian State, by virtue of membership in international conventions and agreements has persevered in its attempts to persecute its targets (via Interpol, MLA, extradition requests and other avenues), while foreign states have blindly cooperated in these efforts because such cooperation is contemplated under the relevant conventions and agreements. This has resulted in a farce that is totally inconsistent with the legislative intent: on the one hand, the whole world recognizes that the “YUKOS affair” amounts to a political association; on the other hand, foreign governments through the abuse by the Russian State of the treaties that were intended to facilitate the apprehension of criminals are in fact cooperating with Russian in furthering the latter's misguided and wrongful political agenda. This state of affairs should not be tolerated by the United States

I feel a special responsibility to those who may find themselves in a similar predicament as me, but are not in the position to maintain or finance an effective defense. My mission will be complete if my testimony will help convince the US Congress that proper safeguards should be created to protect American citizens who may fall victim to the political ambitions of members of the Russian government. Such safeguards should at the very least put the Russian authorities on notice that their politically motivated actions and attempts at manipulation through international conventions will be scrutinized by appropriate bodies of the US for the purpose of protecting US citizens.

**MATERIAL SUBMITTED FOR THE RECORD BY PAUL
LEGENBRE, DIRECTOR, FIGHTING DISCRIMINATION PRO-
GRAM, HUMAN RIGHTS FIRST**

INTRODUCTION

I would like to thank Chairman Cardin, Co-Chairman Hastings, and Members of the Commission for convening this hearing to examine human rights and the rule of law in Russia and the extent to which the policies of Russian President Medvedev represent a genuine break from the growing authoritarianism of the past several years. Human Rights First welcomes the occasion to share our human rights concerns in Russia. We believe that the upcoming summit with Presidents Obama and Medvedev presents an opportunity for engagement between the two countries on these issues as part of an evolving U.S.-Russia relationship.

Human Rights First is a nonprofit, nongovernmental organization that has worked since 1978 to protect and promote fundamental human rights around the world. Since 2002, Human Rights First's Fighting Discrimination Program has sought to reverse the tide of racist, anti-immigrant, anti-Roma, antireligious, homophobic violence and other bias crimes across the fifty-six countries of the Organization for Security and Cooperation in Europe (OSCE). Human Rights First has been particularly concerned by the proliferation of violent hate crimes in Russia and by the inadequate government response to these heinous acts. Human Rights First has also long worked to defend the rights and freedoms of human rights activists and independent journalists in Russia, who have come under increasing pressure from the government and have been subject to violent attacks for which few, if any, perpetrators have been held accountable.

THE U.S.-RUSSIA SUMMIT, JULY 2009

This hearing is particularly timely in light of the upcoming U.S.-Russia Summit in Moscow on July 6-7.

When the two presidents met earlier this year, President Obama said that U.S.-Russia relations would "be guided by the rule of law, respect for fundamental freedoms and human rights." The Summit is an opportunity for the United States to underscore that Russia's respect for human rights and a vibrant civil society is essential to building a strong foundation for better relations between the two countries in the years ahead. Indeed, a more authoritarian Russia would be a less reliable partner for the United States in addressing a range of economic, security, and other issues of mutual interest in this vital relationship. We have urged President Obama to raise our concerns and to seek mechanisms of greater cooperation between our countries on areas of mutual concern, such as policies to combat racist, xenophobic and other violent hate crimes and to strengthen civil society. The recommendations that we have made are discussed in more detail below, and our letter to President Obama is attached to this testimony.

Human Rights First's CEO and Executive Director Elisa Massimino and I will travel to Moscow to participate in a civil society conference on the sidelines of the Summit that includes human

rights activists from the United States and Russia. President Obama would send a strong signal of support for human rights by meeting with Russian activists in the context of this meeting, and reflecting their concerns in contacts with government officials.

We recommend that Helsinki Commission encourage President Obama to set the tone to the new relationship with Russia by raising continuing human rights concerns and seeking ongoing constructive avenues of engagement between the two countries as part of the agenda of the upcoming U.S.-Russia Summit.

THE RULE OF LAW: HATE CRIME ON THE RISE

An important barometer of a government's respect for rule of law is its response to violent crimes motivated by intolerance and discrimination. Russia is experiencing a dramatic upsurge in hate violence to which the government has heretofore had a relatively weak response. Racist and ethnically motivated murders and other violent attacks by neo-Nazi skinhead groups have been steadily on the rise since 2004, increasing by approximately 15 percent each year. A leading NGO monitor in Russia reported 97 bias-motivated murders in 2008, up from 86 in 2007, 64 in 2006, and 47 in 2005. At least 32 such murders have taken place in the first five months of 2009. There have been few prosecutions in these cases.

In an all too representative incident, a 29-year-old Tajik migrant worker, Saidmuhtor Davlatov, was attacked in broad daylight in Saint Petersburg on May 3, 2009. The victim suffered a broken skull and died in a local hospital on May 11 after undergoing surgery. A criminal investigation was opened against unidentified perpetrators for "inflicting bodily harm resulting in the victim's death." A suspected bias motivation was not investigated by the police, despite the fact that on June 2 the authorities received a letter signed by the "national-socialist brigade White March," in which the group claimed responsibility for Davlatov's murder and two other recent racially motivated murders in Saint Petersburg, including the murder of a 30-year-old Uzbek migrant worker whose body was found in the city center on March 12, 2009.

Human rights defenders who monitor and engage in advocacy to combat hate crimes are also increasingly under threat. In one recent example, Galina Kozhevnikova, Deputy Director of the SOVA Center, received an email in early February, purportedly from the 'Combat Terror Group,' which stated that journalists, lawyers and human rights defenders would be targeted for assaults, murders, and beatings in 2009.

The Russian government has made legal and political commitments within the framework of the Council of Europe, the Organization for Security and Cooperation in Europe, and the United Nations to provide protection from such forms of violent discrimination. Yet the government response to the increased violence has been grudging and feeble. Political leaders have begun to recognize neo-Nazi violence as a formal matter, but their calls for action against extremism have been misdirected by law enforcement officials who have focused their attention on the nonviolent forms of speech prohibited by Russia's deeply flawed legislation on combating extremism, which has been used to silence government critics, rather than on investigating and prosecuting the cases of in-

creasingly brutal violent hate crimes. Although President Medvedev has expressed public concern over the growing problem of extremism, he has yet to define a clear strategy and implement serious measures to combat the violence.

The recent murder at the United States Holocaust Memorial Museum is a stark reminder that our own country also continues to struggle with the scourge of violent hate crime. The United States' commitment to combating this scourge at home and abroad—a commitment demonstrated time and again by the work of the Helsinki Commission—makes our country well-placed to lead by example, sharing best practices and championing bilateral and intergovernmental efforts to stop hate crime. Thus, we have urged President Obama to engage his counterpart on this issue, by:

- Expressing concern about the sharp rise in violent hate crimes in Russia and the inadequate response of the Russian authorities and underscore the common interest of the United States and Russia in combating violent hate crime throughout Europe and North America through developing shared solutions to this important human rights issue.

- Encouraging a regular dialogue between the U.S. Department of Justice and the Russian Interior Ministry and prosecutorial officials to improve responses to hate crime. This dialogue can be supported with programs of technical assistance and other opportunities to exchange experiences and best practices.

FREEDOM OF RELIGION IN THE CONTEXT OF RISING XENOPHOBIA

Virtually every religious community in Russia has been subjected to acts of vandalism and other serious property damage, while individuals associated with religious groups have been targeted for violence. The desecration of graves and cemeteries is a common problem.

While adherents of those religions that are considered to be “traditional” to Russia Orthodox Christianity, Islam, Judaism, and Buddhism—continue to be victimized by violent ultranationalists (despite the fact that the majority of neo-Nazi groups promote the view of a people united by its ethnic origins and its unitary Church), an increasingly high level of violence is directed toward so-called “nontraditional” religions.

Indeed, this bifurcation by some Russian officials as well as some religious leaders between “traditional” and “nontraditional” religious communities reflects a growing climate of intolerance and discrimination against members of the nontraditional groups, as documented by the State Department and the U.S. Commission on International Religious Freedom, as well as many Russian human rights groups. Harassment and violence against members of minority religions and faith communities in Russia occur in the context of public policies and pronouncements restricting the freedom of religion of those professing nontraditional faiths. These included often arbitrary and overly burdensome registration requirements, restrictions on building permits for places of worship, formal or informal bans on the rental of places of assembly for religious services, and sporadic public statements by political leaders denouncing minority faiths. In the climate of xenophobia and religious chau-

vinism to which these policies contribute, members of minority religious congregations are particularly susceptible to threats and physical attacks carried out by private citizens. As with other forms of bias-motivated violence, the authorities have been slow to respond to this violence.

Nontraditional groups are often described by officials, media, and the public as “totalitarian sects.” In official rhetoric against these “new movements” and nontraditional faiths—including Baptists, Roman Catholics, and Pentecostals—public officials have emphasized their “alien” nature and foreign funding, sometimes adding accusations of espionage. The public discourse of hostility toward minority religions, official discrimination that limits the rights of freedom of religion, and the government’s failure to protect religious minorities combines to send a message of intolerance throughout Russian society.

In a particularly troubling development, in February 2009, the Expert Council for Conducting State Religious-Studies was established by the Justice Ministry. It remains to be seen what powers the Council will have, although its primary task is to investigate the activities and doctrines of any registered religious organization, making subsequent recommendations to the Ministry of Justice. However, the Council’s composition and leadership have been the subject of controversy and international scrutiny, as the new body is headed by a prominent “anticult” scholar Alexander Dvorkin and includes several other experts known for their opposition to non-traditional religious minorities.

The United States should continue to engage with the Russian Federation on the matter of freedom of conscience and religion. In the context of the upcoming Summit, the President can address this by:

- Encouraging the Russian government to investigate and prosecute cases of bias-motivated violence against individuals or property associated with religious communities in Russia and to take steps to ensure and affirm publicly Russian constitutional norms guaranteeing freedom of conscience and religion.

HUMAN RIGHTS DEFENDERS AND INDEPENDENT JOURNALISTS

A disturbing pattern of threats and assaults against human rights activists and independent journalists has emerged over the past few years. Perpetrators are rarely if ever brought to justice, and threats against nonviolent government critics of all kinds have escalated.

- On January 19, 2009, Stanislav Markelov—a human rights defender, lawyer, and founder of the Rule of Law Institute—was gunned down in the middle of the afternoon in downtown Moscow. Anastasia Baburova, a young freelance reporter working for Novaya Gazeta, was fatally shot in the same attack. No perpetrators have been brought to justice.

- The October 2006 murder of independent journalist Anna Politkovskaya remains unresolved: after a deeply flawed police investigation, on February 19, 2009, a Moscow court acquitted four men accused of helping to organize the murder. The failure to identify and to bring to justice those responsible for one of the most

brazen killings of a journalist and human rights defender has a chilling effect on activists and investigative journalists throughout Russia.

Additionally, the work of both human rights organizations and media outlets has been hampered by the misuse of antiextremist legislation, as law enforcement agencies have sought to unjustly shut down or freeze the operations of various groups under the guise of combating extremism.

In 2009, President Medvedev has made an important goodwill gesture by meeting with the Novaya Gazeta editor-in-chief on several occasions, including in the wake of the murder of Anastasia Baburova and Stanislav Markelov, thus showing a willingness to address the issue of attacks against independent journalists and human rights defenders. That important symbolic gesture must be turned into action.

The Obama Administration can support human rights defenders and independent journalists in Russia, by:

- Showing support for Russian human rights and other civil society groups by meeting with them during the U.S.—Russia Summit and, building on previous discussion with President Medvedev in London in April concerning the attack on prominent human rights activist Lev Ponomarev, calling for progress in the investigations into the unsolved murders of and assaults on human rights activists.
- Beyond the Summit, demonstrating support for Russia's independent civil society organizations by engaging in open dialogue with them inside and outside Russia, by providing financial support to independent human rights organizations, and by strongly protesting any attempts to silence them.

CONCLUSION: STRENGTHENING MULTILATERAL COOPERATION

As this Commission well knows, there are important opportunities for the U.S. and Russia to engage on the issues described above in the Organization for Security and Cooperation in Europe (OSCE), as that is the key multilateral institution, involving both the U.S. and Russia, that aims to promote human rights and safeguard basic freedoms. The great virtue of the Helsinki process that developed into today's OSCE is that it combines a broad range of issues of mutual concern, including national security, but also democracy and human rights without prioritizing one set of issues at the expense of another.

Human Rights First has worked closely over the years with the Helsinki Commission to strengthen U.S. support for the OSCE, and in particular its support for initiatives to combat antisemitism and hate crimes. Such support is crucial at this time, as the OSCE is entering a perilous period. Russia has actively been trying to undermine the OSCE's human rights and democracy promotion efforts, and Kazakhstan—an authoritarian country with a poor human rights record—is scheduled to serve as OSCE chair in 2010. Congress and the Obama administration should strive to ensure the continued viability of this important institution.

The U.S.-Russia Summit is an opportunity for President Obama to make clear his administration's support for the OSCE's democracy and human rights promotion work and to call on the Russian government to engage constructively in these efforts.

**MATERIAL SUBMITTED FOR THE RECORD BY KARINNA
MOSKALENKO, DIRECTOR, INTERNATIONAL PROTECTION
CENTER**

INTRODUCTION

I want to thank the U.S. Helsinki Commission for the opportunity to submit a written testimony for the hearing on June 23rd entitled, "The Medvedev Thaw: Is it real? Will it Last?" As you are well aware, human rights in Russia is in decline and people are suffering. I was honored to brief Members and staff of the U.S. Helsinki Commission in September 2007, and I would like to like to take this opportunity to provide you with an update on the current state of human rights in Russia as it relates to adherence to the rule of law and an independent judiciary.

My name is Karinna Moskalenko and I am the founder of the International Protection Center, an organization that protects the human rights of defendants in Russia before the European Court of Human Rights. My clients include, among others, the families of the murdered journalist Anna Politkovskaya, political activist Garry Kasparov, the American victims of the Nordost Theatre siege in Moscow and the imprisoned Russian businessman Mikhail Khodorkovsky.

Human rights in Russia is not getting better, it is getting worse. Despite President Medvedev's proclamations, the reality for people on the streets, in the courts or in prison, is that human and civil rights are severely compromised, if they exist at all. The justice system is not impartial and does not seek to uphold the rights of defendants, but instead, it actively works in a political fashion to subvert the rule of law and remove rights. This situation must change.

While I could talk about many individual cases, I would like to address one in particular that is occurring as we speak and symbolizes all this is wrong with the Russia legal system today—the case of Mikhail Khodorkovsky, former head of once Russia's largest privately owned oil company YUKOS, who is now on trial for the second time in a clearly politically inspired case. He is not the only one suffering. Many people who were not as wealthy or well known are suffering with him, but the high profile nature of his case is a warning to everyone.

HISTORY OF MIKHAIL KHODORKOVSKY AND THE YUKOS AFFAIR

On October 25, 2003, Mr. Khodorkovsky was arrested at gunpoint by FSB special forces on trumped-up charges of tax evasion, fraud and embezzlement. After a yearlong trial, Mr. Khodorkovsky was found guilty in 2005 and sentenced to 9 years imprisonment along with his business partner Platon Lebedev.

In August 2008, Mr. Khodorkovsky was eligible for parole after serving five years in prison. However, his application was rejected on the flimsy pretext that he had allegedly refused vocational training in sewing and had failed to keep his hands behind his back during a walk. Just before his parole hearing, Mr. Khodorkovsky was punished with 12 days of solitary confinement for a previously approved interview with Esquire Magazine.

On March 31, 2009, both Messrs. Khodorkovsky and Lebedev were put on trial for a second time, in what is viewed by outside observers as yet another politically inspired trial. This second trial is based on flawed charges and violates the principle, if not the spirit, of double jeopardy and is baseless. It is designed to keep them in jail indefinitely.

RULE OF LAW AND VIOLATIONS OF DUE PROCESS

Throughout the first trial there were repeated violations of Mr. Khodorkovsky's legal, civil, and human rights. Witnesses were intimidated, important evidence was excluded, and Messrs. Khodorkovsky's and Lebedev's access to their own lawyers was severely limited, even prohibited at times. Even I have been victim to several types of intimidation, including the threat of disbarment by the Prosecutor General in Moscow apparently for negligently defending my client. I was very grateful for the show of support by leading Members of the U.S. Congress who sent a letter in May 2007 to President Putin urging him to call on the Prosecutor General to withdraw the request for my disbarment.

The second trial showcases the most recent series of violations against legal due process and Russia's full extent of "legal nihilism." As outlined in a stay motion filed by the defense, the bill of indictment contains major errors, and does not comply with legal requirements. There is also evidence of suborned testimony, illegal searches and seizures and even torture of potential witnesses by the prosecutors during the investigative period to obtain the testimony and "evidence" used to support the charges. Despite these blatant violations, the court dismissed the stay motion and ruled that the trial would begin March 31, 2009.

The violations that occurred during the first trial and now continue throughout the second trial resulted in numerous applications to the European Court of Human Rights, of which I am currently defending. The first ruling thus far was a victory for Platon Lebedev. On October 25, 2007, the European Court of Human Rights ruled that Mr. Lebedev's rights to liberty and security were violated during his arrest and subsequent pretrial detention. In a similar decision, the European Court supported the admissibility of the Khodorkovsky v. Russia case.

HUMAN RIGHTS COMMUNITY

Human rights organizations around the world have consistently cited the conviction and imprisonment of Mr. Khodorkovsky as evidence of the arbitrary and political use of the legal system and the lack of a truly independent judiciary in the Russian Federation.

Most recently in April 2009, several key human rights organizations, including Amnesty International, Freedom House, Human Rights First, Human Rights Watch, the International League for Human Rights, the Lantos Foundation for Human Rights and Justice, and the Jacob Blaustein Institute for the Advancement of Human Rights sent, sent an open letter to President Medvedev expressing deep concern about the deterioration of the rule of law and human rights situation in Russia and the new, politically motivated trials of Messrs. Khodorkovsky and Lebedev.

U.S. STATE DEPARTMENT

On October 25, 2008, the State Department issued a statement marking the fifth anniversary of Mr. Khodorkovsky arrest, stating “the conduct of the cases against Khodorkovsky and his associates has eroded Russia’s reputation and public confidence in Russian legal and judicial institutions.”

The 2008 State Department Human Rights Report on Russia stated: “The arrest and conviction of Khodorkovsky raised concerns about the right to due process and the rule of law, including the independence of courts and the lack of a predictable tax regime. The report also says that many observers believe Mr. Khodorkovsky is a “political prisoner” and that “he was selectively targeted for prosecution because of his politically oriented activities and as a warning to other oligarchs against involvement in political or civil society issues or providing financial support to independent civil society.”

EUROPEAN PARLIAMENT

On March 13, 2008, the European Parliament issued a resolution calling on the Russian President to “review the treatment of imprisoned public figures (including Messrs. Khodorkovsky and Lebedev), whose imprisonment has been assessed by most observers as having been politically motivated.”

Just this past month, Sabine Leutheusser-Schnarrenberger, rapporteur on behalf of the Council of Europe Parliamentary Assembly (PACE) Committee on Legal Affairs and Human Rights, carried out a fact-finding trip to Moscow to observe the second trial of Messrs. Khodorkovsky and Lebedev. She stated: “Whilst I do not wish to interfere in pending judicial proceedings, I cannot help feeling bewildered by the fact that the two men are again being tried for facts which appear to be essentially the same as those for which they were condemned in 2005.”

U.S. CONGRESS

The Khodorkovsky case has been a symbol of injustice in Russia for many years. The U.S. Congress has recognized this fact and taken steps to raise concerns with the government of Russia through public expressions of concerns that set forth specific rule of law principles. It is clear that Russia has disregarded any sense of international rule of law standards, instead opting for a politically controlled judicial process that fails to support even the most basic civil and human rights.

Around the arrest of Mr. Khodorkovsky in November 2003, Senator Richard Lugar and then-Senator Joe Biden co-sponsored a resolution (S. Res 258) which called the case against Mr. Khodorkovsky “politically motivated” and urged for a free and fair trial.

Two years later in November 2005 in response to Mr. Khodorkovsky’s trial, sentencing and imprisonment, then-Senators Barack Obama and Joe Biden and Senator John McCain passed a resolution (S. Res. 322) that found the “criminal justice system in Russia has not accorded Mikhail Khodorkovsky and Platon Lebedev fair, transparent, and impartial treatment under the laws

of the Russian Federation.” They also found that the “criminal cases against Mr. Khodorkovsky, Mr. Lebedev and their associates are politically motivated.”

In November 2008, Representatives James McGovern and Frank Wolf, co-chairs of the Tom Lantos Human Rights Commission, sent a letter to then-Secretary of State Condoleezza Rice urging her to “continue to raise with the highest levels of the Russian government the case of Mr. Khodorkovsky to bring about an end to his harsh treatment.”

CONCLUSION

In closing, I would like to express my sincere gratitude to the Commission for taking such a leading and vocal role in supporting human rights in Russia and supporting Mikhail Khodorkovsky in his quest for fairness, justice and rule of law. Chairman Cardin, Senator Wicker, Congressman Hastings, and Congressman Issa, and Congressman Smith are among the Commission members who have expressed their concerns. In particular I would like to thank Senator Cardin for his April 3, 2009 statement expressing grave concerns about the Khodorkovsky trial and rule of law in Russia and Senator Roger Wicker for the introduction of Senate Resolution (S. Res. 189), both of which called the trial against Messrs. Khodorkovsky and Lebedev politically motivated and urged the Russian government to drop the second charges.

The second trial is a prelude to keeping Mr. Khodorkovsky in jail for a long time, if not for life. These abuses by the Russian justice system against Messrs. Khodorkovsky and Lebedev occurred for political and commercial gain by the state and at the expense of individual rights and rule of law. Without a personal expression of concern from the United States at the highest level, his safety and future are directly threatened. I urge the Commission and its Members to raise concerns about the treatment of Mr. Khodorkovsky with U.S. and Russian officials to support principles of human rights and rule of law in Russia and justice and freedom for Mikhail Khodorkovsky and Platon Lebedev.

ADDITIONAL TESTIMONY

I would like to submit complimentary testimony on human rights and rule of law in Russia in addition to my testimony I have already provided on the case of Mikhail Khodorkovsky and Platon Lebedev.

Two years and six months have passed since Anna Politkovskaya was murdered. Nevertheless, the investigation performed up to date has only resulted in a judgment whereby all the accused were acquitted.

As early as when filing their initial application with the Court, the applicants complained about a breach of the right to life guaranteed by Article 2 of the Convention, ineffectiveness of the investigation and total lack of any steps towards looking into the crime and identifying those responsible.

Moreover, every day that passes is carrying away the few remaining possibilities to detect this crime.

However, the investigating authorities have failed to take respective measures and thus have not complied with their obligations to identify those responsible for this crime that has left the whole world outraged.

Hence, there has been a breach of Article 2 of the Convention in so far as the State's positive obligations with respect to the right to life are concerned, for the applicants' rights still have received no protection, which is due to an ineffective investigation:

Those responsible have not been held criminally liable; NONE have been punished, and consequently, no redress has been afforded to the victims.

During the last few years, a number of individuals were assassinated because of their professional activity or the public stand they had taken.

None of the murders have been solved, similarly to that of Anna Politkovskaya.

Those assassinated included in particular journalists Dmitry Kholodov, Paul Khlebnikov and Yuri Shchekochikhin, as well as human rights activist Nikolai Girenko. None of those who contracted the murders of journalist Igor Domnikov or Statesperson and human rights activist Galina Starovoitova have yet been identified. After Anna Politkovskaya's murder, lawyer Stanislav Markelov and journalist Anastasia Baburova have been assassinated.

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. On the other hand, a failure to solve the assassinations gives a sense of impunity to the perpetrators, which in turn entails further crimes.

**MATERIAL SUBMITTED FOR THE RECORD BY NINA
OGNIAKOVA, EUROPE AND CENTRAL ASIA PROGRAM COOR-
DINATOR, COMMITTEE TO PROTECT JOURNALISTS**

Chairmen Cardin and Hastings, and Members of the Commission:

Thank you for the opportunity to submit this written testimony on press freedom in Russia ahead of President Barack Obama's July 6–8 trip to Moscow for a summit with Russian President Dmitry Medvedev. My name is Nina Ognianova. I coordinate the Europe and Central Asia program at the New York-based Committee to Protect Journalists, an international, independently funded organization that defends the rights of journalist to report the news without fear of reprisal.

I will focus my testimony on the issue of impunity in journalist killings under the present Russian leadership. Seventeen journalists have been killed in Russia in relation to their work since 2000, CPJ research shows. In only one case have the killers been convicted. In every case, the masterminds have gone unpunished.

This record has contributed to the spread of self-censorship in the press corps, restricting coverage of sensitive topics such as government corruption, organized crime, human rights violations, and unrest in the North Caucasus region of Russia. The public has suffered as a result, having been kept in the dark about important issues of community, national, and international interest.

The following capsules describe the 17 journalists killed in relation to their work:

- Vladimir Yatsina, 51, took a leave from his job with the Russian news agency ITAR-TASS in the summer of 1999, to travel to the North Caucasus on a freelance assignment to photograph Chechen rebel fighters. In July of that year, while in the southern republic of Ingushetia, Magomed Uspayev, an ethnic Chechen who had been hired as Yatsina's fixer, reportedly handed the photographer to a criminal gang notorious for kidnapping people for ransom. Yatsina was shot in the mountains of Chechnya the following February, according to fellow captives who later gave public statements. Law enforcement officials did not detain or charge Uspayev, who lived freely in Russia for two years after the killing before going to Sweden in 2002. It was not until 2005 that Russian authorities placed Uspayev on Interpol's international wanted list. The Swedish government has refused to extradite him to Russia, citing human rights concerns. Yatsina's killers were never prosecuted.

- Igor Domnikov, 42, a reporter and special-projects editor with Novaya Gazeta, was bludgeoned with a hammer in the entrance to his Moscow home in May 2000. He slipped into a coma and died on July 16 of that year. Before his death, Domnikov had written several articles criticizing the economic policies of the Lipetsk regional government. Seven years later, five members of a criminal gang were convicted of the murder and sentenced to lengthy prison terms. Authorities have yet to file charges against those accused of ordering the killing.

- Eduard Markevich, 29, founder and editor of the independent weekly Novy Reft, was shot in the courtyard of his apartment building in the Ural Mountains town of Reftinsky on September 19,

2001. Markevich, who had been investigating a public employee's use of government property for private gain, had received threats and had been previously attacked for his work. Authorities made initial progress in the case when they detained a suspect in a vehicle matching the description of the gunman's car. But the case was transferred without explanation to another prosecutor's office, the investigation came to a halt, and the suspect was released. No developments have been reported in the case.

- Natalya Skryl, 29, a business reporter for the Rostov-on-Don newspaper *Nashe Vremya*, was walking home from a bus stop in her hometown of Taganrog, an industrial city on the Azov Sea, when at least one assailant struck her a dozen times with a pipe or similar object on March 8, 2002. She died in a hospital the next day. The assailant did not take money or gold jewelry from the journalist; in fact, nothing appeared to have been stolen. Nonetheless, Taganrog investigators classified the case as a robbery and did not explore journalism as a motive. Skryl had written several articles on the struggle for control of a large steel-pipe manufacturer. In the six years since Skryl's killing, the case has been suspended and reopened several times without evident progress.

- Valery Ivanov, 32, and Aleksei Sidorov, 31, consecutive editors of the independent newspaper *Tolyattinskoye Obozreniye* in the car-manufacturing city of Togliatti, had exposed organized crime activities and corruption in the local government. They were slain 18 months apart: Ivanov was gunned down on April 29, 2002, and Sidorov was fatally stabbed on October 9, 2003. Both attacks occurred outside their homes. Investigators asserted that a man who later died of a drug overdose had killed Ivanov, but no evidence has been disclosed to support the accusation. In the Sidorov case, a local welder was falsely accused of killing the editor; that man was acquitted at trial. No further progress has been reported in either case.

- Yuri Shchekochikhin, 53, deputy editor of *Novaya Gazeta*, had meticulously investigated a high-level corruption scheme when he was felled by a mysterious illness in June 2003. The sickness caused Shchekochikhin's organs to fail, one after another, and he died within weeks. Questionable steps followed. Hospital authorities declared Shchekochikhin's records a "medical secret" and sealed them from the public, including the journalist's family. A Moscow prosecutor then lost the records, *Novaya Gazeta* reported. It was not until five years later that a team of investigators with the Prosecutor General's Office opened a criminal probe into the circumstances of Shchekochikhin's death. That case was suspended on April 6, 2009, after investigators concluded that no foul play was involved. The medical records have yet to resurface.

- Maksim Maksimov, 41, a reporter with the St. Petersburg weekly *Gorod*, who was investigating alleged corruption in the local Interior Ministry branch, disappeared after going to meet a source on June 29, 2004. He was declared dead two years later. Witness accounts implicated ministry officers in the disappearance, but St. Petersburg prosecutors have taken no evident action against them. The investigation was suspended in 2008; the family and its lawyer have not been allowed to review the case file.

- Paul Klebnikov, 41, the founding editor of *Forbes Russia* magazine, had carried out journalistic investigations on risky topics such as the synergy of Russian business, politics, and organized crime; the “gangster capitalism” of the 1990s; and the 1995 murder of television journalist Vladislav Listyev. At least one gunman shot and killed Klebnikov, a U.S. journalist of Russian descent, as he left his Moscow office on July 9, 2004. Two defendants were acquitted of the murder in May 2006, in a closed trial marred by procedural violations. The Russian Supreme Court overturned the verdict and ordered a re-trial, but the case was indefinitely postponed in March 2007 when one of the defendants vanished. No developments have been reported since. Authorities have yet to report any progress in apprehending the crime’s mastermind.

- Pavel Makeev, 21, a cameraman for the television station Puls in the town of Azov, was struck and killed by a car while filming illegal drag racing on May 21, 2005. Evidence showed that the car dragged Makeev’s body 50 feet, and the driver did not apply the brakes. Authorities classified the case as a traffic accident without questioning witnesses. Makeev’s video camera—with footage of the illegal racing—was taken.

- Magomedzagid Varisov, 54, and Telman Alishayev, 39, worked in the volatile southern republic of Dagestan. Varisov, a political analyst for Dagestan’s largest weekly, *Novoye Delo*, was shot and killed near his home in the regional capital, Makhachkala, on June 28, 2005. He had criticized people across the political spectrum—from government officials, to federal troops, to radical organizations. Alishayev, a reporter and host of a religious television program on the Makhachkala-based Islamic television station TV-Chirkei, covered social issues such as education, drug addiction, and the spread of HIV. He was gunned down near his home, on September 2, 2008. In each case, authorities said they identified suspects who were then killed in armed confrontations with police. No evidence has been disclosed to support those assertions, however, and the victims’ families have told CPJ they are deeply skeptical of the findings.

- Vagif Kochetkov, 31, a political reporter for the Tula-based *Molodoi Kommunar* newspaper, had written critically of business practices and organized crime in his hometown. An attacker struck him on the head with a heavy object near his home on December 27, 2005. He died 12 days later. Authorities classified the case as a robbery, although Kochetkov’s valuables—including a diamond ring—were left intact. A suspect was acquitted at trial. Investigators did not explore Kochetkov’s journalism as a possible murder motive and failed to question his colleagues in any depth.

- Anna Politkovskaya, 48, a special correspondent for *Novaya Gazeta*, was gunned down in her Moscow apartment building on October 7, 2006. The internationally known journalist had reported extensively on human rights abuses in Chechnya and throughout the conflict-ridden North Caucasus. She had been threatened, poisoned, and forced into exile during her career. Three men accused of being accomplices to the murder were acquitted in February, although a retrial has been ordered. Neither the gunman nor the masterminds have been apprehended. The gunman fled

Russia on a fraudulent passport, according to news reports; the masterminds have not been identified.

- Ivan Safronov, 51, a prominent military correspondent for the business daily *Kommersant* and a reserve colonel in the Russian Space Force, fell to his death from a staircase window in his Moscow apartment building on March 2, 2007. He had just returned from a business trip to the Middle East, where he had learned of purported sales of Russian defense technology to Iran and Syria. Three days before his death, Safronov told colleagues that he had been warned not to publish portions of the information, *Kommersant* reported. The journalist had also embarrassed defense officials two months earlier by reporting on the third consecutive test failure of the Bulava ballistic missile. Authorities classified the death as a suicide, yet Safronov left no note and, in the hours before his death, had made plans with family and friends and had shopped for groceries.

- Magomed Yevloyev, 37, publisher of the independent news Web site *Ingushetiya*, who uncovered official corruption and human rights abuses in Ingushetia, was shot and killed in state custody on August 31, 2008. In an interview with CPJ two months before his killing, Yevloyev said Ingushetia authorities had filed more than a dozen lawsuits seeking to shut down his site. The day of the killing, Yevloyev was detained by an Interior Ministry unit at the airport in Magas, Ingushetia (without a valid arrest warrant, as a court later ruled). He did not resist and was placed in an Interior Ministry vehicle with three officers, witnesses told CPJ. Along the way, Yevloyev was shot in the head. Authorities claimed an officer's gun went off accidentally. A negligent homicide charge has been filed against the officer—nephew of former Ingushetia Interior Minister Musa Medov—but the officer has left the region and has not returned for court proceedings. The Yevloyev family has called the trial a sham.

- Anastasiya Baburova, 25, a freelance reporter for *Novaya Gazeta*, had covered the rise of race-motivated crimes and the activities of neo-Nazi groups in Russia. On January 19, 2009, a gunman shot her and prominent human rights lawyer Stanislav Markelov in downtown Moscow, minutes after they emerged from a press conference in which the lawyer criticized the early release of a Russian army colonel convicted of killing a teenage Chechen girl. Five months later, investigators have yet to report progress in the case.

With 50 journalists killed on the job since 1992, Russia is the third-deadliest country in the world for journalists, CPJ research shows. Only the conflict-ridden countries of Iraq and Algeria surpass this number of work-related fatalities during this period. Russia also has one of the highest levels of impunity in journalist murders in the world (ninth worst), according to CPJ's annually updated Impunity Index, which calculates the number of unsolved journalist murders as a percentage of each country's population.

This record contrasts with stated commitments by President Dmitry Medvedev and Prime Minister Vladimir Putin to strengthen the rule of law and protect the safety of all Russian citizens. It also undermines Russia's standing as an international leader. Russia is a member of a number of international institutions, such as

the Organization for Security and Co-operation in Europe and the Council of Europe, and it has an influential voice in a number of others. Yet membership and influence come with the obligation to adhere to international standards, including the rights to life and free expression. When Russia fails to adhere to these norms, it undermines them for all.

The leaders of the democratic world, including President Obama, must engage their Russian counterparts in a dialogue on the record of impunity, offer assistance in combating the problem, and call for concrete results.

**MATERIAL SUBMITTED FOR THE RECORD BY TIM OSBORNE,
DIRECTOR, GML LTD.**

INTRODUCTION

As someone directly involved in rule of law matters with the Russian Government, I write to share my experiences and perspectives with the Members of the U.S. Helsinki Commission. I am grateful for the opportunity to provide my views for inclusion into the record of the June 23, 2009 hearing entitled, "The Medvedev Thaw: Is it real? Will it Last?"

My name is Tim Osborne, and I am Director of GML, Ltd ("GML"), formerly known as Group Menatep, Ltd. GML is a diversified financial holding company, established in 1997, which, at one time owned strategic stakes in a number of Russian companies, including Yukos Oil Company ("Yukos"), as well as several financial portfolio investments on stock markets in Russia and internationally. GML is incorporated and exists in accordance with the laws of Gibraltar. GML, through wholly owned subsidiaries incorporated in Cyprus and the Isle of Man was the majority shareholder in Yukos. The directors of GML are responsible for stewardship of the company in keeping with recognized standards of corporate governance, and for protecting the company's remaining assets.

Yukos was once a leader in the field of emerging Russian companies, driving new standards of corporate governance and transparency, and became the largest privately owned energy company in Russia. However, following huge manufactured tax claims and the imprisonment of Yukos' key executives, on charges widely regarded as politically motivated, Yukos' core asset, the oil production facility Yuganskneftegaz ("Yugansk"), was seized by the Russian state and sold at far below market-value to an unknown company acting on behalf of Rosneft.

Yukos' shareholders have received no compensation for the loss in value of their shareholding, from the expropriation of Yukos and that company's assets. It is GML's belief that the "Yukos affair" was a major strand in the Russian Government's strategy to bring Russia's natural resources under direct Kremlin control and to use those resources as a tool to reassert control over Russia's former sphere of influence. It marked a turning point in the Russian Federation's commitment to the rule of law, property rights, and energy security.

With this experience, GML is in a unique position to comment on the deterioration of property rights, market principles, and rule of law in Russia. The following are my thoughts on these issues.

HISTORY OF YUKOS / GML

Yukos Oil Company was the largest oil company in Russia and fourth largest oil company in the world, before its destruction. Beginning in 2003, the Russian Government instigated a campaign of expropriation against Yukos by prosecuting senior management, issuing bogus crippling tax demands whilst freezing its assets so the tax claims could not be paid and seizing its major operating subsidiary, Yuganskneftegaz. As a result of this campaign Yukos was forced into bankruptcy in August 2006 despite evidence which

clearly showed that its assets exceeded its liabilities and that it could survive. Through 2007, the Russian court-appointed receiver sold Yukos' assets at a series of, what were widely perceived as rigged, auctions at below market-value. There was, however, despite the discount applied to the assets' valuations, little competition for the assets. Most were won by Rosneft and Gazprom.

The expropriation, as opposed to nationalization (which implies compensation), of Yukos has raised grave concerns worldwide about Russia's commitment to fundamental principles of property and human rights, free markets, the rule of law, and respect for foreign investor rights.

A few numbers provide context for the absurdity of the Russian authorities' tax claims, which were the excuse given for the action against Yukos and its executives. Yukos had already paid \$15 billion in taxes for the period of 2000 through 2003, on total gross income for that period of \$29 billion. Beyond that amount, the Russian authorities alleged that Yukos owed an additional \$27 billion for that period, bringing Yukos' total tax liability for the period to over \$42 billion, greater than 100% of the company's gross income. This is not taxation, it is expropriation.

The decline in respect for human rights in Russia is best evidenced by the impact of the "Yukos affair" on anyone associated with the company. Most notably, former CEO, Mikhail Khodorkovsky, and his business partner, Platon Lebedev, are currently on trial for the second time, on charges of theft and embezzlement. They could receive up to 22 years in prison. I myself am the subject of an investigation by the Russian Prosecutor General; I have received no formal notice of the investigation and my repeated offers to be interviewed in London have been ignored. Needless to say, I have committed no crimes but this investigation, undoubtedly as intended, has severely hampered my ability to discharge my fiduciary duties as a GML Director.

Rule of law in Russia is a principle in jeopardy, the legal system has become infected with political interference and corruption. Every time the Russian authorities' allegations have come before an independent court outside of Russia, the court has found the allegations to be substantively deficient, or politically motivated.

Since the conclusion of Yukos' bankruptcy, several western courts have issued rulings on various aspects of the case. Most notably, the District Court of Amsterdam, on October 31, 2007, ruled that Yukos was denied a fair trial by the Russian authorities, with regard to the massive back-tax claims leveled against the company, was discriminated against and was unlawfully declared bankrupt. In August 2007, the Swiss Supreme Court denied Russian Mutual Legal Assistance requests in the Yukos case on the basis that the prosecution of Messrs Khodorkovsky and Lebedev was politically motivated and that their legal and human rights have been violated. Following this ruling, the European Court of Human Rights ("ECHR") ruled, on October 25, 2007, in the case of Lebedev vs. Russia, that Mr Lebedev's human rights had been systematically violated (under Article 5 ECHR).

Courts in London and Vilnius, Lithuania have reached the same conclusion and denied extradition requests for ex-Yukos executives who fled Russia. More recently, in May 2009, the ECHR ruled ad-

missible several aspects of a claim submitted by Mr. Khodorkovsky; notably, that his arrest, detention, and prosecution were politically motivated.

These rulings are further indication of the illegality of the Russian Federation's actions against Yukos, its shareholders and its managers.

American investors, just as all Yukos investors worldwide, have suffered as a result of the Russian Government's assault on the company. The Russian Government's actions in the "Yukos affair" give rise to a crucial question: From an American investor perspective, how can you have confidence in your ability to enforce your property rights in a Russian enterprise without an independent legal system, free from corruption and political interference, to enforce those rights and an independent judiciary to serve as arbiter of any dispute?

In early 2005, GML's wholly-owned Yukos shareholder subsidiaries, Yukos Universal Limited ("Yukos Universal") and Hulley Enterprises Limited ("Hulley"), commenced arbitral proceedings before an independent Tribunal, in the Permanent Court of Arbitration in The Hague. GML is claiming a minimum of \$28.3 billion in damages against the Russian Federation pursuant to the terms of the Energy Charter Treaty ("ECT" or "the Treaty"), which Russia signed in 1994 and by which Russia is legally bound.

THE ENERGY CHARTER TREATY AND ARBITRATION CLAIM

The Russian Federation signed the ECT on December 17, 1994. Even though the Duma has not yet ratified the Treaty, Russia was eager to receive the benefits of the Treaty so declined to opt out of applying the ECT provisionally, pending its ratification. Therefore, under Article 45(1) of the Treaty it is legally bound.

The roots of ECT date back to political initiatives in Europe following the end of the Cold War. The fundamental aim of the ECT is to strengthen the rule of law on energy issues by creating a level playing field of rules to be observed by all governments who are signatories to the Treaty, thus minimising the risks associated with energy related investments and trade.

GML's claim is based on the Russian Federation's violation of the investor protection provisions of the ECT, which protect investors' rights in cases where they are subject to discrimination measures by which their investments are expropriated without payment of prompt, adequate, and effective compensation.

GML's claim is the largest commercial arbitration ever filed and is being heard under UNCITRAL rules in the Permanent Court of Arbitration in The Hague. Initial hearings, looking solely at jurisdiction and admissibility issues (i.e. the extent to which Russia is bound by the ECT) took place in November 2008; the Tribunal will determine, once and for all, whether Russia is bound by the ECT.

The Russian Government has in recent years denigrated the ECT, at times describing it as a "dead instrument". Most recently, in April 2009, President Medvedev launched his "Conceptual Approach to the New Legal Framework for Energy Cooperation (Goals and Principles)". The following week, Prime Minister Putin stated: "We have said before that we do not consider ourselves bound by

the charter, and now we can say that we see no point in remaining a signatory to the document”.

However, the Russian Government cannot unilaterally cancel the ECT; a fact acknowledged by European Energy Commissioner Andris Piebalgs who responded to the Russian proposal on behalf of the European Union, saying: “The Energy Charter Treaty will continue to live its life until the countries that established it decide differently”. Withdrawal from the Treaty is a formal process and, even following withdrawal, according to Article 45(3) ECT, investments remain protected for 20 years after withdrawal.

The expropriation of Yukos and its assets breached Russia’s legal obligations under the ECT. The Russian Government selectively discriminated against Yukos by singling it out from other energy companies that operated in an identical legal fashion. It then fabricated back-tax claims and illegally prevented Yukos from restructuring in order to settle these tax claims. Importantly, Yukos’ assets were expropriated without payment of compensation to shareholders, which included American individuals and institutional shareholders. The U.S. did not sign the ECT and consequently ECT protection is not available to U.S. Yukos investors.

The Tribunal in GML’s case is due to issue its ruling on jurisdiction imminently. If the Tribunal rules Russia is bound by the ECT, the claim will move onto the merits stage. In this scenario, the Russian Federation will have to appear before an independent panel of arbitrators and justify its actions in the “Yukos affair”. This has never happened before.

If GML is successful in proving to its right to compensation pursuant to the ECT, the Tribunal will determine the full value of the claim, which is for a minimum of \$28.3 billion but could ultimately reach \$100 billion. The Russian Federation has played a full role in the Tribunal’s proceedings so far and has abided by all decisions of the panel; in the event that the Russian Federation does not meet an award, such can be enforced in the national courts of any state signatory to the New York Convention.

It is worth noting however that a positive ruling for GML on jurisdiction should be seen as a positive decision for Russia, which desperately needs to attract foreign investment into its energy sector. Russia can also rely on the ECT’s transit provisions to prevent disputes over transit of its energy supplies to Europe.

In all possible forums, the international community, including the U.S., should insist Russia abide by its international commitments in the field of energy, to give comfort to western investors in its energy sector that they will be treated in accordance with the rule of law.

CONGRESSIONAL HISTORY WITH GML

Over the years, I have been an active participant in discussions by the U.S. Congress to highlight the poor and deteriorating state of foreign investor protection and the rule of law in Russia. For instance in 2007, I was invited by the House Financial Services Subcommittee on Domestic and International Monetary Policy, Trade, and Technology to present a testimony on U.S.-Russia economic relations with regards to the “Yukos affair”. My statement focused on the impact on American investors of Russian Government’s illegal

prosecution and seizure of legitimate individual corporate and private assets. It illustrated ways by which the Russian Government has violated the four universal principles of free and open markets—transparency in capital markets; maximizing shareholder value; protecting investors; and adherence to the rule of law.

Members of the U.S. Congress, including members of the Helsinki Commission, are well familiar with the GML case. Listed here is a selection of statements and testimonies expressing their concern about Russian Government's continuous disregard for the widely accepted foreign investor rights and the rule of law.

In 2007, Representative Luis Gutierrez (D-IL) chaired a hearing in the Domestic and International Monetary Policy, Trade and Technology Subcommittee on the U.S.-Russia economic relationship. In his opening remarks, Gutierrez expressed concerns about Russia as a reliable economic partner: "U.S. and other would-be foreign investors need to know whether the rule of law will be upheld in Russia. And the Bush Administration needs to be motivated to start asking the Kremlin some tough questions when it comes to protecting the interests of U.S. investors."

Senator Roger Wicker (R-MS), at the time Representative, member of the Helsinki Commission, contributed a statement during the hearing on the U.S.-Russia economic relationship that called attention to problems with application of the rule of law and free market economics. He asserted that "Russia's legal and political system has regressed, threatening the development of a diverse economy based on market principles and the rule of law." Wicker added that the expropriation of Yukos is questionable for the stability of the economy and safety of investment in Russia. Additionally, in the case of Yukos Russian courts failed to protect private property rights and ensure independent judges, due process and equal application of law.

During the 2008 hearing entitled *The Business Climate in Russia and the States of the Former Soviet Union*, Alcee Hastings (D-FL) Co-Chairman of the Helsinki Commission reiterated the Commission's opinion that Russia presents a risky market environment without the protections guaranteed by the rule of law principles. He underlined that the Russian Government practices selective prosecution through extralegal means of prominent business leaders and other individuals, adding that such cases proceed ". . . through a manipulated court system, thus denying its citizens and foreign investors the impartial application of the rule of law and equal justice."

CONCLUSION

I urge the Helsinki Commission and other members of Congress to continue expressing concerns about the deterioration of the rule of law in Russia. Indeed, despite leadership change in Moscow, we continue to see signs that the rule of law and investor protection practices have not improved. Despite President Medvedev's promised judicial reforms, the Russian authorities' concerted efforts against Yukos, its former executives and GML highlight that nothing has changed as well as the potential dangers faced by foreign investors in Russia. American investors should be wary of doing business in Russia until there is certainty that their rights and in-

terests will be protected according to internationally recognized standards.

My hope is that a determined effort will eventually lead to a change of course in Russia where American and other investors can have confidence that their rights and interests will be protected according to internationally recognized standards of the rule of law, corporate governance and business transparency.

Thank you again for convening this important hearing.



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